

Federal Register

Tuesday
October 20, 1981

Highlights

- 51584, 51588 All-Savers Certificates** Treasury/IRS provides temporary income tax regulations, proposes additional amendments, and schedules hearing on proposed rules. (3 documents) (Part VI of this issue)
- 51366, 51419 School Breakfast and Lunch Programs** USDA/FNS issues rule and notice on "national average payment" regulations, elimination of October and March estimate reports and increase in maximum reduced price charges. (2 documents)
- 51363** USDA/FNS issues interim rule on Special Milk Program and private school participation.
- 51406 Veterans Benefits** VA proposes to restrict payment of nonservice-connected death burial allowances.
- 51384 Loan Programs—Veterans** VA alters guaranty regulations on assumptions of home and mobile home loans funded by State or local housing authority.
- 51383 Mortgages** HUD/FHC amends maturity requirement under regulations on supplementary financing for insured project mortgages.
- 51427 Consumer Protection** CPSC finds proposed mandatory ban on use of sulfuric acid drain cleaners for household use unnecessary but announces intention to participate in voluntary industry efforts to improve labeling and packaging.

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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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- 51410 Indians** HHS proposes regulations on Indian preference in employment, training, and subcontracting opportunities.
- 51429 Natural Gas** DOE/EIA issues computed ceiling prices and high cost gas incremental pricing threshold.
- 51407 Hazardous Materials** EPA proposes to suspend effective date of existing facility permitting standards for incinerators and storage surface impoundments.
- 51386 Motor Vehicle Pollution** EPA establishes criteria for reviewing modifications to State compliance schedules for automotive assembly plant paint shop operations.
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- 51413 Motor Carriers** ICC proposes to clarify consolidation proceedings criteria.
- 51566 Health Insurance** OPM adopts procurement regulations on Federal Employees Health Benefits Program (FEHBP) contracts. (Part V of this issue)
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Federal Register

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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.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 27

Cotton Classification Under Cotton Futures Legislation

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The New Orleans Commodity Exchange was designated by the Commodity Futures Trading Commission as a contract market for the trading of futures contracts in short staple cotton on June 30, 1981. As required by the U.S. Cotton Futures Act (90 Stat. 1841-46; 7 U.S.C. 15b), five spot markets were designated to be used by the New Orleans Commodity Exchange to establish settlement differences for cotton delivered under futures contracts on the Exchange whenever the grade delivered differs from the base quality established in the contract. The designation was published July 7, 1981, as an Interim Final Rule in order to avoid a delay in the commencement of trading. No comments were received during the 60-day comment period and no further change is being made by this action. This action is taken to finalize the rule as originally published.

EFFECTIVE DATE: October 20, 1981.

FOR FURTHER INFORMATION CONTACT:

Loyd R. Frazier, Chief, Marketing Services Branch, Cotton Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202/447-2147

SUPPLEMENTARY INFORMATION: This action has been reviewed under the Presidential Executive Order 12291 of February 17, 1981, and does not meet the criteria contained therein for major regulatory actions. William T. Manley,

Deputy Administrator for Marketing Program Operations, has determined that this action will not have a significant impact on a substantial number of small business entities as (i) no alteration in the related services or the fee for such services to the public will result; (ii) requirements for the public to obtain services have not changed; and (iii) the Agency's costs for providing such services will not be increased by this action.

The U.S. Cotton Futures Act (90 Stat. 1841-46; 7 U.S.C. 15b) requires the Secretary of Agriculture to designate spot cotton markets which may be used to establish settlement differences for cotton delivered under futures contracts whenever the grade delivered differs from the base grade set out in the contract. There are nine such bona fide spot cotton markets designated by the Secretary at the present time (7 CFR 27.93).

The Cotton Futures Act further requires that the settlement differences for each "basis grade" futures contract shall be determined by the actual commercial differences established by the sale of spot cotton in the spot markets of not less than five places designated by the Secretary (from among the forementioned list of bona fide spot markets (7 U.S.C. 15b(f))).

On June 30, 1981 the New Orleans Commodity Exchange (NOCE) was designated by the Commodity Futures Trading Commission (CFTC) as a contract market for the trading of futures contracts in short staple cotton. However, because the NOCE contract is a "basis grade" contract, trading in the contract could not begin until the Secretary designated five spot cotton markets for settlement differences as required by the Cotton Futures Act.

There already existed a "basis grade" short staple cotton futures contract similar to the NOCE contract. That contract is the New York Cotton Exchange No. 1 contract.

As required by the Cotton Futures Act, the Secretary has already promulgated a regulation (7 CFR 27.94(a)) designating five spot cotton markets for contract settlement purposes under the New York No. 1 cotton contracts. The regulation was originally published in 1968 (33 FR 9285) but was thoroughly reviewed and amended January 3, 1980 (45 FR 761).

An Interim Final Rule was published July 7, 1981, (46 FR 35105) to amend the regulation (7 CFR 27.94) which designates five spot cotton markets for the New York No. 1 contract to provide that the same designated spot cotton markets be used for contract settlement purposes under the NOCE cotton contract. No comments were received during the 60-day comment period. Therefore, this action is taken to finalize the rule as originally published.

Since there were no comments and no further changes are being made in the regulation by this action, it is desirable that this action be made effective on date of publication.

PART 27—COTTON CLASSIFICATION UNDER COTTON FUTURES LEGISLATION

Accordingly, § 27.94 is amended by revising paragraph (a) to read as follows:

§ 27.94 Spot markets for contract settlement purposes.

(a) For cotton delivered in settlement of any No. 1 contract of the New York Cotton Exchange or any contract of the New Orleans Commodity Exchange:

Dallas, TX, Greenville, SC, Lubbock, TX, Memphis, TN, Montgomery, AL.

• • • • •
(90 Stat. 1841-46; 7 U.S.C. 15b)

Dated: October 14, 1981.

Eddie F. Kimbrell,

Acting Deputy Administrator, Marketing Program Operations, Agricultural Marketing Service.

[FR Doc. 81-30366 Filed 10-19-81; 8:45 am]

BILLING CODE 3410-02-M

Food and Nutrition Service

7 CFR Parts 210, 215, 220, 235, and 245

Special Milk Program and Private School Participation

AGENCY: Food and Nutrition Service, USDA.

ACTION: Emergency interim-final rule.

SUMMARY: This rule excludes private schools with an average yearly tuition exceeding \$1,500 per child from participating in programs authorized by the Child Nutrition Act (CNA) and the National School Lunch Act (NSLA); and limits participation in the Special Milk Program to schools and institutions which do not participate in another

CNA or NSLA program. These amendments are required by the Omnibus Reconciliation Act of 1981, Public Law 97-35, and are intended to reduce Federal expenditures.

DATES: Effective: October 1, 1981. Comments concerning the private school tuition limitation provision (§§ 210.2, 215.2, 220.2, 235.2, 245.2) must be postmarked on or before November 4, 1981.

ADDRESSES: Comments may be mailed to Samuel P. Bauer, Director, School Programs Division, FNS, USDA, Washington, D.C. 20250. Comments may be delivered to the above address during regular business hours (8:30 am to 5:00 pm, Monday through Friday). Comments received may also be inspected at Room 4300B Auditors Building at the address listed above.

FOR FURTHER INFORMATION CONTACT: Stanley C. Garnett, Branch Chief, Policy and Program Development Branch, School Programs Division, FNS, USDA, Washington, D.C. 20250, (202) 447-9069.

SUPPLEMENTARY INFORMATION:

Classification: This rule has been reviewed under Executive Order 12291 and has not been classified as major because it does not meet any of the three criteria of the Executive Order. This rule will not have an annual effect on the economy of \$100 million, will not cause a major increase in costs or prices for consumers; individual industries; Federal, State or local government agencies; or geographic regions. This action will not have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States based enterprises to compete with foreign based enterprises in domestic or export markets.

G. William Hoagland, Administrator of the Food and Nutrition Service, has determined pursuant to 5 U.S.C. 553 (b) and (d) that good cause exists for making this rule effective earlier than 30 days after publication because Public Law 97-35 mandates that this rule be effective on October 1, 1981. However, due to the discretionary nature of the definitions in this regulation pertaining to the private school tuition limitation provision, public comments will be solicited.

Finally, this rule has been reviewed with regard to the requirements of the Regulatory Flexibility Act, Public Law 97-354. G. William Hoagland, Administrator of the Food and Nutrition Service, has certified that this action will not have a significant economic impact on a substantial number of small entities.

Limits to Private School Participation

As required by Section 808 of Public Law 97-35, a private school with an "average yearly tuition" which exceeds \$1,500 per child is excluded from participation in the National School Lunch Program and other programs authorized by the National School Lunch Act or the Child Nutrition Act of 1966. This limitation becomes effective on October 1, 1981, as specified by Public Law 97-35, section 820 (1981). For purposes of consistent nationwide application of this rule, the Department defines "average yearly tuition" as follows:

Tuition—The Department defines "tuition" to mean any educational expense required by the school as part of a student's educational program. Examples of such educational expenses include, but are not limited to: books, laboratory fees, school supplies, transportation fees for school related trips, fees for equipment or consumable goods used as part of a class or shop instruction, or other educational expenses incurred by students. In this rule, the costs of room and board and commuting costs to and from school are excluded from consideration as tuition. The Department excluded these expenses because they are routine living expenses and are not exclusively associated with receiving an education.

Yearly—For purposes of determining a school's average yearly tuition, the Department considers the word "yearly" to mean a school year, which is the period of time in which the majority of children are in attendance. Because many schools are formally in session for less than a twelve month period, a school's "average yearly tuition" could conceivably be based on less than a calendar year.

Average—The Congress recognizes that some schools may not charge all students the same tuition. Therefore, in the "Statement of Managers" accompanying the Omnibus Reconciliation Act of 1981, the conferees declared it was their intent that the Department define "tuition" so as to exclude monies paid for educating "special needs children" paid by State, county or local authorities to private schools. In addition, the conferees expressed the intent not to exclude private schools with tuition over \$1,500 if such schools have a high percentage of students receiving scholarship aid. The Department expresses such Congressional intent in the following definitions:

(1) *State, county or local funds*—monies provided to schools operating principally for the purpose of educating handicapped or

other special needs (emotionally, physically or mentally handicapped) children for whose education the State or local government is primarily or solely responsible, and

(2) *Scholarship aid*—the Department interprets scholarship aid to mean academic scholarships provided by public or private organizations or entities to students, or to schools for students.

Also described in the "Statement of Managers" are the following two types of school situations in which: (1) a *sliding scale tuition* is charged for families which have more than one child attending the same school (For example, in one family the eldest child is charged the full tuition which exceeds \$1,500, but the second child receives a reduced rate.); or (2) the *tuition charged varies per grade level* (For example, a junior high school student is charged a higher tuition than an elementary school student attending the same school.). In both situations, to determine if the average yearly tuition exceeds \$1,500 per child, all tuitions charged to students are added and this total is divided by the number of children enrolled.

Limits to Special Milk Participation

Section 807 of Public Law 97-35, imposes limitations on a school's eligibility for participation in the Special Milk Program. As required by Section 807, effective October 1, 1981, *only* schools which do not participate in another federally funded food service program authorized by the Child Nutrition Act of 1966 (CNA), or the National School Lunch Act (NSLA) may participate in the Special Milk Program. Such CNA or NSLA programs include Part 210—National School Lunch Program, Part 220—School Breakfast Program, Part 225—Summer Food Program, and Part 226—Child Care Food Program. Also, schools which participate in the Commodity Food Program may not participate in the Special Milk Program. However, any institution which does not participate in the above programs but receives donated foods under Part 250, the Food Distribution Program, may participate in the Special Milk Program. The conforming changes to Parts 225, 226, and 250 are being made in separate regulatory actions.

The Department recognizes that some schools currently participating in more than one CNA or NSLA program are dividing program participation by grade level. For example, in the same school, children in the primary grades participate only in the Special Milk Program, while children in the middle grades participate in the National School Lunch Program. Public Law 97-35

stipulates that a school may either participate in the Special Milk Program, or in any of the CNA or NSLA authorized programs, but not in both at the same time. Therefore, schools will no longer be eligible to participate in the Special Milk Program for some grades while at the same time participating in CNA or NSLA programs in other grades.

Accordingly, Parts 210, 215, 220, 235 and 245 are amended as follows:

PART 210—NATIONAL SCHOOL LUNCH PROGRAM

1. In Section 210.2 the first sentence in paragraph (o) is revised to read as follows:

§ 210.2 Definitions.

(o) "School" means: (1) An educational unit of high school grade or under, except for a private school with an average yearly tuition exceeding \$1,500 per child, operating under public or nonprofit private ownership in a single building or complex of buildings.

2. In § 210.2, new paragraphs (v) and (w) are added to follow paragraph (u) to read as follows:

§ 210.2 Definitions.

(v) "Tuition" means any educational expense required by the school as part of the students' educational program; not including transportation fees for commuting to and from school, and the cost of room and board. The following monies shall not be included when calculating a school's average yearly tuition per child: (1) academic scholarship aid from public or private organizations or entities given to students, or to schools for students, and (2) State, county or local funds provided to schools operating principally for the purpose of educating handicapped or other special needs children for whose education the State, county or local government is primarily or solely responsible. In a school which varies tuition, the average yearly tuition shall be calculated by dividing the total tuition receipts for the current school year by the total number of students enrolled for purposes of determining if the average yearly tuition exceeds \$1,500 per child.

(w) "Special needs children" means children who are emotionally, mentally or physically handicapped.

PART 215—SPECIAL MILK PROGRAM

1. In Section 215.1, the second paragraph is amended by removing the

third and fourth sentences beginning with the words "The Secretary" and ending with the word "request" and inserting the following sentence in their place to read as follows:

§ 215.1 General Purpose and Scope.

Sec. 3. * * * Any school or nonprofit child-care institution which does not participate in a meal service program authorized under the National School Lunch Act or the Child Nutrition Act of 1966 shall receive the Special Milk Program upon its request.

§ 215.1 [Amended]

2. In Section 215.1, the word "also" in the fifth sentence in the second paragraph, is removed.

3. In Section 215.1, the eighth sentence of the second paragraph is removed beginning with the word "Notwithstanding" and ending with the word "cents."

§ 215.2 [Amended]

4. In Section 215.2, paragraph (k-1) is removed.

5. In Section 215.2, paragraph (q), the words "nonprofit food service" or", and the words "Food or" which are mentioned twice are removed.

6. In Section 215.2, the first sentence in paragraph (v) is revised as follows:

§ 215.2 Definitions.

(v) "School" means: (1) An educational unit of high school grade or under, except for a private school with an average yearly tuition exceeding \$1,500 per child, operating under public or nonprofit private ownership in a single building or complex of buildings.

7. In § 215.2 new paragraphs (bb) and (cc) are added to follow the last paragraph (aa) to read as follows:

§ 215.2 Definitions.

(bb) "Tuition" means any educational expense required by the school as part of the students' educational program; not including transportation fees for commuting to and from school, and the cost of room and board. The following monies shall not be included when calculating a school's average yearly tuition per child: (1) academic scholarship aid from public or private organizations or entities given to students, or to schools for students, and (2) State, county or local funds provided for schools operating principally for the purpose of educating handicapped or

other special needs children for whose education the State, county or local government is primarily or solely responsible. In a school which varies tuition, the average yearly tuition charged shall be calculated by dividing the total tuition receipts for the current school year by the total number of students enrolled for purposes of determining if the average yearly tuition exceeds \$1,500 per child.

(cc) "Special needs children" means children who are emotionally, mentally or physically handicapped.

8. In Section 215.7 paragraph (a), the first sentence is revised to read as follows:

§ 215.7 Requirements for participation.

(a) Any school or nonprofit child-care institutions shall receive the Special Milk Program upon request provided it does not participate in a meal service program authorized under the Child Nutrition Act of 1966 or the National School Lunch Act.

§ 215.7 [Amended]

9. In Section 215.7 paragraph (d)(1), a period is placed after the first usage of the word "service" and the remainder of the sentence is removed.

§ 215.8 [Amended]

10. In Section 215.8 paragraph (b)(1), the second sentence beginning with the word "However" and ending with the word "institution" is removed. The third sentence beginning with the words "The rate" and ending with the word "Children" is also removed.

PART 220—SCHOOL BREAKFAST PROGRAM

1. In Section 220.2 the first sentence in paragraph (u) is revised as follows:

§ 220.2 Definitions.

(u) "School" means: (1) An educational unit of high school grade or under, except for a private school with an average yearly tuition exceeding \$1,500 per child, operating under public or nonprofit private ownership in a single building or complex of buildings.

2. In Section 220.2, paragraph (z-1) is redesignated as paragraph (aa). New paragraphs (bb) and (cc) are added to follow paragraph (aa) to read as follows:

§ 220.2 Definitions.

(bb) "Tuition" means any educational expense required by the school as part

of the student's educational program; not including transportation fees for commuting to and from school, and the cost of room and board. The following monies shall not be included when calculating a school's average yearly tuition per child: (1) academic scholarship aid from public or private nonprofit organizations given to students, or to schools for students, and (2) State, county or local funds provided to schools operating principally for the purpose of educating handicapped or other special needs children for whose education the State, county or local government is primarily or solely responsible. In a school which varies tuition, the average yearly tuition shall be calculated by dividing the total tuition receipts for the current school year by the total number of students enrolled for purposes of determining if the average yearly tuition exceeds \$1,500 per child.

(cc) "Special needs children" means children who are emotionally, mentally or physically handicapped.

3. In Section 220.11, paragraph (c) is revised to read as follows:

§ 220.11 Reimbursement procedure.

(c) Where a school participates in both the National School Lunch Program and the School Breakfast Program, the State agency, or FNSRO where applicable, may authorize the submission of one claim for reimbursement to cover the income and expenditures incident to both programs.

PART 235—STATE ADMINISTRATIVE EXPENSE FUNDS

1. In Section 235.2, the first sentence in paragraph (o) is revised as follows:

§ 235.2 Definitions.

(o) "School" means: (1) An educational unit of high school grade or under, except for a private school with an average yearly tuition exceeding \$1,500 per child, operating under public or nonprofit private ownership in a single building or complex of buildings.

2. In Section 235.2, new paragraphs (u) and (v) are added to follow paragraph (t) to read as follows:

§ 235.2 Definitions.

(u) "Tuition" means any educational expense required by the school as part of the student's educational program;

not including transportation fees for commuting to and from school, and the cost of room and board. The following monies shall not be included when calculating a school's average yearly tuition per child: (1) academic scholarship aid from public or private nonprofit organizations given to students, or to schools for students, and (2) State, county or local funds provided to schools operating principally for the purpose of educating handicapped or other special needs children for whose education the State, county or local government is primarily or solely responsible. In a school which varies tuition, the average yearly tuition shall be calculated by dividing the total tuition receipts for the current school year by the total number of students enrolled for purposes of determining if the average yearly tuition exceeds \$1,500 per child.

(v) "Special needs children" means children who are emotionally, mentally or physically handicapped.

PART 245—DETERMINING ELIGIBILITY FOR FREE AND REDUCED PRICE MEALS AND FREE MILK

1. In Section 245.3 paragraph (c), the first sentence is amended by removing the words "and, if so electing" and replacing them with the word "or" and the fourth sentence is revised to read as follows:

§ 245.3 Eligibility standards and criteria.

(c) * * * In any school which participates in more than one of the child nutrition programs, eligibility shall be applied uniformly so that eligible children receive the same benefits in each program. * * *

§ 245.4 [Amended]

2. In Section 245.4, the first sentence of the introductory paragraph is amended by removing the word "and" between the words "meals" and "milk" and replacing it with the word "or".

Note.—The decrease in the reporting and recordkeeping requirements contained in this regulation are subject to review by the Office of Management and Budget under the Paperwork Reduction Act.

(Sections 807 and 808, Public Law 97-35, 95 Stat. 521-535, 42 U.S.C. 1772, 1784, 1760)

(Catalog of Federal Domestic Assistance Nos. 10.553, 10.555, 10.556)

Signed in Washington, D.C. on October 15, 1981.

G. William Hoagland,
Administrator, Food and Nutrition Service.

[FR Doc. 81-30399 Filed 10-19-81; 8:45 am]

BILLING CODE 3410-30-M

7 CFR Parts 210, 220, and 245

National Average Payments, Maximum Reduced Price Charges, and October/March Estimates

AGENCY: Food and Nutrition Service, USDA.

ACTION: Emergency final rule.

SUMMARY: This rule revises the regulations regarding the "national average payments", the amount of money the Federal government gives States for meals served in the National School Lunch and School Breakfast Programs. This rule also eliminates the requirement that each October and March, schools estimate and report the number of children eligible for free or reduced price meals. In addition, this rule increases the maximum price which a child may be charged for reduced price meals. The maximum reduced price charge is now up to 40 cents for a lunch, and up to 30 cents for a breakfast. All of the above revisions are required by Pub. L. 97-35, the Omnibus Budget Reconciliation Act of 1981, and are intended to reduce Federal expenditures.

EFFECTIVE DATES:

August 13, 1981—Maximum Reduced Price Charges (§§ 210.2, 220.2, 245.2, 245.11).

September 1, 1981—National Average Payment Factors/Reimbursement Rates (§§ 210.4, 210.11, 220.4, 220.9).

October 1, 1981—Elimination of October/March Estimates (§§ 210.8, 210.13, 210.14).

FOR FURTHER INFORMATION CONTACT: Stanley C. Garnett, Branch Chief, Policy and Program Development Branch, School Programs Division, Food and Nutrition Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447-9069.

SUPPLEMENTARY INFORMATION:

Classification

This action has been reviewed under Executive Order 12291 and has not been classified major because it does not meet any of the three criteria identified under the Executive Order. This action will not have an annual effect on the economy of \$100 million or more nor will it have a major increase in costs or prices for consumers; individual industries; Federal, State or local government agencies; or geographic

regions. This action will not have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States based enterprises to compete with foreign based enterprises in domestic or export markets. In addition, under guidance provided by the Office of Management and Budget (OMB), rules over which the Agency has no discretion are not classified as major under the Executive Order and impact analyses are not required. Because of the effective dates specified by Pub. L. 97-35, it is impracticable for the Department to follow the procedures set forth in Executive Order 12291. As provided by section 8(a) of that Order, the Director of OMB has been notified of this circumstance.

G. William Hoagland, Administrator of the Food and Nutrition Service, has determined pursuant to 5 U.S.C. 553 (b) and (d) that good cause exists for making this rule effective earlier than 30 days after publication because Pub. L. 97-35 mandates that the provisions of this rule be effective on August 13, 1981 (Maximum Reduced Price Charges), September 1, 1981 (National Average Payment Factors/Reimbursement Rates), and October 1, 1981 (Elimination of October/March Estimates). Solicitation of public comments is unnecessary and contrary to the public interest because the provisions of this rule are nondiscretionary.

Finally, this rule has been reviewed with regard to the agreements of Pub. L. 96-354, the Regulatory Flexibility Act. G. William Hoagland, Administrator of the Food and Nutrition Service, has certified that this action will not have a significant economic impact on a substantial number of small entities. The action will implement those provisions of the 1981 Omnibus Reconciliation Act aimed at reducing the growth of Federal expenditures for Fiscal Year 1982.

Background

In an effort to decrease Federal expenditures and increase State and local program flexibility, the Congress enacted Pub. L. 97-35 which authorized the following changes:

National Average Payment Factors

Prior to the passage of Pub. L. 97-35, Section 4 and Section 11 of the National School Lunch Act (NSLA) and Section 4 of the Child Nutrition Act of 1966 (CNA) contained provisions which:

(1) Established Section 4 and Section 11 "minimum" National Average Payment factors (NAPFs) to be paid by the Secretary to States (or FNSROs

where applicable), for lunches and breakfasts served,

(2) Provided for semi-annual adjustments to the NAPFs, and

(3) Required that the aggregate amount of NAPFs paid by the Secretary to a State or FNSRO for any Fiscal Year be not less than the NAPFs paid by the State or FNSRO to schools for the fiscal year ending June 30, 1972.

The requirements of these provisions were written into the regulations. As required by section 801 of Pub. L. 97-35, all three provisions have been omitted from the NSLA and the CNA. Therefore, we are removing obsolete portions from Part 210, National School Lunch Program regulations and Part 220, School Breakfast Program regulations.

Elimination of October and March Estimates

Prior to the passage of Pub. L. 97-35, Section 11 of the National School Lunch Act required that reimbursement claims submitted by schools for October and March of each year be accompanied by an estimate of the number of children in each school who are eligible for free or reduced price lunches.

Pub. L. 97-35 eliminated this reporting requirement. Effective October 1, 1981 claims for reimbursement covering October and March no longer need be accompanied by an estimate of the number of children in each school who are eligible for a free or a reduced price meal. Part 210 National School Lunch Program regulations are amended to reflect this change.

Maximum Reduced Price Charge

Prior to the passage of Pub. L. 97-35, the maximum price a child could be charged for a reduced price breakfast and lunch was ten cents and twenty cents respectively. Sections 801 and 803 of Pub. L. 97-35 established new maximum rates which schools may charge for a reduced price meal. Effective August 13, 1981, a child may be charged up to *thirty cents* for a reduced price breakfast, and up to *forty cents* for a reduced price lunch. Appropriate changes are made in Parts 210, 220, and 245 to reflect these changes.

Accordingly, Parts 210, 220, and 245 are revised to read as follows:

PART 210—NATIONAL SCHOOL LUNCH PROGRAM

§ 210.2 [Amended]

1. In § 210.2 paragraph (n-1)(2), the number 20 is removed and is replaced by the number 40.

§ 210.4 Payment of funds to States and FNSROs [Amended]

2. In § 210.4, paragraph (a) is amended by removing the remainder of the paragraph starting with the words "Provided, however," and replacing the colon at the end of the paragraph as so amended with a period.

3. In § 210.4, paragraph (b) is amended by removing the second sentence starting with the word "Beginning" and ending with "lunches".

4. In § 210.4, paragraph (c) is revised as follows:

(c) The Secretary shall prescribe by July 1 of each fiscal year, adjustments to the nearest one-fourth cent in the national average general cash-for-food assistance factor for all lunches and the national average special cash assistance factors for free and reduced price lunches. These annual adjustments shall reflect changes in the cost of operating meal programs, as indicated by the changes for the most recent 12 month period for which such data are available in the food away from home series of the Consumer Price Index for All Urban Consumers, published by the Department of Labor, Bureau of Labor Statistics.

§ 210.8 [Amended]

5. In § 210.8, paragraphs (e)(17) is removed and reserved.

§ 210.11 [Amended]

6. In § 210.11 paragraph (b), the first sentence is amended by removing the words "and by January 1 of each fiscal year," and the second sentence is amended by removing the words "and at the effective date of the other semiannual adjustment".

§ 210.13 [Amended]

7. In § 210.13 paragraphs (c) and (d) are removed and paragraph (e) is redesignated as paragraph (c).

§ 210.14 [Amended]

8. In § 210.14, paragraph (g)(3) is removed and (g)(4) and (g)(5) are redesignated as (g)(3) and (g)(4).

PART 220—SCHOOL BREAKFAST PROGRAM

§ 220.2 [Amended]

1. In § 220.2 paragraph (s)(2), the number 10 is removed and is replaced by the number 30.

§ 220.4 [Amended]

2. In § 220.4, paragraph (a)(3) is amended by removing the remainder of the paragraph starting with the word "Provided" and replacing the colon at

the end of the paragraph as so amended with a period.

§ 220.4 [Amended]

3. In § 220.4, paragraph (b) is removed and paragraphs (c) and (d) are redesignated as (b) and (c). In the newly designated paragraph (b), the words "and by January 1 of each fiscal year semiannual" are removed and the word "annual" is inserted.

§ 220.9 [Amended]

4. In § 220.9, in the third sentence in paragraph (b) the word "semiannually" is removed and is replaced by the word "annually" and the fourth sentence is removed.

PART 245—DETERMINING ELIGIBILITY FOR FREE AND REDUCED PRICE MEALS AND FREE MILK

§ 245.2 [Amended]

1. In § 245.2 paragraph (g)(2), the number 20 is removed and is replaced by the number 40. Also, the number 10 is removed and is replaced by the number 30.

§ 245.11 [Amended]

2. In § 245.11 paragraph (a)(1), the number 20 is removed and is replaced by the number 40.

Note.—The decrease in the reporting requirements resulting from the elimination of the October and March estimates of needy children is subject to review by the Office of Management and Budget under the Paperwork Reduction Act of 1980.

(Catalog of Federal Domestic Assistance Nos. 10.553 and 10.555)

(Secs. 801, 803, 812; Pub. L. 97-35, 95 Stat. 521-535, (42 U.S.C. 1753, 1759(a), 1773, 1758))

Signed in Washington, D.C., on October 13, 1981.

G. William Hoagland,
Administrator.

[FR Doc. 81-30490 Filed 10-19-81; 8:45 am]

BILLING CODE 3410-30-M

Agricultural Marketing Service

7 CFR Part 928

[Papaya Reg. 11]

Papayas Grown in Hawaii; Grade and Size Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation sets minimum grade and size requirements for shipments of Hawaiian papayas. Such action is designed to promote orderly marketing of suitable quality and sizes

of fresh papayas grown in Hawaii in the interest of producers and consumers.

DATES: November 1, 1981, through December 31, 1981.

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

SUPPLEMENTARY INFORMATION: This rule has been reviewed under Secretary's Memorandum 1512-1 and Executive Order 12291 and has been designated a "non-major" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has determined that this action will not have a significant economic impact on a substantial number of small entities because it would not measurably affect costs for the directly regulated handlers.

This regulation is issued under the marketing agreement and Order No. 928 (7 CFR Part 928) regulating the handling of papayas grown in Hawaii. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). This action is based upon the recommendations and information submitted by the Papaya Administrative Committee, established under the order, and upon other information. It is hereby found that this action will tend to effectuate the declared policy of the act.

Papaya shipments in 1979 and 1980 were curtailed because of adverse weather and drought which caused substantial fruit losses in Hawaii. Because of this, marketing order regulation requirements for shipments of Hawaiian papayas were suspended early in the 1980 season. No regulations have been issued since that time. In the alternative, the industry attempted to maintain shipments of acceptable quality papayas under a voluntary arrangement among handlers of papayas. However, market surveys conducted at the request of the committee indicated that the voluntary quality assurance program was not effective. The reports indicated that some shipments of off-grade and immature papayas were made and such shipments tended to undermine consumer confidence in the overall quality of fresh papaya offerings.

The purpose of regulations is to maintain orderly marketing conditions and protect grower returns by preventing the shipment of poor quality papayas. Shipments of such low quality fruit disrupts orderly marketing and tends to depress prices of all Hawaiian papayas, since the presence of low quality fruit undermines consumer confidence in the quality of all such fruit sold in the market and discourages

repeat purchases. The regulations, as hereinafter set forth, are necessary to assure shipment of acceptable quality fruit and promote orderly marketing.

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

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

PART 928—PAPAYAS GROWN IN HAWAII

Therefore, a new § 928.311 is added to Title 7 of the Code of Federal Regulations to read as follows: (§ 928.311 expires December 31, 1981, and will not be published in the annual Code of Federal Regulations).

§ 928.311 Papaya Regulation 11.

(a) During the period November 1, 1981, through December 31, 1981, no handler shall ship any container of papayas (except immature papayas handled pursuant to § 928.152 of this part), unless said papayas grade at least Hawaii No. 1, except that the allowable tolerances for defects shall be 5 percent: *Provided*, That not more than 3 percent shall be permitted for serious damage, not more than 1 percent for immature fruit, and not more than 1 percent for decay: *Provided further*, That such papayas shall individually weigh not less than 11 ounces each.

(b) When used herein, "Hawaii No. 1" shall have the same meaning as set forth in the Standards for Hawaii Grown Papayas, Section 4.41-52 Administrative Rules, State of Hawaii, issued pursuant to Section 147-4, Part I, and Section 147-22, Part II, Chapter 147, Title 11, Volume 3, Hawaii Revised Statutes.

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

Dated: October 15, 1981.

D. S. Kuryloski,

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

[FR Doc. 81-30365 Filed 10-19-81; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 238

Contracts With Transportation Lines; Addition of Saudi Arabian Airlines; Name Change of Allegheny Airlines, Inc. to U.S. Air, Inc.

AGENCY: Immigration and Naturalization
Service, Justice.

ACTION: Final rule.

SUMMARY: This rule adds Saudi Arabian Airlines to the list of carriers which have entered into agreements with the Service to guarantee the passage through the United States in immediate and continuous transit of aliens destined to foreign countries. The rule also corrects the listing of the former "Allegheny Airlines, Inc." to read "U.S. Air, Inc." in the listing and the listing of carriers which have entered into preinspection agreement of their passengers and crews at places outside the United States.

DATES: Agreement for immediate and continuous transit with Saudi Arabian Airlines, effective: September 18, 1981. Technical correction to change "Allegheny Airlines, Inc." to U.S. Air, Inc., effective: October 20, 1981.

FOR FURTHER INFORMATION CONTACT: Stanley J. Kieszkiel, Acting Instructions Officer, Immigration and Naturalization Service, 425 Eye Street, N.W., Washington, DC 20536 Telephone: (202) 633-3048.

SUPPLEMENTARY INFORMATION: These amendments to 8 CFR 238.3 and 238.4 are published pursuant to 5 U.S.C. 552. The Commissioner of the Immigration and Naturalization Service entered into an agreement with the Saudi Arabian Airlines on September 18, 1981 to guarantee passage through the United States in immediate and continuous transit of aliens destined to foreign countries.

The agreement provides for the waiver of certain documentary requirements and facilitates the air travel of passengers on international flights while passing through the United States.

The rule also corrects the listing of the former "Allegheny Airlines, Inc." to "U.S. Air, Inc.", its present corporate name, and in the listing of carriers which have entered into preinspection agreements of their passengers and crews at places outside the United States. Preinspection outside the United States facilitates processing passengers and crews upon arrival at a U.S. port of entry and is a convenience to the traveling public.

Compliance with 5 U.S.C. 553 as to notice of proposed rulemaking and delayed effective date is unnecessary because the amendments merely make editorial changes to the listing of transportation lines.

In accordance with 5 U.S.C. 605(b), the Commissioner of Immigration and Naturalization certifies that the rule will not have a significant impact on a substantial number of small entities.

This order constitutes a notice to the public under 5 U.S.C. 552 and is not a rule within the definition of section 1(a) of E.O. 12291.

Accordingly, 8 CFR Part 238 is amended as follows:

PART 238—CONTRACTS WITH TRANSPORTATION LINES

§ 238.3 [Amended]

In § 238.3 Aliens in immediate and continuous transit, the listing of transportation lines in paragraph (b) *Signatory lines* is amended by:

1. Adding in alphabetical sequence, "Saudi Arabian Airlines".
2. Removing "Allegheny Airlines, Inc.," and inserting in its place in alphabetical sequence, "U.S. Air, Inc."

§ 238.4 [Amended]

In § 238.4 Preinspection outside the United States, the listing of transportation lines is amended by removing "Allegheny Airlines, Inc." wherever it appears and inserting in its place in alphabetical sequence, "U.S. Air, Inc."

(Secs. 103, 66 Stat. 173 (8 U.S.C. 1103); 238, 66 Stat. 202 (8 U.S.C. 1228))

Dated: October 13, 1981.

Doris M. Meissner,

Acting Commissioner of Immigration and
Naturalization

[FR Doc. 81-30368 Filed 10-19-81; 8:45 am]

BILLING CODE 4410-10-M

8 CFR Part 100

Statement of Organization; Field Service; Revised District Office Jurisdiction; Seattle, Wash.

AGENCY: Immigration and Naturalization
Service, Justice.

ACTION: Final rule.

SUMMARY: This rule realigns the jurisdiction of the INS Seattle, Washington district office to include certain nearby counties in the State of Idaho. The realignment benefits the Service by formally clarifying jurisdiction, and benefits the affected public by providing greater convenience in dealing with the Service.

EFFECTIVE DATE: October 20, 1981.

FOR FURTHER INFORMATION CONTACT:

For General Information: Stanley J. Kieszkiel, Acting Instructions Officer, Immigration and Naturalization Service, 425 I Street NW., Washington, DC 20536, Telephone: (202) 633-3048.

For Specific Information: Edward L. Carlson, Investigator, Immigration and Naturalization Service, 425 I Street NW., Washington, DC 20536, Telephone: (202) 633-3094.

SUPPLEMENTARY INFORMATION: This amendment to the Immigration and Naturalization Service, Statement of Organization, expands the jurisdiction of the Seattle, Washington district office to include certain counties in Idaho and to delete the same counties from the jurisdiction of the Helena, Montana district office. As revised, the jurisdiction of the Seattle, Washington district office now includes the following counties in north Idaho: Benewah, Bonner, Boundary, Clearwater, Idaho, Kootenai, Latah, Lewis, Nez Perce, and Shoshone. The same counties are removed from the jurisdiction of the Helena, Montana district office.

For many years the Spokane district office has handled adjudication, citizenship, investigation, and deportation matters which have arisen in the area of Idaho north of the Salmon River. The practice was implemented principally because most of the population in that area is along the western Idaho boundary and is within about 100 miles from Spokane as compared to the Helena district office which is about 325 miles distant. Also, there is a formidable range of mountains between these population centers and

Helena. Realigning the jurisdictions of both district offices is of benefit to the public and the rule formalizes jurisdiction between both Service district offices.

Compliance with 5 U.S.C. 553 as to proposed rulemaking and delayed effective date is not required because the rule deals with Service organization and procedure.

In accordance with 5 U.S.C. 605(b), the Commissioner of Immigration and Naturalization certifies that this rule will not have a significant economic impact on a substantial number of small entities because it deals solely with jurisdiction of Service offices and has no adverse impact on the public.

This rule is exempt from the requirements of E.O. 12291 as provided for by section 1(a)(3) of the Executive Order because it relates to agency organization.

PART 100—STATEMENT OF ORGANIZATION

Accordingly, Chapter I of Title 8 of the Code of Federal Regulations is amended as follows:

In § 100.4, paragraphs (b) 12 and 30 are revised to read as follows:

§ 100.4 Field Service.

(b) * * *

12. *Seattle, Washington.* The district office in Seattle, Washington, has jurisdiction over the State of Washington and over, the following counties in the State of Idaho: Benewah, Bonner, Boundary, Clearwater, Idaho, Kootenai, Latah, Lewis, Nez Perce and Shoshone; also, over the United States immigration offices located in the Province of British Columbia, Canada.

30. *Helena, Montana.* The district office in Helena, Montana, has jurisdiction over the State of Montana and all counties in Idaho, except Benewah, Bonner, Boundary, Clearwater, Idaho, Kootenai, Latah, Lewis, Nez Perce, and Shoshone; also, over the United States immigration office located in Calgary, Alberta, Canada.

(Sec. 103, 86 Stat. 173 (8 U.S.C. 1103))

Dated: October 13, 1981.

Doris M. Meissner,

Acting Commissioner of Immigration and Naturalization.

[FR Doc. 81-30368 Filed 10-19-81; 8:45 am]

BILLING CODE 4410-10-M

DEPARTMENT OF AGRICULTURE

Packers and Stockyards Administration

9 CFR Parts 201 and 203

Removal of Regulations and Policy Statements

AGENCY: Packers and Stockyards Administration, USDA.

ACTION: Final rule.

SUMMARY: This document removes two regulations and two policy statements. The regulations previously required the filing of all business contracts by stockyard owners with the agency and the furnishing of adequate accommodations for public bidding at livestock auctions. The policy statements concerned the purchase and sale of lambs and the voluntary filing of surety bonds. These items are removed as they are no longer necessary for the effective enforcement of the Packers and Stockyards Act.

EFFECTIVE DATE: November 19, 1981.

FOR FURTHER INFORMATION CONTACT: John A. Sands, Director, Livestock Marketing Division, telephone (202) 447-6951, or William V. Carroll, Director, Packer and Poultry Division, telephone (202) 447-6771.

SUPPLEMENTARY INFORMATION: In the Federal Register publication of December 11, 1979 (44 FR 71802) the Packers and Stockyards Administration set forth a plan for review of existing regulations and requested comments thereto. Such plan proposed for deletion regulation 201.85 (requirements as to public bidding accommodations, policy statement 203.1 (lamb buying practices) and policy statement 203.13 (voluntary filing of surety bonds). As part of this plan, regulation 201.51 (the filing of contracts by stockyard owners) was proposed for complete review. Again, in the Federal Register notice issued March 31, 1980 (45 FR 21168) the agency proposed revocation of rules §§ 201.85, 203.1 and 203.13. At this same time, regulation § 201.51 was published for review and comment.

Comments filed in response to the notices published on December 11, 1979, and March 31, 1980, with respect to regulation § 201.51 generally recommended deletion of this regulation. The comments suggested that the regulation was outmoded, unnecessary and served no useful purpose. One state department of

agriculture recommended retention of the regulation in its comments. Regarding the proposed deletions of §§ 201.85, 203.1 and 203.13, no comments were received.

Regulation § 201.51 requires stockyard owners to furnish copies of all contracts between them and other firms which relate to the stockyard owners' business. The modification of the rate regulation program removes the need for such information on a routine basis. When such information is necessary for effective administration of the Act it can be obtained under existing provisions of the Act.

Executive Order 12291

This removal of regulations and policy statements is not a major rule as defined in section 1(b) of E.O. 12291. Accordingly, a regulatory impact analysis is not required.

Regulatory Flexibility Act

James L. Smith, Acting Administrator, Packers and Stockyards Administration, has determined that this action will not have a significant economic impact on a substantial number of small entities. This action will reduce the paperwork burden of stockyard owners and the agency.

PART 201—REGULATIONS UNDER THE PACKERS AND STOCKYARDS ACT

Accordingly, Parts 201 and 203, Chapter II of Title 9 of the Code of Federal Regulations are amended as follows:

§§ 201.51 and 201.85 [Removed]

1. In Part 201, §§ 201.51 and 201.85 are removed.

PART 203—STATEMENTS OF GENERAL POLICY UNDER THE PACKERS AND STOCKYARDS ACT

§§ 203.1 and 203.13 [Removed]

2. In Part 203, §§ 203.1 and 203.13 are removed.

(7 U.S.C. 229(a))

Done at Washington, D.C., this 5th day of October, 1981.

James L. Smith,

Acting Administrator, Packers and Stockyards Administration.

[FR Doc. 81-30398 Filed 10-19-81; 8:45 am]

BILLING CODE 3410-28-M

DEPARTMENT OF ENERGY

10 CFR Part 600

41 CFR Part 9-9

Implementation of Sections 202-204 of Pub. L. 96-517 and the Effect on 41 CFR Part 9-9 and 10 CFR Part 600; Policy Statement

AGENCY: Department of Energy.

ACTION: Policy statement.

SUMMARY: Sections 202-204 of Pub. L. 96-517 govern the disposition of rights in inventions made under federal funding agreements with small business firms and nonprofit organizations. The Office of Federal Procurement Policy (OFPP) is authorized to issue regulations implementing the provisions of Sections 202-204 and to establish standard funding agreement provisions.

In funding agreements with small business firms and nonprofit organizations (as defined in Pub. L. 96-517) the Department of Energy (DOE) will use the regulations and standard funding agreement provisions contained in OMB Bulletin 81-22. These regulations and standard funding agreement provisions supersede the DOE Procurement Regulations (DOE-PR) of 41 CFR Part 9-9 and the DOE Assistance Regulations (DOE-AR) of 10 CFR Part 600 insofar as they are applicable to small business firms and nonprofit organizations.

EFFECTIVE DATE: July 1, 1981.

FOR FURTHER INFORMATION CONTACT: James E. Denny, Assistant General Counsel for Patents, Department of Energy, Washington, D.C. 20585, telephone (202) 252-2802.

SUPPLEMENTARY INFORMATION:

Accordingly, DOE-PR Section 9-9.107 through section 9-9.109 and the provisions thereof referenced by the DOE-AR will no longer be followed by DOE in funding agreements with small business firms and nonprofit organizations, effective July 1, 1981.

Issued in Washington, D.C. on July 17, 1981.

Hilary J. Rauch,

Director, Procurement and Assistance Management.

[FR Doc. 81-29925 Filed 10-19-81; 8:45 am]

BILLING CODE 6450-07-M

CIVIL AERONAUTICS BOARD

14 CFR Part 298

(Regulation ER-1251; Amendment No. 17, Docket 38906)

Classification and Exemption of Air Taxi Operators Dual Authority

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: Airlines that use only small aircraft are already exempt from many regulatory requirements of the Federal Aviation Act. The CAB now grants similar exemptions to certificated airlines (which usually operate large aircraft) for their small aircraft operations, in order to promote competition. The exemptions are limited to operations that are off the airlines' certificated route systems. The CAB also eliminates an obsolete restriction on competition with certificated helicopter service.

DATES: Adopted: October 14, 1981. Effective: October 20, 1981.

FOR FURTHER INFORMATION CONTACT:

Mark Schwimmer, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428; (202) 673-5442.

SUPPLEMENTARY INFORMATION: In this final rule, the Board adopts exemptions to allow any certificated air carrier to perform small-aircraft operations off its certificated route system as if it were an air taxi operator. For cargo-only service, the exemption also covers on-route operations. This scheme replaces the series of Board orders that granted dual authority to individual air carriers. It was proposed in EDR-412, 45 FR 73087, November 4, 1980. In notice of proposed rulemaking EDR-433, issued along with this final rule, the Board seeks comments on expanding the exemption to cover all the small-aircraft operations of a certificated carrier.

Background

In order to provide passenger air transportation or international cargo air transportation, air carriers must ordinarily obtain certificates from the Board under section 401 of the Federal Aviation Act of 1958. They must also file tariffs under section 403 and comply with a variety of other provisions of the Act, subjecting them to the full scheme of route, rate, consumer, and antitrust regulation.

Air carriers that use only small planes (not more than 60 seats/maximum payload not more than 18,000 pounds), however, can operate in the largely unregulated environment established by the Board's air taxi rule, 14 CFR Part 298. That rule defines "air taxi operator" essentially as an air carrier that uses only small aircraft, does not have a section 401 certificate, and meets certain other conditions. Part 298 exempts air taxi operators from section 401, section 403, and a variety of other provisions of the Act. The exemption is conditioned on compliance with registration, liability

insurance, reporting, and other requirements.

Although the Part 298 air taxi exemption has by its terms been unavailable to air carriers holding section 401 certificates, the Board has in several cases granted exemptions from those terms to individual carriers to allow them to conduct dual operations. These carriers perform flights along their certificated routes with large or small airplanes, and fly elsewhere with small planes under Part 298.

The Proposal

In EDR-412, the Board tentatively concluded that a general authorization of dual operations would be in the public interest, for two main reasons. First, it would permit the certificated carriers, especially the small ones, to compete on a more equal basis with the largely unregulated air taxi operators. It would let the level and quality of service in many markets be determined by market forces rather than by the less relevant consideration of which among competing airlines happen to hold certificates. Second, it would standardize the treatment of air taxis that grow into certificated carriers. The notice of proposed rulemaking also set out the Board's previous concerns with dual authority, such as the fear that a carrier might divert managerial talent and resources away from its certificated operations, and explained why such concerns were no longer significant.

The regulatory scheme of Part 298 has been as follows: Air taxi operators' basic exemptions from the Federal Aviation Act are set out in Subpart B of Part 298. These exemptions are conditioned on compliance with registration, reporting, and other requirements set out in Subparts C through H. In EDR-412 we proposed to add a new Subpart I to govern air taxi operations by certificated carriers. "Certificated carrier" would be defined as one holding a section 401 certificate. A carrier holding only a section 418 all-cargo certificate would not be affected by the proposed rule. Dual operations by such a carrier are already permitted by § 298.5.

Under the proposal, certificated passenger carriers would not become air taxi operators, but Subpart I would give them the exemptions set out in Subpart B as if they were air taxi operators. The exemptions would be limited to operations with small aircraft. The proposal also specified that the exemptions would be limited to operations that were outside the carrier's certificated route system, "to prevent confusion and circumvention of

tariff-filing and other requirements for certificated carriers."

As with true air taxi operators, the proposed Subpart I exemption for certificated carriers would be conditioned on compliance with Subparts C through H. It would be conditioned further on the terms of Subpart I itself. For example, dual authority carriers would have to register under Subpart C for their Part 298 operations. On the other hand, Subpart I would provide that these carriers have no exemption from section 407 of the Act, relating to the disclosure of stock ownership, since there is no meaningful way to limit such an exemption to a carrier's Part 298 operations.

When EDR-412 was issued, the Board's rules on denied boarding compensation, (14 CFR Part 250), smoking aboard aircraft (Part 252), and baggage liability (Orders 77-2-9, 77-4-94, and 77-9-80) applied, by their terms, primarily to certificated carriers. In the individual dual authority cases until then, we had avoided problems of public confusion by requiring the carriers to comply with all three consumer protection rules for all their air taxi operations as well as their certificated operations, with some exceptions for the denied boarding compensation rules. EDR-412 noted that in other proceedings the Board was reexamining the entire question of consumer protection in small aircraft operations, regardless of type of air carrier, with a view to more uniform requirements. Until completion of those other proceedings we proposed to continue the existing policy, as the course that appeared least likely to confuse passengers.

The Comments

Comments on EDR-412 were filed by Rich International Airways and DHL Corporation. Both generally supported the proposal. Rich had one objection. Focusing on all-cargo operations, it saw no need to limit the exemption to operations outside the carrier's certificated route system (proposed § 298.90(a)). Rich noted that its own dual authority exemption (Order 80-11-142) does not include such a route limitation, and stated that confusion about the applicability of consumer protection rules would not be an issue because they do not apply to cargo service in any event.

DHL Corporation agreed with Rich that all-cargo operations with small aircraft should be allowed under the proposed Subpart I even on a carrier's certificated route system. DHL also recommended, for passenger service, an exception to that feature of the proposal that would require dual authority

carriers to comply with the consumer protection rules for all their operations. It gave as an example a carrier that conducts transatlantic all-cargo service and wishes to begin domestic commuter service with small aircraft. In this situation, it stated, there is no realistic possibility of public confusion between the two sets of operations, and therefore no need to impose the consumer protection requirements on the commuter operations. More generally, it suggested that the requirements not be imposed on the Part 298 operations when the large jet certificated operations are in markets that are "completely distinct in terms of geography, size of aircraft, type of service, etc."

Response to Comments

The Board has decided to adopt the dual authority scheme essentially as proposed in EDR-412, for the reasons set forth in that notice. In response to Rich's comment, however, proposed § 298.90(a) is revised so that all of a carrier's cargo-only service with small aircraft will be covered under Part 298, rather than merely the off-route service. The practical effect of this change is simply to exempt the on-route small-plane operations from tariff-filing requirements. Rich has already been operating this way—with Part 298 and section 401 operations on the same route—under its individual dual authority exemption, without any apparent problems.

DHL's concerns about consumer protection requirements are largely mooted by events that have taken place since the proposal was issued. In ER-1237, 46 FR 42442, August 21, 1981, the Board amended the denied boarding compensation rule to exclude coverage of small aircraft entirely. And in ER-1245, 46 FR 45934, September 16, 1981, the Board amended the smoking rule so that it applies uniformly to U.S. carriers' aircraft with 30 or more seats, without regard to whether the carrier holds a section 401 certificate. Thus only baggage liability remains an issue for dual authority carriers. This subject is better addressed in the separate proceeding on baggage liability rules in general. Meanwhile, the approach used in individual cases and proposed in EDR-412 will be continued, making all operations of a dual authority carrier subject to the baggage rules. The Board will be receptive to individual exemption requests, however, in situations where the carrier's Part 298 and section 401 operations are different enough that public confusion would be unlikely.

For passenger service, the on-route/off-route distinction will lose its meaning after December 31, 1981, because under section 1601(a)(1)(C) of the Act the Board will then lose authority to specify terminal or intermediate points of carriers' domestic route systems. We have tentatively concluded that the best approach to dual authority after that is to consider all of a carrier's domestic small-plane service as performed under Part 298. Comments on this approach are invited in notice of proposed rulemaking EDR-433, issued along with this rule.

Details

The following details of the dual authority scheme were discussed in EDR-412. Except for DHL's explicit support of the antitrust provisions, they were not addressed specifically in the comments. They are described again here to fully explain the new scheme.

Through service options. Since tariff filing is required for a dual authority carrier's certificated operations but not for its Part 298 operations, a question concerning tariffs might arise in cases where a single journey includes both types of air transportation. Proposed § 298.93 would give carriers two options: They could file a tariff for through service, or charge the sum of the applicable local fares. If the carrier did file a tariff for through service, it would not be exempt from section 403 of the Act (requiring observance of tariffs) or section 404(b) (prohibiting unjust discrimination) for that service.

The final rule follows the proposed approach for through service in foreign air transportation. For domestic through service, however, the proposed approach has become ambiguous in light of the Board's recently adopted tariff flexibility rule in 14 CFR 221.3(e) (ER-1246, 46 FR 46787, September 22, 1981). Moreover, there is no longer any purpose to be served by insisting on the filing of a tariff for through service that is sold below the sum of the local fares, because under new § 221.3(e) such a tariff would not have to state the exact through fare anyway. For domestic through service involving both a Part 298 and a certificated segment, therefore, the final rule leaves the choice of whether to file a tariff entirely up to the carrier. If the carrier does file a tariff for the through service, it is not exempt from section 404(b) of the Act for that service, and it is exempt from section 403 only as set forth in § 221.3(e). In other words, it can sell the through service at or below the tariff price, but not above. To the extent that this approach to domestic tariff filing by

dual authority carriers may be considered outside the scope of the notice of proposed rulemaking, the Board finds that notice and public procedure are impracticable and contrary to the public interest, in view of the need to complete by January 1, 1982, this rulemaking proceeding and the accompanying one begun by EDR-433.

Large aircraft reporting. Since Part 298 authorizes air transportation only with small aircraft, air taxi operators are required by § 298.32 to report to the Board any proprietary interests in, and operations with, large aircraft, which would presumably be used by them only for contract or private carriage. This reporting requirement is of course inappropriate for certificated carriers, most of whose large aircraft operations are authorized by their certificates. As proposed in EDR-412, therefore, new § 298.96 excludes from the requirement a certificated carrier's aircraft that are used only in its section 401 operations. We have tentatively concluded that these reports have outlived their usefulness, however, and in EDR-433, issued along with this final rule, we are proposing to eliminate both § 298.32 and § 298.96.

Mail. The carriage of mail by air taxi operators if governed by § 298.35. Since the standard of that section differs from the standards applicable to certificated service, § 298.97 specifies that for dual authority carriers § 298.35 applies only to the carriage of mail in their Part 298 operations.

Names. Names of certificated carriers are already governed by 14 CFR Part 215. New § 298.98 therefore excludes dual authority carriers from § 298.36, which governs air taxi operators' names.

Helicopters. Section 298.33 contains restrictions on air taxi service in competition with a certificated carrier that provides helicopter or similar service. EDR-412 proposed to eliminate the restrictions. In light of the statutory and Board policies favoring completion and the absence of any opposing comments, we are eliminating the restrictions entirely.

Insurance. Liability insurance requirements for air taxi operators currently appear in Subpart E of Part 298. We have recently adopted a new Part 205 that contains insurance requirements for all carriers except on-demand air taxi operators. Until Part 205 becomes effective,¹ § 298.100 of this rule applies the existing Subpart E insurance requirements to dual authority carriers as follows: Aircraft that are used in Part

298 operations, whether or not they are also used in certificated service, must be covered. Those used only in certificated or other non-Part-298 operations need not be covered.

Antitrust. Part 298 exempts air taxi operators from the prior approval requirements of section 408 of the Act, which governs mergers and acquisitions of control.² The exemption has been limited to situations where no party to the transaction operates large aircraft for compensation or hire. It has also been limited to the air taxi operators themselves, because until the Deregulation Act was passed we did not have authority to grant exemptions to persons other than air carriers. To avoid unnecessary regulatory intrusion in the activities of small carriers and implement fully the policy of letting certificated carriers conduct small aircraft operations, we are expanding the exemption for air taxi operators and making it available to all parties whenever it is available to one.³ We are also applying the expanded exemption to air taxi operators that have become dual authority carriers by obtaining an unused authority or automatic entry certificate under the provisions of section 401(d)(5) or (7) of the Act. Thus, the rule allows air taxis, certificated carriers, and other persons (including persons in control of air carriers and those substantially engaged in the business of aeronautics) to enter into transactions with each other without obtaining prior Board approval, as long as the result does not include common control relationships among any of the following: air carriers holding certificate authority under section 401(d)(1), (2), or (3) of the Act, persons controlling such air carriers, non-air common carriers, or persons (other than air carriers) substantially engaged in the business of aeronautics. Stated more directly, if section 408 applied to the transaction only because of the involvement of air taxi, unused authority or automatic market entry operations, all parties to the transactions are exempted from section 408 and prior approval is unnecessary. If section 408 would apply even when those operations were ignored however, the exemption is not available and prior approval is required. For example, an air taxi operator (or an air taxi operator that has become a dual

authority carrier by obtaining an unused authority certificate) can acquire a certificated carrier, without prior Board approval, and vice versa. A section 401(d)(1) certificated carrier, however, needs Board approval under section 408 to acquire an air taxi operator that has already acquired another section 401(d)(1) carrier, because of the involvement of two section 401(d)(1) carriers. Similarly, any other person substantially engaged in the business of aeronautics can, without prior approval, acquire an air taxi operator, but not if that operator has already acquired a certificated carrier.

This rule similarly expands the exemption from section 409 (interlocking relationships), and eliminates, as no longer necessary, the exemption from section 412 (contracts and agreements). The filing of contracts and agreements under section 412 is already voluntary, under the Deregulation Act and the International Air Transportation Competition Act, Pub. L. 96-192. The grant of a blanket exemption from these filing provisions could be construed as precluding altogether the filing of contracts or agreements involving air taxis. Since it is not our intent to deprive parties of the opportunity to seek Board approval of such documents if they so choose, the exemption from section 412 (currently contained in section § 298.11(i)) is removed. We anticipate, especially with respect to agreements that were formerly exempted from section 412 requirements, that parties will only file for approval if they also seek antitrust immunity.

Reporting requirements. Reporting requirements for air taxi operators are in Subpart F of Part 298. That subpart (§ 298.60) requires commuter air carriers to file their flight schedules and statements of rates and fares. This rule applies that requirement to dual authority carriers, but only to their small-plane Part 298 operations because schedules for certificated operators are covered by Part 231, *Transportation of Mail; Mail Schedules*, and fares for certificated operations are filed in tariffs. The rest of the Subpart F reporting requirements (flight and traffic statistics) do not apply to dual-authority carriers, because as certificated carriers they must report this information on CAB Form 41 under Part 241, *Uniform System of Accounts for Certificated Air Carriers*.

Joint fares and 90-day notice of service suspensions. Section 37(c) of the Airline Deregulation Act (49 U.S.C. 1482a) entitles commuter air carriers—air taxi operators that perform at least five scheduled round trips per week

¹In general, section 408 provides that no air carrier, person controlling an air carrier, other common carrier, or person substantially engaged in the business of aeronautics shall acquire control of an air carrier in any manner whatsoever without obtaining prior Board approval.

²The transaction would still be subject to full Board scrutiny under antitrust principles, but without the prior approval requirement.

³The Board will issue Part 205 shortly, and announce the effective date at that time. The effective date will be near the end of February 1982.

between a pair of points—to participate in any uniform joint fare system established by the Board. It also requires that a participating commuter give 90 days' notice before terminating its service in a market in which joint fares are offered. Failure to give the notice makes the commuter ineligible to participate in the joint fare system. A question arises about the applicability of this notice provision to dual authority carriers. In EDR-412 we tentatively concluded that a commuter should not be excused from the requirement merely because it has become a dual authority carrier by acquiring a certificated route, while a certificated carrier, on the other hand, should not have to provide the notice for all its service suspensions merely because it has become a dual authority carrier by beginning some air taxi operations. We therefore proposed to interpret the section 37(c) notice requirement, with respect to dual authority carriers, as applying only to air taxi operations. And if such a carrier failed to provide the notice, only its air taxi operations would be disqualified from participation in the joint fare system. With no comments on this interpretation, we have decided to adopt it as proposed. The interpretation is set forth in § 298.94. A revised approach is discussed in the accompanying notice of proposed rulemaking.

Charters. Charters performed by air taxi operators are governed by Part 298, which leaves them essentially unregulated, while charters performed by certificated carriers are governed by 14 CFR Part 207 or 208, depending on whether the carrier's certificate authorizes scheduled service or only charter service. If a dual authority carrier has scheduled route authority, its large-aircraft charters and its small-aircraft on-route passenger charters will be governed by Part 207, while its small-aircraft off-route passenger charters and all small-aircraft cargo charters will be governed by Part 298. If the dual authority carrier's certificate authorizes only charter service, then all its flights are "off-route" so that large aircraft charters will be governed by Part 208 and small-aircraft charters by Part 298.

Miscellaneous. Because these amendments relieve restrictions and create no additional burden, the Board finds that they may become effective upon publication in the *Federal Register*. These amendments make the dual authority exemptions already given in individual cases unnecessary. Some of them expire by their terms upon the effectiveness of this rule. The remaining ones are terminated by Order 81-10-94, issued along with this rule. This rule

also retitles Subpart C of Part 298 as *Registration for Exemption*, to correct an oversight in ER-1213, 46 FR 12477, February 17, 1981, which eliminated reregistration requirements. Finally, this rule updates the authority citation of Part 298.

Accordingly, the Civil Aeronautics Board amends 14 CFR Part 298, *Classification and Exemption of Air Taxi Operators*, as follows:

1. The authority citations for individual sections within Part 298 are removed and the authority for Part 298 is revised to read:

Authority: Secs. 101(3), 204, 401, 404, 407, 418, 418, 419, Pub. L. 85-726, as amended, 72 Stat. 737, 743, 754, 760, 766, 771, 91 Stat. 1284, 92 Stat. 1732; 49 U.S.C. 1301, 1324, 1371, 1374, 1377, 1386, 1388, 1389.

2. The Table of Contents is amended by revising the heading for § 298.14, revising the heading for Subpart C, removing § 298.33, and by adding entries for a new Subpart I, to read:

PART 298—CLASSIFICATION AND EXEMPTION OF AIR TAXI OPERATORS

Sec.

298.14 Exemptions for persons other than air taxi operators.

Subpart C—Registration for Exemption

298.33 [Reserved]

Subpart I—Air Taxi Operations by Certificated Carriers

298.90 Exemption for certificated carriers.
 298.91 No exemption from section 407.
 298.92 Antitrust provisions.
 298.93 Through service options.
 298.94 Joint fares and 90-day notice of service modifications, suspensions, or terminations.
 298.95 Baggage liability.
 298.96 Special reporting requirements relating to large aircraft.
 298.97 Carriage of mail.
 298.98 Use of name.
 298.99 Scope of filing and reporting requirements.
 298.100 Liability insurance.

3. In § 298.1, a sentence is added at the end, to read:

§ 298.1 Applicability of part.

*** This part also authorizes certificated carriers to provide service with small aircraft as if they were air taxi operators.

4. In § 298.2, a definition is added, in alphabetical order, to read:

§ 298.2 Definitions.

"Certificated carrier" means an air carrier holding a certificate issued under section 401 of the Act.

5. In § 298.11, paragraphs (h), and (i) are removed and paragraph (g) is revised to read:

§ 298.11 Exemption authority.

Air taxi operators are exempt from the following provisions of Title IV of the Act:

(g) Sections 408(a) and 409, for transactions and relationships to which those sections apply only because of the involvement of operations under this part, or under section 401(d)(5) (unused authority) or 401(d)(7) (automatic entry) of the Act.

6. Section 298.12 is revised to read:

§ 298.12 Effect of exemptions on antitrust laws.

The exemptions granted in §§ 298.11(g), 298.14, and 298.92 do not constitute orders, within the meaning of section 414 of the Act, and confer no immunity or relief from the "antitrust" laws or any other statute except the Act.

7. Section 298.14 is revised to read:

§ 298.14 Exemptions for persons other than air taxi operators.

The exemptions from sections 408(a) and 409 of the Act that are granted to air taxi operators by § 298.11(g) and to certificated carriers by § 298.92 are hereby granted to all other parties to the transaction or relationship.

§ 298.33 [Removed]

8. Section 298.33, Prohibition and limitations concerning regular service in markets served or authorized to be served by certificated helicopter carriers, and limitation on use of helicopter, STOL, or VTOL aircraft, is removed and reserved.

9. A new Subpart I is added, to read:

Subpart I—Air Taxi Operations by Certificated Carriers

§ 298.90 Exemption for certificated carriers.

Each certificated carrier is exempted from the Act in the manner set forth in Subpart B, subject to the terms of this subpart and Subparts C through H, as if it were an air taxi operator, for operations that are:

(a) Not along a route authorized by the carrier's section 401 certificate or do not include passenger service; and

(b) Performed with aircraft other than large aircraft.

§ 298.91 No exemption from section 407.

Notwithstanding § 298.11(f), certificated carriers operating under this part are not exempted from section 407 of the Act.

§ 298.92 Antitrust provisions.

Certificated carriers operating under this part are exempted from sections 408(a) and 409 of the Act for transactions and relationships to which those sections apply only because of the involvement of operations under this part, or under section 401(d)(5) (unused authority) or 401(d)(7) (automatic entry) of the Act.

§ 298.93 Through service options.

(a) *Interstate and overseas air transportation.* If a certificated carrier provides interstate or overseas air transportation that includes a segment operated by it under its section 401 certificate and a segment operated under this part, the carrier has the option of filing or not filing a tariff for through service. If the carrier files such a tariff, it is not exempt from section 403 or section 404(b) of the Act for that air transportation, except to the extent set forth in § 221.3(e) of this chapter (domestic tariff flexibility).

(b) *Foreign air transportation.* If a certificated carrier provides foreign air transportation that includes a segment operated by it under its section 401 certificate and a segment operated by it under this part, the carrier has the option of filing a tariff for through service or charging the sum of the applicable local rates, fares, or charges. If the carrier files a tariff for through service, it is not exempt from section 403 or section 404(b) of the Act for that air transportation.

§ 298.94 Joint fares and 90-day notice of service modifications, suspensions or terminations.

The 90-day notice requirement in section 37(c) of the Airline Deregulation Act of 1978, 49 U.S.C. 1482a, applies to a certificated carrier's operations under this part that are covered by an agreement to provide interline service. Failure to provide the required notice will disqualify those operations from participation in any Board-prescribed uniform method of establishing and dividing joint fares.

§ 298.95 Baggage liability.

(a) Except for tariff-filing requirements, the Board's rules on baggage liability apply to a certificated carrier's operations under this part as if those operations were performed under the carrier's section 401 certificate.

(b) Section 298.30, *Public disclosure of policy on consumer protection*, does not

apply to certificated carriers that operate under this part.

§ 298.96 Special reporting requirements relating to large aircraft.

The reporting requirements of § 298.32 do not apply to a certificated carrier's interests in, or operations with, aircraft that are used only in operations authorized by that carrier's section 401 certificate.

§ 298.97 Carriage of mail.

The limitations on the carriage of mail set out in § 298.35 apply to the carriage of mail by a certificated carrier only for its operations under this part.

§ 298.98 Use of name.

Names of certificated carriers that engage in operations under this part are governed by Part 215 of this chapter and not by § 298.36.

§ 298.99 Scope of filing and reporting requirements.

(a) The requirements of § 298.60, *Filing of flight schedules by commuter air carriers*, apply only to a certificated carrier's operations under this part.

(b) Reporting of a certificated carrier's scheduled operations is governed by Part 241 of this chapter, not by §§ 298.61 through 298.65 of this part.

§ 298.100 Liability insurance.

Until the effective date of Part 205 of this chapter, the liability insurance requirements of Subpart E apply to a certificated carrier's aircraft that are used in operations under this part, regardless of whether the aircraft are also used in other operations. On and after that date certificated carriers are subject to the liability insurance requirements set out in Part 205 of this chapter.

By the Civil Aeronautics Board,
Phyllis T. Kaylor,
Secretary.

[FR Doc. 81-30361 Filed 10-19-81; 8:45 am]
BILLING CODE 6320-01-M

14 CFR Part 373

[Regulation SPR-177; Docket 40120]

Implementation of the Equal Access to Justice Act

AGENCY: Civil Aeronautics Board.

ACTION: Interim rule.

SUMMARY: The CAB is issuing an interim rule to implement the Equal Access to Justice Act (EAJA). The EAJA, which takes effect October 1, 1981, provides for the award of attorney's fees and other expenses to parties who prevail over the Federal government in certain

administrative and court proceedings. The issuance of this rule is required by the EAJA. The CAB has adopted a separate notice of proposed rulemaking today, seeking comments on what the rule should be in its final form. The NPRM is being coordinated with OMB.

DATES: Effective: October 1, 1981.
Adopted: October 9, 1981.

FOR FURTHER INFORMATION CONTACT:

Joanne Petrie, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue, NW, Washington, D.C. 20428; 202-673-5442.

SUPPLEMENTARY INFORMATION: The Equal Access to Justice Act, Pub. L. 96-481, 94 Stat. 2325, authorizes the award of attorney's fees and other expenses to certain private litigants who prevail against the United States in adversary adjudications (proceedings under 554 of the Administrative Procedure Act, 5 U.S.C. 554) conducted by Federal agencies and in civil court proceedings other than tort actions. Eligible prevailing parties are entitled to awards of fees and expenses, unless the presiding officer or judge finds that the position of the United States was substantially justified or that special circumstances make an award unjust. Eligible parties include individuals with a net worth of not more than \$1 million; sole owners of unincorporated businesses, partnerships, corporations, associations or organizations with a net worth of not more than \$5 million and not more than 500 employees; and tax-exempt charitable, educational or religious organizations and agricultural cooperative association with not more than 500 employees, regardless of net worth. The Act applies to any proceeding pending between October 1, 1981 and September 30, 1984.

The Act directs agencies to establish uniform procedures for the award of fees in their administrative proceedings after consultation with the Chairman of the Administrative Conference. The Board's proposed regulations are based on the model regulations issued by the Administrative Conference (46 FR 15895, March 10, 1981 and 46 FR 32900, June 25, 1981), and the rules issued by the Department of Justice with minor changes to reflect the Board's organization and procedure. Because the Act becomes effective October 1, 1981, the Board is issuing this interim final rule. At the same time it is adopting a separate notice of proposed rulemaking seeking comments on what the rule should be in its final form. The NPRM will be issued after coordination with OMB.

By this issuance the Board is adding a new Part 373, *Implementation of the Equal Access to Justice Act*, to its special regulations. Part 373 has three subparts: (1) general provisions, (2) information required from applicants, and (3) procedures for considering applications. The rule deals only with the procedures for making an award and does not set the substantive standard of when action by Board counsel is "substantially justified."

Subpart A sets forth general provisions explaining the Equal Access to Justice Act. The first two sections state the purpose of the rule and the effective dates. The Act applies to any adversary adjudication pending before the Board between October 1, 1981 and September 30, 1984, or final Board sunset, whichever is earlier. Applications that are not acted upon by the Board before sunset will be processed by the successor agency handling the type of case from which the claim arose.

The Act applies to adversary adjudications under 5 U.S.C. 554 in which the position of the Board or any other agency of the United States is presented by an attorney or other representative who enters an appearance and participates in the proceeding. Three types of proceedings conducted by the Board are covered: enforcement proceedings, merger proceedings, and alterations, amendments, modifications, suspensions or revocations of a certificate to engage in foreign air transportation where the holder of such certificate requests an oral evidentiary hearing. In exceptional cases, other proceedings may be covered by the Act if the Board issues an appropriate order or designates the matter for hearing. In addition, a party who believes that a proceeding is covered under the Act may file an application, and the issue will be resolved in the proceedings on the application. If a proceeding includes both covered and noncovered issues, an award can be made on the covered issues.

The eligibility requirements for applicants restate the tests set out in the Act. The first requirement is that the applicant be a "prevailing party other than the United States." A prevailing party may not recover, however, if Board counsel can show that its position was "substantially justified" or that there are "special circumstances" that would make an award unjust.

Parties that meet these threshold qualifications must then show that they are members of one of the protected groups set forth in the statute. The qualifying factors include net worth,

number of employees and tax exempt status of the association or group. The Board will examine the net worth and number of employees of all the applicant's affiliates to determine eligibility. Applicants that participate in a proceeding primarily on behalf of ineligible entities may not receive an award.

The definition of employees in § 374.4(e) includes all persons who regularly perform services for remuneration for the applicant, under the applicant's direction and control. For the purposes of this section, the Board may consider travel agents, and ground crews hired from another air carrier, employees of the applicant if there is a significant degree of control by the applicant. Whether such support services will be included in any particular determination will depend on the facts in each case.

The standard for making an award is taken from the Act and is intended to be quite broad. If an eligible party prevails in all or a significant and discrete portion of an adversary adjudication, Board counsel have the burden of proof to show that its position was reasonable in law and fact. Applicants can only recover if the position of the Board was not substantially justified in law and fact. An award will be reduced or denied if the applicant has unduly or unreasonably protracted the proceeding, or if special circumstances make an award unjust.

The hourly rates for attorneys, agents, and expert witnesses are determined by a number of factors. Generally, the award will be based on the customary fee even if the service was provided to the applicant for free or for a reduced amount. The fee must be reasonable, however, and the Board or administrative law judge may inquire into the value of the services provided. In any event, the award may not exceed \$75.00 per hour for the services of an attorney or agent, or the customary fee paid by the Board for an expert witness. In special circumstances, these ceilings may be raised through rulemaking proceedings.

The interim rule states that the applicant must provide certain information, and sets forth the procedure for considering applications. The applicant must file an application identifying the proceeding, showing that the applicant prevailed and identifying the position of the Board that was not substantially justified. In addition, the applicant must show that the eligibility requirements of the Act have been met, and state the amount of fees and expenses sought. Exhibits concerning net worth will generally be included in

the public record, although confidential treatment can be granted if good cause is shown.

The rule provides for prompt processing of applications as soon as there is a final disposition in the proceedings. Relatively short periods are provided for answering the application, filing replies and for the submission of comments by other parties. Settlement is strongly encouraged, and additional time to file replies will be granted upon request of both parties in order to facilitate negotiations.

Generally, the award will be based on information in the written record, but additional information may be provided if required. The administrative law judge or Board has 30 days to rule on an application. There is provision for Board review, but if no action is taken the award becomes final 30 days after it is issued. After an award application is ruled upon, either the applicant or respondent bureau may seek judicial review as provided in 5 U.S.C. 504(c)(2). If there is no judicial review of the award or the underlying proceeding, the Board will pay the applicant within 60 days.

Regulatory Flexibility Act

In accordance with 5 U.S.C. 605(b), as added by the Regulatory Flexibility Act, Pub. L. 95-354, the Board certifies that these rules will not have a significant economic impact on a substantial number of small entities. While the Equal Access to Justice Act itself may have such an impact, the rules merely implement the Act's provisions and do not themselves impose significant economic burden or benefits.

Accordingly, the Civil Aeronautics Board adds a new Part 373, *Implementation of the Equal Access to Justice Act*, as follows:

PART 373—IMPLEMENTATION OF THE EQUAL ACCESS TO JUSTICE ACT

Subpart A—General Provisions

- Sec.
- 373.1 Purpose.
 - 373.2 Definitions.
 - 373.3 When the Act applies.
 - 373.4 Proceedings covered.
 - 373.5 Eligibility of applicants.
 - 373.6 Standards for awards.
 - 373.7 Allowable fees and expenses.
 - 373.8 Rulemaking on maximum rates for attorney fees.
 - 373.9 Awards against other agencies.

Subpart B—Information Required From Applicants

- 373.10 Contents of application.
- 373.11 Net worth exhibit.
- 373.12 Documentation of fees and expenses.

Sec.

373.13 When an application may be filed.

Subpart C—Procedures for Considering Applications

- 373.20 Filing and service of documents.
 373.21 Answer to application.
 373.22 Reply.
 373.23 Comments by other parties.
 373.24 Settlement.
 373.25 Further proceedings.
 373.26 Decisions.
 373.27 Board review.
 373.28 Judicial review.
 373.29 Payment of award.

Authority: Sec. 203(a)(1), Pub. L. 96-481, 94 Stat. 2325 (5 U.S.C. 504(c)(1)); Secs. 204 and 1002 of Pub. L. 85-726, as amended, 72 Stat. 743, 788; 49 U.S.C. 1324, 1482.

Subpart A—General Provisions**§ 373.1 Purpose.**

The Equal Access to Justice Act, 5 U.S.C. 504, provides for the award of attorney fees and other expenses to eligible individuals and entities who are parties to certain administrative proceedings (called "adversary adjudications") before the Civil Aeronautics Board. An eligible party may receive an award when it prevails over a respondent bureau unless the respondent bureau's position in the proceeding was substantially justified or special circumstances make an award unjust. A "respondent bureau" is the unit of the Board, or the intervening agency that participates in a proceeding covered under this part and that is alleged by the applicant to have taken a "substantially unjustified" position in that proceeding. The rules in this part describe the parties eligible for awards, and the proceedings that are covered. They also explain how to apply for awards, and the procedures and standards that the Board will use to make them.

§ 373.2 Definitions.

As used in this Part:

- (a) "The Act" means section 504 of title 5, United States Code, as amended by section 203(a)(1) of the Equal Access to Justice Act, Pub. L. No. 96-481.
 (b) "Adversary adjudication" means an adjudication under 5 U.S.C. 554 in which the position of the United States is represented by counsel or otherwise, but excludes an adjudication for the purpose of establishing or fixing a rate or for the purpose of granting or renewing a license.
 (c) "Proceeding" means an adversary adjudication as defined above.
 (d) "Respondent bureau" means the unit of the Board, or an intervening agency of the U.S. government that participates in a proceeding covered under this part in which the applicant prevails and that is alleged by the

applicant to have taken a "substantially unjustified" position in that proceeding.

§ 373.3 When the Act applies.

The Act applies to any adversary adjudication pending before the Board at any time between October 1, 1981 and September 30, 1984, or the date of final Board sunset, whichever is earlier. This includes proceedings begun before that date, and proceeding pending on September 30, 1984, regardless of when they were initiated or when final Board action occurs.

§ 373.4 Proceedings covered.

(a) The Act applies to adversary adjudications conducted by the Civil Aeronautics Board. These are adjudications under 5 U.S.C. 554 in which the position of this or any other agency of the United States, or any component of the Board or an intervening agency, is presented by an attorney or other representative who enters an appearance and participates in the proceeding. Any proceeding in which the Board may prescribe a lawful present or future rate is not covered by the Act. Proceedings to grant or renew licenses are also excluded, but proceedings to modify, suspend, or revoke licenses are covered if they are otherwise "adversary adjudications." For the Civil Aeronautics Board, the types of proceedings generally covered include:

- (1) Enforcement proceedings;
 - (2) Merger proceedings;
 - (3) Alterations, amendments, modifications, suspensions or revocations of a certificate to engage in foreign air transportation where the holder of such certificate requests an oral evidentiary hearing; and
- (b) The Board may also designate a proceeding not listed in paragraph (a) of this section as an adversary adjudication for purposes of the Act by so stating in an order initiating the proceeding or designating the matter for hearing. The Board's failure to designate a proceeding as an adversary adjudication shall not preclude the filing of an application by a party who believes the proceeding is covered by the Act; whether the proceeding is covered will then be an issue to be resolved in disposing of the application.
 (c) If a proceeding includes both matters covered by the Act and matters specifically excluded from coverage, any award made will include only fees and expenses related to covered issues.

§ 373.5 Eligibility of applicants.

(a) To be eligible for an award of attorney fees and other expenses under the Act, the applicant must be a party to

the adversary adjudication for which it seeks an award. The term "party" is defined in 5 U.S.C. 551(3). The applicant must show that it meets all conditions of eligibility set out in this subpart and in subpart B.

(b) The types of eligible applicants are as follows:

- (1) An individual with a net worth of not more than \$1 million;
 - (2) The sole owner of an unincorporated business who has a net worth of not more than \$5 million, including both personal and business interests, and not more than 500 employees;
 - (3) A charitable or other tax-exempt organization described in section 501(c)(3) of the Internal Revenue Code (26 U.S.C. 501(c)(3)) with not more than 500 employees;
 - (4) A cooperative association as defined in section 15(a) of the Agricultural Marketing Act (12 U.S.C. 1141j(a)) with not more than 500 employees; and
 - (5) Any other partnership, corporation, association, or public or private organization with a net worth of not more than \$5 million and not more than 500 employees.
- (c) For the purpose of eligibility, the net worth and number of employees of an applicant shall be determined as of the date the proceeding was initiated.
 (d) An applicant who owns an unincorporated business will be considered as an "individual" rather than a "sole owner of an unincorporated business" if the issues on which the applicant prevails are related primarily to personal interests rather than to business interests.
 (e) The employees of an applicant include all persons who regularly perform services for remuneration for the applicant, under the applicant's direction and control. Part-time employees shall be included on a proportional basis.

(f) The net worth and number of employees of the applicant and all of its affiliates shall be aggregated to determine eligibility. Any individual, corporation, or other entity that directly or indirectly controls or owns a majority of the voting shares or other interest of the applicant, or any corporation or other entity of which the applicant directly or indirectly owns or controls a majority of the voting shares or other interest, will be considered an affiliate for purposes of this part unless the adjudicative officer determines that such treatment would be unjust and contrary to the purposes of the Act in light of the actual relationship between the affiliated entities. In addition, the

administrative law judge or the Board may determine that financial relationships of the applicant other than those described in this paragraph constitute special circumstances that would make an award unjust.

(g) An applicant that participates in a proceeding primarily on behalf of one or more other persons or entities that would be ineligible is not itself eligible for an award.

§ 373.6 Standards for awards.

(a) A prevailing applicant may receive an award for fees and expenses incurred in connection with a proceeding, or in a significant and discrete substantive portion of the proceeding, unless the position of the respondent bureau over which the applicant has prevailed was substantially justified. No presumption arises that the agency's position was not substantially justified simply because the agency did not prevail.

(b) An award will be reduced or denied if the applicant has unduly or unreasonably protracted the proceeding or if special circumstances make the award sought unjust.

§ 373.7 Allowable fees and expenses.

(a) The following fees and other expenses are allowable under the Act:

(1) Reasonable expenses of expert witnesses;

(2) Reasonable cost of any study, analysis, engineering report, test, or project which the Department finds necessary for the preparation of the party's case;

(3) Reasonable attorney or agent fees.

(b) The amount of fees awarded will be based upon the prevailing market rates for the kind and quality of services furnished, even if they were made available without charge or at a reduced rate to the applicant, except that:

(1) Compensation for an expert witness will not exceed \$24.09 per hour; and

(2) Attorney or agent fees will not be in excess of \$75 per hour.

(c) In determining the reasonableness of the fee sought for an attorney, agent, or expert witness, the administrative law judge or Board shall consider the following:

(1) If the attorney, agent or witness is in private practice, his or her customary fee for similar services, or, if an employee of the applicant, the fully allocated cost of the services;

(2) The prevailing rate for similar services in the community in which the attorney, agent or witness ordinarily performs services;

(3) The time actually spent in the representation of the applicant;

(4) The time reasonably spent in light of the difficulty or complexity of the issues in the proceeding;

(5) Any necessary or reasonable expenses incurred; and

(6) Such other factors as may bear on the value of the services provided.

(d) The reasonable cost of any study, analysis, engineering report, test, project, or similar matter prepared on behalf of a party may be awarded, to the extent that the charge for the service does not exceed the prevailing rate for similar services, and the study or other matter was necessary for preparation of the applicant's case.

§ 373.8 Rulemaking on maximum rates for attorney fees.

(a) If warranted by an increase in the cost of living or by special circumstances (such as limited availability of attorneys qualified to handle certain types of proceedings), the Board may adopt additional regulations providing that attorney fees may be awarded at a rate higher than \$75 per hour in some or all of the types of proceedings covered by this part. The Board will conduct any rulemaking proceedings for this purpose under the informal rulemaking procedures of the Administrative Procedure Act.

(b) Any person may file with the Board a petition for rulemaking to increase the maximum rate for attorney fees, in accordance with 14 CFR 302.38. The petition should identify the rate the petitioner believes the Board should establish and types of proceedings in which the rate should be used. It should also explain fully the reasons why the higher rate is warranted. The Board will respond to the petition within 120 days after it is filed, by initiating a rulemaking proceeding, denying the petition, or taking other appropriate action.

§ 373.9 Awards against other agencies.

If an applicant is entitled to an award because it prevails over another agency of the United States that participates in a proceeding before the Board and takes a position that is not substantially justified, the award or an appropriate portion of the award shall be made against that agency.

Subpart B—Information Required From Applicants

§ 373.10 Contents of application.

(a) An application for an award of fees and expenses under the Act shall be filed in the Docket Section under a new docket number and shall identify the applicant and the proceeding for which an award is sought. The application shall show that the applicant

has prevailed and identify the position of the respondent bureau or agencies in the proceeding that the applicant alleges was not substantially justified.

(b) The application shall also include a statement that the applicant's net worth does not exceed \$1 million (if an individual) or \$5 million (for all other applicants, including their affiliates). However, an applicant may omit this statement if:

(1) It attaches a copy of a ruling of the Internal Revenue Service that it qualifies as an organization described in section 501(c)(3) of the Internal Revenue Code (26 U.S.C. 501(c)(3)) or, in the case of a tax-exempt organization not required to obtain a ruling from the Internal Revenue Service on its exempt status, a statement that describes the basis for the applicant's belief that it qualifies under such section; or

(2) It states that it is a cooperative association as defined in section 15(a) of the Agricultural Marketing Act (12 U.S.C. 1141j(a)).

(c) If the applicant is a partnership, corporation, association, organization, or a sole owner of an incorporated business, the application shall state that it did not have more than 500 employees at the time the proceeding was initiated, giving the number of its employees and describing briefly the type and purpose of its organization or business.

(d) The application shall itemize the amount of fees and expenses for which an award is sought.

(e) The applicant may also include any other matters that the applicant wishes the Board to consider in determining whether and in what amount an award should be made.

(f) The application shall be signed by the applicant or an authorized officer with respect to the eligibility of the applicant and by the attorney of the applicant with respect to fees and expenses sought. The application shall contain or be accompanied by a written verification under oath or under penalty of perjury that the information provided in the application is true and complete to the best of the signer's information and belief.

§ 373.11 Net worth exhibit.

(a) Each applicant other than a qualified tax-exempt organization or cooperative association must submit with its application a detailed exhibit showing the net worth of the applicant and any affiliates (as defined in § 373.5(f) of this part) when the proceeding was initiated. The exhibit may be in any form convenient to the applicant that provides full disclosure of the applicant's and its affiliates' assets

and liabilities and is sufficient to determine whether the applicant qualifies under the standards in this part. The administrative law judge or Board may require an applicant to file additional information to determine its eligibility for an award.

(b) The net worth exhibit shall describe any transfers of assets from or obligations incurred by, the applicant or any affiliate, occurring one year prior to the date on which the proceeding was initiated, that reduced the net worth of the applicant and its affiliates below the applicable net worth ceiling. If there were no such transactions, the applicant shall so state.

(c) Ordinarily, the net worth exhibit will be included in the public record of the proceeding. However, an applicant that objects to public disclosure of information in any portion of the exhibit and believes there are legal grounds for withholding it from disclosure may submit that portion of the exhibit directly to the administrative law judge in a sealed envelop labeled "Confidential Financial Information," accompanied by a motion to withhold the information from public disclosure. The motion shall describe the information sought to be withheld and explain, in detail, why it falls within one or more of the specific exemptions from mandatory disclosure under the Freedom of Information Act, 5 U.S.C. 552(b)(1)-(9), why public disclosure of the information would adversely affect the applicant, and why disclosure is not required in the public interest. The material in question shall be served on the Board, but need not be served on any other party to the proceeding. If the administrative law judge or Board finds that the information should not be withheld from disclosure, it shall be placed in the public record of the proceeding. Otherwise, any request to inspect or copy the exhibit shall be disposed of in accordance with the Board's established procedures under the Freedom of Information Act in 14 CFR Part 310.

§ 373.12 Documentation of fees and expenses.

The application shall be accompanied by full documentation of the fees and expenses, including the cost of any study, analysis, engineering report, test, project or similar matter for which an award is sought. A separate itemized statement shall be submitted by each professional firm or individual whose services are covered by the application, showing the hours spent in connection with the proceeding by each individual, a description of the specific services performed, the rate at which each fee

has been computed, any expenses for which reimbursement is sought, the total amount claimed, and the total amount paid or payable by the applicant or by any other person or entity for the services provided. The administrative law judge or Board may require the applicant to provide vouchers, receipts, or other substantiation for any expenses claimed.

§ 373.13 When an application may be filed.

(a) An application may be filed whenever the applicant has prevailed in the proceeding or in a significant and discrete substantive portion of the proceeding, but in no case later than 30 days after the Board's final disposition of the proceeding.

(b) If review or reconsideration is sought or taken of a decision as to which an applicant believes it has prevailed, proceedings for the award of fees shall be stayed pending final disposition of the underlying controversy.

(c) For purposes of this part, final disposition means the later of (1) the date on which an initial decision or other recommended disposition of the merits of the proceeding by an administrative law judge becomes administratively final; (2) issuance of an order disposing of any petitions for reconsideration of the Board's final order in the proceeding; (3) if no petition for reconsideration is filed, the last date on which such a petition could have been filed; or (4) issuance of a final order or any other final resolution of a proceeding, such as a settlement or voluntary dismissal, which is not subject to a petition for reconsideration.

Subpart C—Procedures for Considering Applications

§ 373.20 Filing and service of documents.

Any application for an award or other pleading or document related to an application shall be filed and served on all parties in accordance with 14 CFR Part 302, except as provided in § 373.11(b) for confidential financial information.

§ 373.21 Answer to application.

(a) Any answer to the respondent bureau shall be filed within 30 days after service of an application.

(b) If the respondent bureau and the applicant believe that they can reach a settlement concerning the award, they may jointly file a statement of their intent to negotiate a settlement. The filing of this statement shall extend the time for filing an answer for an additional 30 days, and further extensions may be granted by the

administrative law judge or Board upon request by the respondent bureau and the applicant.

(c) The answer shall explain in detail any objections to the award requested and identify the facts relied on to support the objection. If the answer is based on any alleged facts not already in the record of the proceeding, the respondent bureau shall include with the answer either supporting affidavits or a request for further proceedings under § 373.25.

§ 373.22 Reply.

Within 15 days after service of an answer, the applicant may file a reply. If the reply is based on any alleged facts not already in the record of the proceeding, the applicant shall include with the reply either supporting affidavits or a request for further proceedings under § 373.25.

§ 373.23 Comments by other parties.

Any party to a proceeding other than the applicant and respondent bureau may file comments on an application within 30 days after it is served or on an answer within 15 days after it is served. A commenting party may not participate further in proceedings on the application unless the administrative law judge or Board determines that the public interest requires such participation in order to permit full exploration of matters raised in the comments.

§ 373.24 Settlement.

The applicant and the respondent bureau may agree on a proposed settlement of the award before final action on the application, either in connection with a settlement of the underlying proceeding, or after the underlying proceeding has been concluded, in accordance with the Board's settlement procedure. If a prevailing party and the respondent bureau agree on a proposed settlement of an award before an application has been filed, the application shall be filed with the proposed settlement.

§ 373.25 Further proceedings.

(a) Ordinarily, the determination of an award will be made on the basis of the written record. Further proceedings shall be held, however, when necessary for full and fair resolution of the issues arising from the application, and shall be conducted as promptly as possible.

(b) A request that the administrative law judge or Board order further proceedings under this section shall specifically identify the information sought or the disputed issues and shall explain why the additional proceedings are necessary to resolve the issues.

§ 373.26 Decision.

The administrative law judge or Board shall issue an initial or tentative decision on the application within 30 days after completion of proceedings on the application. The decision shall include written findings and conclusions on the applicant's eligibility and status as a prevailing party, and an explanation of the reasons for any difference between the amount requested and the amount awarded. The decision shall also include, if at issue, findings on whether the respondent bureau's position was substantially justified, whether the applicant unduly protracted the proceedings, or whether special circumstances make an award unjust. If the applicant has sought an award against more than one respondent bureau, the decision shall allocate responsibility for payment of any award, and shall explain the reasons for the allocation made.

§ 373.27 Board review.

Either the applicant or respondent bureau may seek review of the initial decision on the fee application, or the Board may decide to review the decision on its own initiative. If neither the applicant nor respondent bureau seeks review and the Board does not take review on its own initiative, the initial decision on the application shall become a final decision of the agency 30 days after it is issued. Whether to review a decision is a matter within the discretion of the Board. If review is taken, the Board will issue a final decision on the application or remand the application to the administrative law judge for final proceedings.

§ 373.28 Judicial review.

Judicial review of final Board decisions on awards may be sought as provided in 5 U.S.C. 504(c)(2).

§ 373.29 Payment of award.

An applicant seeking payment of an award shall submit to the Board's Comptroller a copy of the Board's final decision granting the award, accompanied by a statement that the applicant will not seek review of the decision in the United States courts. The documents should be sent to the Comptroller, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. 20428. The Board will pay the amount awarded to the applicant within 60 days, unless judicial review of the award or of the underlying decision of the adversary adjudication has been sought by the respondent bureau or any other party to the proceeding.

By the Civil Aeronautics Board.

Phyllis T. Kaylor,
Secretary.

[FR Doc. 81-30960 Filed 10-19-81; 8:45 am]
BILLING CODE 6320-01-M

14 CFR Part 385

[Reg. OR-185; Amdt. No. 114 to Part 385]

Delegations and Review of Action Under Delegation: Nonhearing Matters

AGENCY: Civil Aeronautics Board.
ACTION: Final rule.

SUMMARY: The CAB revises its delegations of authority to reflect a recent reorganization.

DATES: Adopted: October 14, 1981;
Effective: October 20, 1981.

FOR FURTHER INFORMATION CONTACT: David M. O'Connor, Assistant Director, Legal, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428; 202-673-5337.

SUPPLEMENTARY INFORMATION: Section 385.16a of the Board's rules (14 CFR 385.16a) delegates authority to the Assistant Director, Legal Analysis Division, Bureau of Domestic Aviation, to grant or deny applications for relief from provisions in the Board's tariff rule (14 CFR Part 221) and oversales rule (14 CFR Part 250). The Legal Analysis Division was recently combined with the Legal Processing Division to form a new Legal Division in the Bureau of Domestic Aviation. This notice amends § 385.16a to reflect that change.

Since this rule involves a matter of internal procedure, the Board finds that notice and public procedure are unnecessary and that it may take effect upon publication.

PART 385—DELEGATIONS AND REVIEW OF ACTION UNDER DELEGATION: NONHEARING MATTERS

Accordingly, the Civil Aeronautics Board amends 14 CFR Part 385, *Delegations and Review of Action Under Delegation: Nonhearing Matters*, as follows:

1. The authority for Part 385 is:

Authority: Secs. 102, 204, 401, 402, 403, 407, and 416, Pub. L. 85-726, as amended 72 Stat. 740, 743, 754, 757, 758, 766, 771, (49 U.S.C. 1302, 1324, 1371, 1372, 1373, 1377, 1386), Reorganization Plan No. 3 of 1961, 26 FR 5989.

2. The Table of Contents is amended by revising the title of § 385.16a to read:

Sec.

385.16a Delegation to the Assistant Director, Legal, Bureau of Domestic Aviation.

3. The title and opening paragraph of § 385.16a are amended to read:

§ 385.16a Delegation to the Assistant Director, Legal, Bureau of Domestic Aviation.

The Board delegates to the Assistant Director, Legal Division, Bureau of Domestic Aviation, the authority to:

By the Civil Aeronautics Board.
Phyllis T. Kaylor,
Secretary.

[FR Doc. 81-30959 Filed 10-19-81; 8:45 am]
BILLING CODE 6320-01-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION**14 CFR Part 1207****Standards of Conduct; Post Employment Regulations**

AGENCY: National Aeronautics and Space Administration.

ACTION: Final rule.

SUMMARY: The National Aeronautics and Space Administration (NASA) is issuing a final rule containing procedures to be followed by a former NASA employee subject to the restrictions of Title V of the Ethics in Government Act of 1978, as amended, when the former employee wishes to communicate scientific or technical information to NASA. The Ethics in Government Act restricted communication between former government employees and their former agencies but exempted scientific and technological exchanges. The Office of Personnel Management has issued a regulation, Exemption for Scientific and Technological Information, under which each scientific or technical agency must issue its own regulation. This final rule is NASA's regulation under that exemption, and has been approved by the Office of Government Ethics in the Office of Personnel Management.

EFFECTIVE DATE: October 20, 1981.

FOR FURTHER INFORMATION CONTACT: Elizabeth N. Siegel, 202-755-3922.

SUPPLEMENTARY INFORMATION: This rule concerns agency procedure and is, therefore, exempt under 5 U.S.C. 553(b) from notice and public comment requirements. The rule becomes effective upon publication. Please refer to 5 CFR Part 737, Post Employment

Conflict of Interest, for the Office of Personnel Management's final regulations as background.

(a) Authority. 18 U.S.C. 207(f), contains an exemption from the restrictions on post-employment activity contained in sections 207 (a), (b) and (c), for communications made "solely for the purpose of furnishing scientific or technological information under procedures acceptable to the department or agency. . . ." This regulation sets forth such procedures.

(b) Policy. The Ethics in Government Act of 1978, as amended, bars certain acts by former government employees which may reasonably give the appearance of making unfair use of prior government employment and affiliations. The exemption for scientific and technological communications permits scientific and technical information to flow unimpeded from former civil servants to agencies. As a scientific and technical agency, NASA needs the advice of former employees. Aerospace experts are small in number and have expertise in complex narrow areas. For NASA to perform its mission, it is necessary that NASA not be cut off from the technical expertise of former employees. In order to permit such communications to NASA to exist, the following procedures are designed to be as simple and self-enforcing as possible.

PART 1207—STANDARDS OF CONDUCT

14 CFR Part 1207 is amended by adding a new paragraph (d) to § 1207.735-2, and by adding a new Subpart H.

1. In § 1207.735-2, paragraph (d) is added to read as follows:

§ 1207.735-2 Applicability.

(d) The provisions of Subpart H are applicable only to former NASA government employees.

(18 U.S.C. 207; 5 CFR Part 737)

2. Part 1207 is amended by adding a new Subpart H to read as follows:

Subpart H—Post Employment Regulations

Sec.

1207.735-800 Scope of subpart.
1207.735-801 Exemption for scientific and technological communications.

(18 U.S.C. 207; 5 CFR Part 737)

Subpart H—Post Employment Regulations

§ 1207.735-800 Scope of subpart.

This subpart provides guidance to former NASA government employees

who are subject to the restrictions of Title V of the Ethics in Government Act of 1978, as amended, and who want to communicate scientific or technical information to NASA.

§ 1207.735-801 Exemption for scientific and technological communications.

(a) Whenever a former government employee who is subject to the constraints of post employment conflict of interest, 18 U.S.C. 207, wishes to communicate with NASA under the exemption in section 207(f) for the making of a communication solely for the purpose of furnishing scientific or technological information, he or she shall state to the NASA employee contacted, the following information:

(1) That he or she is a former government employee subject to the post employment restrictions of 18 U.S.C. section 207 (a), (b), or (c)—specify which;

(2) That he or she worked on certain NASA programs—enumerate which; and

(3) That the communication is solely for the purpose of furnishing scientific or technological information.

(b) If the former government employee has questions as to whether the communication comes within the scientific and technological exemption, he or she should contact the General Counsel, the designated agency ethics official.

James M. Beggs,

Administrator.

[FR Doc. 81-30234 Filed 10-19-81; 8:45 am]

BILLING CODE 7510-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 157 and 260

[Docket No. RM80-69]

Revision of Interstate Pipeline's Annual Report of Gas Supply: Form No. 15; Approval of the Office of Management and Budget

October 9, 1981.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of approval of the Office of Management and Budget.

SUMMARY: On August 14, 1981, the Commission issued a final rule to revise Form No. 15, "Interstate Pipeline's Annual Report of Gas Supply" (Order No. 168, 46 FR 42261, August 20, 1981). The final rulemaking noted that, as of the date of issuance of the rule, OMB had not approved the collection of data

in the revised Form No. 15 according to the provisions of the Paperwork Reduction Act (44 U.S.C. 3501-3520). The rulemaking also provided that, receipt of OMB approval would be noticed in the Federal Register. That approval has been received and is effective through August 31, 1984. The OMB control number for the form is 19020037.

FOR FURTHER INFORMATION CONTACT: Ellen Brown, Office of Program Management, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Room 3317, Washington, D.C. 20426, (202) 357-8182.

Kenneth F. Plumb,
Secretary.

[FR Doc. 81-30318 Filed 10-19-81; 8:45 am]

BILLING CODE 6717-02-M

18 CFR Part 270

[Docket No. RM80-33]

Standard for Determining the Btu Content of Natural Gas

Issued: October 8, 1981.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of effective date.

SUMMARY: On August 20, 1981, the Federal Energy Regulatory Commission issued an order granting partial stay of Order Nos. 93 and 93-A, relating to the standard of determining the Btu content of natural gas pending further order, 46 FR 45599 (September 14, 1981), subject to the approval of the United States Court of Appeals for the District of Columbia Circuit. On September 17, 1981, the court remanded the record, thereby approving the order. The order granting partial stay of Order Nos. 93 and 93-A pending further order thus became effective as of August 20, 1981.

EFFECTIVE DATE: August 20, 1981.

FOR FURTHER INFORMATION CONTACT: Teresa Ponder, Deputy Assistant General Counsel, Rulemaking and Legislative Analysis, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, (357-8151).

SUPPLEMENTARY INFORMATION: On July 16, 1980, the Commission issued Order No. 93, Docket No. RM80-33; 45 FR 49077; (July 23, 1980) amending and issuing as final rules the regulation in 18 CFR 270.204 relating to the standard for determining the Btu content of natural gas. On April 24, 1981, the Commission issued Order No. 93-A, entitled "Order Denying Rehearing and Clarifying Order No. 93" (46-FR 24537; May 1, 1981).

The order issued August 20, 1981, stayed Order Nos. 93 and 93-A, pending further order, insofar as they concluded that the standard they prescribed for determining Btu content of natural gas was in effect from December 1, 1978, to April 24, 1981 (the date Order No. 93-A was issued). The order issued August 20 was subject to the approval of the United States Court of Appeals for the District of Columbia Circuit.

On September 17, 1980, the Court granted the Commission's motion to remand the record to the Commission. Thus, the order issued on August 20, 1981, granting partial stay of Order Nos. 93 and 93-A, pending further order became effective August 20, 1981.

Kenneth F. Plumb,
Secretary.

[FR Doc. 81-20901 Filed 10-19-81; 8:45 am]
BILLING CODE 6717-02-M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 177

[T.D. 81-214]

Tariff Classification: Ornamented and not Ornamented Wearing Apparel; Correction

AGENCY: Customs Service, Treasury.

ACTION: Notice announcing the application of a court decision to the tariff classification of certain merchandise; correction.

SUMMARY: This document corrects a notice concerning the manner in which the Customs Service will apply the principles announced by the U.S. Court of Customs and Patent Appeals in *The Ferriswheel v. United States*, C.A.D. 1260, to certain specified garments, which was published as T.D. 81-214 in the Federal Register on August 21, 1981 (46 FR 42446).

FOR FURTHER INFORMATION CONTACT: Robert Joseph Pisani, Regulations Control Branch, U.S. Customs Service (202-566-8237). The following corrections are made to the notice document:

1. On page 42446, left hand column, the first sentence under the caption "Effective Dates," is corrected to read "The change in classification with respect to western-style shirts, military style and bush/safari garments with epaulets, described below, will be effective after December 21, 1981."

2. On page 42447 the last sentence in the paragraph at the top of the left-hand column, is corrected to read "The classification of such garments will,

after December 21, 1981, be determined on the characteristics of each garment."

Dated: October 9, 1981.

Stephen Pinter,
Acting Director, Regulations Control and Disclosure Law Division.

[FR Doc. 81-30304 Filed 10-19-81; 8:45 am]
BILLING CODE 4810-22-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 103

[Docket No. 80N-0193]

Quality Standards for Foods With No Identity Standards; Bottled Water; Confirmation of Effective Date

AGENCY: Food and Drug Administration.

ACTION: Final rule; confirmation of effective date.

SUMMARY: The Food and Drug Administration (FDA) is confirming the effective date of the final regulation to amend the quality standard for bottled water to include a chemical quality level of 0.10-milligram per liter for total trihalomethanes (TTHM's) in bottled water. The final regulation was published in the Federal Register of August 14, 1981 (46 FR 41037).

DATE: Effective date confirmed as October 13, 1981.

FOR FURTHER INFORMATION CONTACT: Raymond W. Gill, 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 June 13, 1980 (45 FR 40153), the Food and Drug Administration proposed a revision to the quality standard for bottled water (21 CFR 103.35). The revision dealt with a Maximum Contaminant Level (MCL) of 0.10-milligram per liter for TTHM's that are introduced into drinking water by the reaction of naturally occurring substances with chlorine and was proposed in response to the "National Interim Primary Drinking Water Regulations, Control of Trihalomethanes in Drinking Water" published by the Environmental Protection Agency in the Federal Register of November 29, 1979 (44 FR 68624).

After receiving and analyzing the only comment on the proposed revision, FDA issued in the Federal Register of August 14, 1981 (46 FR 41037) a final regulation for the quality standard. The effective date indicated for the final regulation was October 13, 1981, unless objections

were filed under section 701(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 371(e)) by September 14, 1981. No objections or requests for hearings relating to the final regulation were filed with the agency.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 401, 403(h), 410, 701(e), 52 Stat. 1046-1047 as amended, 70 Stat. 919 amended, 88 Stat. 1694 (21 U.S.C. 341, 343(h), 349, 371(e))) 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)), notice is given that 21 CFR 103.35 as amended in the Federal Register of August 14, 1981 (46 41037) is effective October 13, 1981.

Dated: October 14, 1981.

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

[FR Doc. 81-30237 Filed 10-19-81; 8:45 am]
BILLING CODE 4110-03-M

21 CFR Part 520

Oral Dosage Form New Animal Drugs Not Subject to Certification; Diethylcarbamazine Chewable Tablets

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) amends the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) filed by American Cyanamid Co. providing for safe and effective use of a chewable tablet containing diethylcarbamazine equivalent to 180 milligrams (mg) of diethylcarbamazine citrate for prevention of heartworm disease and as an aid in the control of ascarid infections in dogs.

EFFECTIVE DATE: October 20, 1981.

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

SUPPLEMENTARY INFORMATION: American Cyanamid Co., P.O. Box 400, Princeton, NJ 08540, filed a supplemental NADA (120-327) providing for use of a chewable tablet containing diethylcarbamazine equivalent to 180 mg diethylcarbamazine citrate in dogs for prevention of heartworm disease caused by *Dirofilaria immitis* and as an aid in the control of ascarid infections caused by *Toxocara canis*. American Cyanamid holds approval for use of 60-mg tablets. This supplement adds approval for use of 180-mg size.

Approval of this supplement does not change the approved conditions of use of the drug. Accordingly, under the Bureau of Veterinary Medicine's supplemental approval policy (42 FR 64367; December 23, 1977), this is a Category II supplemental approval which does not require reevaluation of the safety and effectiveness data in the original application. The supplemental NADA is approved and the regulations are amended to reflect the approval.

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

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

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

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), § 520.620b is amended by revising paragraph (a) to read as follows:

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

§ 520.620b Diethylcarbamazine chewable tablets.

(a) *Specifications.* Each chewable tablet contains diethylcarbamazine equivalent to 60 or 180 milligrams of diethylcarbamazine citrate adsorbed on an inert resin base.

Effective date: October 20, 1981.
(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: October 9, 1981.

Gerald B. Guest,
Acting Director, Bureau of Veterinary Medicine.

[FR Doc. 81-30132 Filed 10-19-81; 8:45 am]

BILLING CODE 4110-03-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Part 241

[Docket No. R-81-896]

Supplementary Financing for Insured Project Mortgages

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, (HUD).

ACTION: Final rule.

SUMMARY: This final rule amends 24 CFR 241.65 to delete the requirement that the term of a supplementary financing loan insured under Section 241 of the National Housing Act may not exceed the remaining term of the insured mortgage. Section 319 of the Housing and Community Development Amendments of 1979 eliminated the maturity requirement.

EFFECTIVE DATE: November 20, 1981.

FOR FURTHER INFORMATION CONTACT: Joseph E. Malloy, Office of Multifamily Housing Development, Development Division, Room 6118, 451 Seventh Street, S.W., Washington, D.C. 20410, (202) 755-7172. (This is not a toll free number.)

SUPPLEMENTARY INFORMATION: Section 319 of the Housing and Community Development Amendments of 1979 amended section 241(b)(2) of the National Housing Act to eliminate the requirement that the maximum term of a loan insured under section 241 could not exceed the remaining term of the insured mortgage. Section 241.65 of 24 CFR is being amended to implement that statutory change. The change will permit the Department to provide a feasible means to keep HUD-insured or Secretary-held projects competitive, extend their economic lives and provide for financing the replacement of obsolete equipment.

This amendment implements a statutory change without the exercise of administrative discretion by the Secretary. Thus, the issuance of the rule will not substantively alter the regulatory framework of the section 241 supplementary financing loan program beyond what Congress has already done

by law. Moreover, the change does not impose any new regulatory burden and in fact relaxes an existing requirement upon those persons intended to be benefited by the program. Public participation and comment, which would have no effect other than to delay the objective of Congress, is therefore impracticable and the Secretary finds that good cause exists for making this amendment effective as soon after publication as is permissible in accordance with section 7(o) of the Department of HUD Act.

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations in 24 CFR Part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969, 42 U.S.C. 4332. The Finding of No Significant Impact is available for public inspection during regular business hours in the Office of the Rules Docket Clerk, Room 5218, 451 Seventh Street, S.W., Washington, D.C. 20410.

Pursuant to section 605(b) of the Regulatory Flexibility Act, the Undersigned hereby certifies that this rule does not have a significant economic impact on a substantial number of small entities.

The Catalog of Federal Domestic Assistance program number is 14.151.

PART 241—SUPPLEMENTARY FINANCING FOR INSURED PROJECT MORTGAGES

Accordingly, 24 CFR 241.65 is revised to read as follows:

§ 241.65 Maturity.

The loan shall have a maturity satisfactory to the Commissioner. (Section 319, Housing and Community Development Amendments of 1979, 12 U.S.C. 17152-6; 93 Stat. 1119)

Issued at Washington, D.C., on October 7, 1981.

Philip D. Winn,

Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 81-30310 Filed 10-19-81; 8:45 am]

BILLING CODE 4210-01-M

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

29 CFR Part 1613

Equal Employment Opportunity in the Federal Government; Complaints of Handicap Discrimination

AGENCY: Equal Employment Opportunity Commission.

ACTION: Final regulations.

SUMMARY: The Equal Employment Opportunity Commission is amending its regulations concerning complaints of handicap discrimination in order to authorize awards of back pay to applicants for Federal employment. The regulations also make clear that a complainant has the right to file suit in Federal court if dissatisfied with final agency action, or failure to act, on a complaint of handicap discrimination. These changes are necessary in order to conform to the 1978 amendments to the Rehabilitation Act of 1973.

EFFECTIVE DATE: October 20, 1981.

FOR FURTHER INFORMATION CONTACT: Thomas L. Saltonstall, Director, Technical Guidance Division, Equal Employment Opportunity Commission, 2401 E Street NW., Washington, D.C. 20506, telephone number (202) 634-6855.

SUPPLEMENTARY INFORMATION: As part of Reorganization Plan #1 of 1978, the responsibility for enforcing equal employment opportunity in the Federal Government for handicapped individuals was transferred from the Civil Service Commission to the Equal Employment Opportunity Commission (EEOC). To provide continuity during the transfer of functions, EEOC adopted the procedures for complaints of handicap discrimination which had previously been issued by the Civil Service Commission. See 43 FR 60900 (December 29, 1978). These procedures originally appeared at 43 FR 12293 (March 24, 1978) and are now codified at 29 CFR 1613.701 through 1613.710. Changes in these procedures are now necessary in order to comply with the 1978 amendments to the Rehabilitation Act of 1973.

The 1978 amendments added a new section (505) to the Rehabilitation Act of 1973. See Public Law 95-602, Sec. 120, 92 Stat. 2982 (November 6, 1978). Section 505 makes available to individuals complaining of handicap discrimination the same remedies, procedures and rights as are provided under Section 717 of Title VII of the Civil Rights Act of 1964. The legislative history of this amendment demonstrates that Congress intended it to apply at the administrative as well as the judicial level. See 124 Cong. Rec. S15591 (daily ed. Sept. 20, 1978) [remarks of Senator Cranston]; Senate Report #95-890, 95th Cong., 2d Sess., 18-19 (1978).

In order to implement this statutory amendment, it is necessary to delete § 1613.710 of the Commission's regulations. This section currently prohibits awards of back pay to applicants for employment aggrieved by handicap discrimination. At the time the Civil Service Commission adopted this

regulation, the only statutory authority for awards of back pay in handicap discrimination cases was the Back Pay Act, 5 U.S.C. Sec. 5596. See 43 FR 12294 (March 24, 1978). Since the Back Pay Act applies to employees only, the Civil Service Commission prohibited awards of back pay to applicants for employment. This restriction is no longer either necessary or permissible. Section 505 of the Rehabilitation Act now extends to complainants in handicap discrimination cases the same right to administrative awards of back pay as provided by Section 717(b) of the Civil Rights Act of 1964. As a result, back pay is now available to both applicants for Federal employment and Federal employees.

Section 505 of the Rehabilitation Act also entitles persons complaining of handicap discrimination to file suit in Federal court once they have met the prerequisites set forth in Section 717(c) of the Civil Rights Act of 1964. This new right is reflected in the amendment to § 1613.708 of the Commission's regulations concerning the right to file a civil action (Sec. 1613.281-1613.283) applicable to complaints of handicap discrimination. The Commission previously published these amendments in the Federal Register on June 27, 1980, for public comment. Two comments were received, both supporting the amendments.

The Commission has determined that these regulations do not require a regulatory analysis under Executive Order 12291. Additionally, the Office of Management and Budget has concluded its review of these regulations under E.O. 12291. These regulations are distinct from the advance notice of proposed rulemaking under consideration by the Department of Labor on the issue of backpay under Sec. 503 of the Rehabilitation Act. That issue is under ongoing review at the Department of Labor.

By virtue of the authority vested in the Commission under Sections 501 and 505 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. Sec. 791 and 794a, Reorganization Plan No. 1 of 1978 (43 FR 19807), and Executive Order 12106 (44 FR 1053), the Equal Employment Opportunity Commission hereby publishes the following amendments to its regulations on Equal Employment Opportunity in the Federal Government.

Dated: October 13, 1981.
For the Commission,

J. Clay Smith,
Acting Chairman.

PART 1613—EQUAL EMPLOYMENT OPPORTUNITY IN THE FEDERAL GOVERNMENT

Accordingly, 29 CFR Part 1613 is amended as follows:

1. Section 1613.708 is revised to read as follows:

§ 1613.708 General.

An agency shall provide regulations governing the acceptance and processing of complaints of discrimination based on a physical or mental handicap which comply with the principles and requirements in §§ 1613.213 through 1613.283 and §§ 1613.601 through 1613.643. Nothing in the foregoing shall be construed to postpone the effective date of this rule.

§ 1613.710 [Removed]

2. Section 1613.710 is removed.

[FR Doc. 81-30080 Filed 10-19-81; 8:45 am]
BILLING CODE 6570-08-M

VETERANS ADMINISTRATION

38 CFR Part 36

Loan Guaranty; State and Local Housing Authorities Limitations on Loan Assumptions

AGENCY: Veterans Administration (VA).

ACTION: Final Regulations with request for comments.

SUMMARY: The VA (Veterans Administration) is amending its regulations to allow a limitation on a homeowner's ability to allow his/her VA guaranteed home or mobile home loan to be assumed by any party when the loan was funded by a State or local housing authority. The amendments are necessary to continue the participation of State or local housing authorities in the VA loan guaranty program. It is expected that the adoption of these amendments will attract State and local housing authorities investment funding into or allow these programs to continue participation in the VA guaranteed home loan program.

DATES: Effective Date: October 1, 1981. Comments must be received on or before November 19, 1981.

ADDRESS: Send written comments to: Administrator of Veterans Affairs (271A), Veterans Administration, 810 Vermont Avenue NW., Washington, D.C. 20420. Comments will be available for inspection at the address shown above until November 30, 1981.

FOR FURTHER INFORMATION CONTACT:

Mr. George D. Moerman, Assistant Director for Loan Policy (264), Department of Veterans Benefits, Loan Guaranty Service, Veterans Administration, 810 Vermont Avenue NW., Washington, D.C. 20420, 202-389-3042.

SUPPLEMENTARY INFORMATION:

The Mortgage Subsidy Bond Tax Act of 1980 (Subtitle A, Revenue Adjustments Act of 1980 which is Title XI of the Omnibus Reconciliation Act of 1980, Pub. L. 96-499, 94 Stat. 2599 at 2660) sets certain requirements for State and local housing authorities which issue tax-free bonds to assist low- or moderate-income families purchase housing. State and local housing programs vary from State-to-State and sometimes by localities within a State, but basically the housing authority issues tax-free bonds to obtain funds to act as a lender or secondary market investor. The authority then lends or invests in home mortgages or mobile home financing in order to assist low- or moderate-income home buyers to purchase housing with below-market interest rate financing. For veterans, it is most helpful if the veteran-purchaser can use his/her VA loan guaranty benefit in connection with a loan which is made with the additional assistance of a State housing program. The veteran may thereby obtain a 100 percent, no downpayment VA guaranteed home or mobile home loan at a below-market interest rate.

The Mortgage Subsidy Bond Tax Act of 1980 (hereafter, the Act) places certain restrictions, such as no prior homeownership within the past 3 years, maximum price of the home, purchaser's intent to occupy, etc., upon who may benefit from the State or local housing program. If the State or local authority does not comply with the Act, the bonds issued to provide funds for below-market financing for home or mobile home purchasers would not be tax-exempt, thereby eliminating the ability of the housing authority to obtain funds at relatively low cost. The requirements for qualifying a veteran-purchaser for a State housing financed loan are either equal to or greater than related requirements for a VA guaranteed loan. However, the Act requires that if the loan is assumed, the mortgage or other financing may only be assumed by a person eligible pursuant to the Act. Sections 36.4275 and 36.4308, of the mobile home and home loan regulations, respectively, require that on VA guaranteed loans, the veteran must have the right to sell, lease or rent his/her home to whomever he/she chooses. This

"right" of a veteran homeowner to freely dispose of his/her property is a longstanding requirement of the VA.

The effect of the conflicting requirements has been to force the withdrawal of State and local programs from lending or investing in VA guaranteed home or mobile home loans. Therefore, a veteran who wishes to purchase a home or mobile home may have to choose between acquiring a 100 percent no-downpayment VA guaranteed loan or a lower than market interest rate State or local housing authority assisted loan.

On April 10, 1981, the VA published an Advance Notice of Proposed Regulations (46 FR 21389) on this matter. All 17 commentators were favorable to a revision of the VA Regulations to assure that State and local housing authorities could participate in the VA program. All commentators felt that it was a valuable asset for a low- or moderate-income veteran to obtain a VA guaranteed loan which was additionally assisted by a State or local authority. No comments were received which indicated veterans or other participants were adverse to the loss of free assumability of a VA loan in order to gain a benefit from a State or local housing authority. Additionally, the Department of Housing and Urban Development (HUD) has recently announced the acceptance of restrictions in the mortgage instruments to continue the participation of State and local housing authorities in the Federal Housing Administration (FHA) single-family insured mortgage loan program. HUD, however, will not pay claims resulting from the exercise of such restrictions by State or local housing authorities.

We are, therefore, amending §§ 36.4275(a) and 36.4308(a) and adding § 36.4308(e) to give State or local governmental agencies the authority to insert clauses in the security instruments to assure that the loan financed with the authority's assistance will not be assumed by a party ineligible for such assistance. The limitations on the veteran's ability to sell his/her home through a loan assumption must be fully explained to the veteran-applicant at the time of loan application. The veteran's written consent to the authority's restrictions on loan assumptions must accompany the application for a home or mobile home loan or the report of a home or mobile home loan processed on the automatic basis, as appropriate.

One of the other matters which was addressed in the April 10, 1981, Advance Notice of Proposed Regulations, was the use by State and local authorities of

deed restriction to assist low- and moderate-income individuals to obtain affordable housing. While we have seen several different plans, some examples are as follows: One local authority requires the placement of a right-of-first-refusal in the recorded deed restrictions giving the local government the first option to acquire homes for resale to low- or moderate-income families, while another local government has placed deed restrictions which limit the sale prices of homes covered by its low- or moderate-income program. These types of deed restrictions currently violate §§ 36.4253 and 36.4350 concerning the quality of the title which a veteran must obtain when purchasing a mobile home and lot or a home with a VA guaranteed loan. We are currently considering policy alternatives in this area, and a separate regulatory proposal shall be published addressing this issue in the near future.

These final regulations come within exceptions to the general VA policy of prior publication of proposed rules as contained in 38 CFR 1.12. An opportunity to comment on the acceptability of an amendment to the VA regulations restricting loan assumptions on VA guaranteed loans which are additionally assisted by State or local housing authorities was accorded with the April 10, 1981, Advance Notice of Proposed Regulations. No adverse comments were received on the need for regulatory amendments to assure continued participation by such programs in the VA guaranteed loan program. Recently, we have been contacted by officers of several State housing programs. Many of these programs will shortly be issuing new bonds to finance housing for low- or moderate-income persons. It is imperative that the VA regulations be promptly amended if veterans are to be eligible for VA guaranteed loans which are assisted by State or local housing authorities. Publication of proposed regulations would probably only reinforce the need for the publication of final regulations on this matter while delaying the implementation date of those regulations. The delay in the implementation date would adversely affect any veteran desiring to purchase a home or mobile home and simultaneously use a benefit offered by the VA and a housing authority. Thus, many low- or moderate-income veterans would probably be unable to purchase housing. For the foregoing reasons it has been determined, that publication of proposed regulations prior to publication of final regulations is

impracticable, unnecessary, and contrary to the public interest.

These regulations will not, in themselves, have a significant economic impact on a substantial number of small entities. The regulations should indirectly aid small government jurisdictions who wish to aid low- and moderate-income families obtain housing and should indirectly aid small businesses who wish to build homes or mobile homes or lend funds to such families. The regulations should have no impact upon small organizations. No compliance costs or reporting burdens will be imposed by these regulations upon small entities.

The amendments have been reviewed pursuant to Executive Order 12291 and have been found to be nonmajor regulations. They will not have a large economic impact or cause a major increase in costs or prices. They simply provide the opportunity for veterans to obtain VA guaranteed loans and also apply for State or local subsidized low-interest rate mortgages. The official program numbers and titles of the VA programs affected by this action as set forth in OMB Circular A-89, Catalog of Federal Domestic Assistance, are 64.114, Veterans Housing—Guaranteed and Insured Loans; and 64.119, Veterans Housing—Mobile Home Loans.

The amendments are adopted under authority granted to the Administrator by sections 210(c), 1803(c), and 1819(g) of Title 38, United States Code.

Additional Comment Information

Interested persons are invited to submit written comments, suggestions, or objections regarding these regulatory amendments to the Administrator of Veterans Affairs (271A), Veterans Administration, 810 Vermont Avenue NW., Washington D.C. 20420. All material received will be considered, and appropriate regulatory revisions will be published, if necessary. These amendments, however, will remain effective until further amended. All written comments received will be available for public inspection at the above address between 8 am and 4:30 pm Monday through Friday (except holidays) until November 30, 1981. Any person visiting the Veterans Administration Central Office in Washington, D.C. for the purpose of inspecting the public comments will be received by the Veterans Services Unit in room 132. Visitors wishing to review the comments at a VA field station will be informed that the records are available for inspection only in Central Office and will be furnished the address and room number.

Approved: October 1, 1981.

D. Custis,

Acting Administrator.

PART 36—LOAN GUARANTY

The Veterans Administration is amending 38 CFR Part 36 as set forth below:

1. In § 36.4275, paragraph (a) is revised as follows:

§ 36.4275 Events constituting default and acceptability of partial payments.

(a) Except as provided in paragraph (a) (1) and (2) of this section the conveyance of or other transfer of title to property by operation of law or otherwise, after the creation of a lien thereon to secure a loan which is guaranteed in whole or in part by the Administrator, shall not constitute an event of default, or acceleration of maturity, elective or otherwise, and shall not of itself terminate or otherwise affect the guaranty.

(1) The Administrator may issue guaranty on loans in which a State, Territorial, or local governmental agency provides assistance to a veteran for the acquisition of a mobile home or lot. Such loans will not be considered ineligible for guaranty if the State, Territorial, or local authority, by virtue of its laws or regulations or by virtue of Federal law, requires the acceleration of maturity of the loan upon the sale or conveyance of the security property to a person ineligible for assistance from such authority. (38 U.S.C. 1819(g))

(2) At the time of application for a loan assisted by a State, Territorial, or local governmental agency, the veteran-applicant must be fully informed and consent in writing to the housing authority restrictions. A copy of the veteran's consent statement must be forwarded with the loan application or the report of a loan processed on the automatic basis. (38 U.S.C. 1819(g))

2. In § 36.4308, paragraph (a) is revised and paragraph (e) is added so that the added and revised material reads as follows:

§ 36.4308 Transfer of title by borrower or maturity by demand or acceleration.

(a) Except as provided by paragraph (e) of this section the conveyance of or other transfer of title to property by operation of law or otherwise, after the creation of a lien thereon to secure a loan which is guaranteed or insured in whole or in part by the Administrator, shall not constitute an event of default, or acceleration of maturity, elective or otherwise, and shall not of itself

terminate or otherwise affect the guaranty or insurance.

(e)(1) The Administrator may issue guaranty on loans in which a State, Territorial, or local governmental agency provides assistance to a veteran for the acquisition of a dwelling. Such loans will not be considered ineligible for guaranty if the State, Territorial, or local authority, by virtue of its laws or regulations or by virtue of Federal law, requires the acceleration of maturity of the loan upon the sale or conveyance of the security property to a person ineligible for assistance from such authority. (38 U.S.C. 1803(c))

(2) At the time of application for a loan assisted by a State, Territorial, or local governmental agency, the veteran-applicant must be fully informed and consent in writing to the housing authority restrictions. A copy of the veteran's consent statement must be forwarded with the loan application or the report of a loan processed on the automatic basis. (38 U.S.C. 1803(c))

(FR Doc. 81-30997 Filed 10-19-81; 8:45 am)

BILLING CODE 8320-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[AD, FRL 1860-6]

Approval of Revisions to Compliance Schedules for Control of Volatile Organic Compounds From Automobile Assembly Plant Paint Shop Operations

AGENCY: Environmental Protection Agency.

ACTION: Policy statement.

SUMMARY: On April 13, 1981, the Agency published a notice of intent to implement a number of actions to reduce the regulatory burden on the motor vehicle industry. Item 17 in this notice involved exploring with States the deferral of certain compliance dates for paint shop operations.

This notice establishes the criteria the Agency will apply in reviewing modifications to the existing State compliance schedules for these paint shop operations. States are advised that the Agency will consider the following types of revisions to their State Implementation Plan (SIP):

1. For electrophoretic deposition process (EDP) operations—compliance date extensions to 1984 to allow the postponement of significant capital expenditures; deferral up to 1987, if

necessary, to implement alternative compliance techniques or if additional time will eliminate significant costs.

2. For prime-surfacer operations—deferral to follow installation of EDP.

3. For topcoat—deferral of compliance with topcoat emission limits until 1986/1987.

The Agency also commits to study in 1984 any specific problems which arise with these topcoat limits and, at that time, will provide additional information to the States for use in evaluating alternative emission limits which may be appropriate. Also, to resolve several areas of confusion in new source review, the Agency provides clarification that lowest achievable emission rate (LAER) and best available technology (BACT) determinations should recognize any innovative technology waivers that are granted and clarifies that offsets need not necessarily be required from a source if reasonable further progress toward attainment can be maintained.

FOR FURTHER INFORMATION CONTACT:

John Calcagni, Control Programs Development Division (MD-15), Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone: (919) 541-5665.

SUPPLEMENTARY INFORMATION: The Environmental Protection Agency (EPA) has reviewed the impact of the implementation of regulations to control volatile organic compounds (VOC) from automotive assembly plant paint shop operations. The Agency has concluded that this delay may ultimately result in more cost-effective compliance with these limitations and, in most cases, can be implemented without jeopardizing the attainment of the ambient air quality standard for ozone by the statutory attainment date. EPA has discussed this policy with representatives of the affected States. Where States agree with the Agency's findings and submit revisions of their State Implementation Plans (SIPs) consistent with the criteria discussed below, the Agency will approve these schedules as being as expeditious as practicable. However, it should be noted that SIPs will need to assure continued compliance with the statutory portions of Sections 110 and 172 of the Clean Air Act. These revisions will need to be evaluated in light of their impact on the overall plan and the individual elements, including emission reductions necessary to demonstrate reasonable further progress toward attainment of standards.

Electrophoretic Deposition Process

Most plants already have plans to install the electrophoretic deposition

process (EDP) for priming of vehicles because of its contribution to improved product quality as well as emission control. The majority will be in place by 1982. However, the capital investment to convert from spray prime to this process is quite large (estimated to be \$10-\$20 million per facility and perhaps significantly greater for some specific situations). Of course, in some instances compliance may be accomplished with techniques or processes not requiring EDP.

Where significant capital expenditures can be deferred through the postponement of the installation of these systems for the next two years, the Agency would find such schedule changes appropriate. Allowing time for installation, the final compliance date generally should not be later than the end of 1984.

In a few specific circumstances such as a plant which is scheduled for renovation or closing in the next few years or a plant applying an alternative compliance technique, significant expense can be eliminated (not just postponed) by the deferral of the present compliance date. In cases where substantial costs can be eliminated, it would be appropriate to allow the auto industry to postpone these expenditures beyond 1984. The Agency does not expect any plant compliance schedule for the installation of EDP to extend beyond 1987.

Prime Surfacer

Where EDP is used, water-borne primer surfacer or its equivalent can be phased in. However, where conventional spray priming is used, some firms have experienced problems in obtaining the necessary quality level in the primer coating. Accordingly, in plants scheduled to install EDP, the deferral of the conversion to water-borne primer surfacer or its equivalent to follow the EDP installation should be considered appropriate.

Topcoat

The basis used to establish reasonably available control technology (RACT) for topcoating of automobiles and light trucks is the level of emission control achievable through the use of a water-borne coating. This is generally acknowledged to be a coating with 2.8 lb/gal solvent (less water) applied with a transfer efficiency of 30 percent. Because of the costs of retrofitting a plant to this technology and numerous product-related decisions, most automotive firms are pursuing alternative techniques to achieve an equivalent level of emission control. These include combinations of:

improved transfer efficiency, coatings with higher solids content (less solvent), collection and recovery of spray booth emissions, and the installation of incinerators and/or heat recovery features on the exhaust gases from the curing ovens. The most desirable combination of these control techniques will vary from plant to plant. However, it now appears that the most cost-effective approach will always include use of a higher solids organic solvent coating (rather than a water-borne) when it can be incorporated without extensive facility modification.

Although coatings with the requisite solids content have not yet been fully commercialized, significant development efforts are underway to lower the solvent content of coatings in use. The Agency expects that the further development which will take place during the next few years will allow the industry to minimize or avoid altogether the need to rely on non-coating alternatives to achieve water-borne equivalence. Accordingly, EPA will approve any State-submitted schedule modifications which postpone final compliance with the emission limits for topcoat operations to the end of 1986 to allow for further development of coating technology. Such delays will allow more cost-effective compliance techniques to be used. In order to follow an orderly implementation effort nationally, some plants are expected to need until 1987 to achieve final compliance. States should consider these requests in light of the individual States circumstances.

A segment of the industry has expressed concern with the significant cost of add-on control equipment which would be required should this coating technology not be commercialized prior to the final compliance date. While there is a significant basis for confidence that appropriate coatings will be available in a timely fashion, the Agency will continue to monitor the applicability of this technology to individual industry situations. Should problems arise, the Agency will reconsider the available technology prior to the end of 1984 in light of industry capabilities at that time.

The industry is also concerned with the expense of incorporating this new coating technology in plants which now have relatively short ovens and spray booths. The application of RACT in such plants will need to recognize on a case-by-case basis the cost imposed by such physical limitations. The Agency does not interpret that RACT requires major reconstruction of ovens or booths. If use of water-borne coatings (or equivalent emission control) cannot be achieved with major reconstruction, then RACT

should be interpreted as the use of the highest solids coatings and the highest available transfer efficiency appropriate for the facility. Since new low-emitting coatings are now being developed, additional information will be available by 1984 upon which to base modifications to emission limitations for topcoat operations at plants with relatively short ovens and spray booths. The Agency will work with States to address this circumstance as part of the evaluation of coating technology discussed above.

Between now and 1986 a significant number of existing plants will be making major modifications to meet product needs. The Agency does not recommend that States impose interim emission limitations at these facilities. Rather, the industry should be permitted to concentrate on compliance with ultimate emission limits. Efforts should be made, however, to assure that the facilities do not increase emissions in this interim period and that any major modifications made to the physical plant incorporate in the design the capability for the plant to subsequently adopt the new low solvent coatings in the 1986 time period. Specifically, plants which propose to alter their spraybooths and ovens to accommodate the basecoat/clear coat paint system or other technology should be required to assure that such modifications will permit subsequent adoption of the new generation of low solvent coatings.

New Source Review

There are two new source review (NSR) procedures which may be applicable to an individual surface coating operation renovation: standards of performance for new stationary sources required under Section 111 of the Act (NSPS) and preconstruction review requirements under either Part C or D of the Act. Based on the discussion below, the proposed schedules for applying clear coating which meet the SIP criteria discussed in this notice can also be allowed within the regulatory options allowed to the reviewing authority under NSR.

Section 111(j) of the Act allows EPA with the consent of the Governor of the State to grant waivers from the applicable NSPS if any requested waiver would meet certain tests. Based on section 111(j) criteria, the Agency expects to evaluate individual company requests for waivers to allow the use of basecoat/clear coat systems. Thus, if a section 111(j) waiver is granted, new basecoat/clear coat operations will generally not have to meet the applicable NSPS upon startup.

The phased use of clear coat when it takes place at a new plant in a clean air area is subject to Part C preconstruction review. Where no new violations of the NAAQS would result from the construction of the new automotive plant and the BACT requirement is met by innovative control technology waiver, the Administrator believes that construction of new plants developing basecoat/clear coat technology should not be barred by PSD.

Part D of the Clean Air Act affects major construction projects in areas designated as nonattainment and with approved SIPs which demonstrate attainment by the prescribed time. The requirements of this preconstruction review are identified in section 173. Clarification is needed as to how two of the major requirements of section 173 can be met by new plants using basecoat/clear coat technology. These requirements are that any proposed major construction install controls so as to meet the lowest achievable emission rate (LAER), and secure sufficient emissions offsets so as to not jeopardize reasonable further progress in attaining the applicable NAAQS.

For those construction projects that would be subject to Part D NSR, the proposed evolution of clear coating technology appears to meet the intent of the LAER requirement. The Administrator feels that any system which offers the potential of providing greater emission reductions at less cost than current LAER technology should be encouraged. Thus, EPA would encourage any State LAER decision allowing for the evolution of clear coating technology which is consistent with the conditions of the 111(j) waiver.

While the State must also require the proposed source to secure enough offsetting emission reductions so that reasonable further progress (RFP) is maintained, the State has considerable flexibility in ensuring that RFP will be achieved. The State has the option of accommodating any or all of the emissions from the new plants by emissions reductions achieved through the allocation of expected reductions from existing plants in the same area. For example, the State could require the new plant to offset only those emissions which will occur after the clear coating technology is in place and assure RFP by applying reductions obtained from other sources in the area during the phase-in period for this technology.

Under Executive Order 12291, EPA must judge whether a rule is "Major" and therefore subject to the requirement of a Regulatory Impact Analysis. This action is not Major because it is not

expected to result in increased costs for the regulated community or for consumers. This action provides States information on the approvability of the extension of certain compliance schedule dates for automobile assembly plant paint shop operations.

This policy statement was submitted to the Office of Management and Budget for review under Executive Order 12291.

Dated: October 9, 1981.

Anne M. Gorsuch,
Administrator.

[FR Doc. 81-30433 Filed 10-19-81; 8:45 am]
BILLING CODE 6560-26-M

GENERAL SERVICES ADMINISTRATION

41 CFR Parts 101-43 and 101-49

[FPMR Amendment H-130]

Miscellaneous Changes

AGENCY: General Services Administration.

ACTION: Final rule.

SUMMARY: This regulation amends FPMR Part 101-43 by deleting the requirement for executive agencies to submit to the President of the Senate and to the Speaker of the House of Representatives, Standard Form 365, Annual Report—Disposal of Foreign Excess Property. This reporting requirement is deleted as a result of Pub. L. 96-470, Congressional Reports Elimination Act of 1980, dated October 19, 1980. Also, in accordance with Pub. L. 95-105, this regulation amends FPMR Part 101-49 by redefining the "minimal value" associated with the receipt and retention of foreign gifts by United States officials from foreign governments from \$100 to \$140.

EFFECTIVE DATE: October 20, 1981.

FOR FURTHER INFORMATION CONTACT: Mr. Stanley M. Duda, Director, Utilization Division (703-557-0714).

SUPPLEMENTARY INFORMATION: The General Services Administration has determined that this rule is not a major rule for the purposes of Executive Order 12291 of February 17, 1981, because it is not likely to result in an annual effect on the economy of \$100 million or more; a major increase in costs to consumers or others; or significant adverse effects. The General Services Administration has based all administrative decisions underlying this rule on adequate information concerning the need for, and consequences of, this rule; has determined that the potential benefits to society from this rule outweigh the

potential costs and has maximized the net benefits; and has chosen the alternative approach involving the least net cost to society.

PART 101-43—UTILIZATION OF PERSONAL PROPERTY

1. The table of contents for Part 101-43 is amended by removing one entry as follows:

Sec.

101-43.4901-365 Standard Form 365, Annual Report—Disposal of Foreign Excess Property. [Removed]

Subpart 101-43.47—Reports

2. Section 101-43.4701 is amended by removing and reserving paragraph (b) as follows:

§ 101-43.4701 Performance reports.

(b) [Reserved]

Subpart 101-43.49—Illustration of Forms

3. Section 101-43.4901-365 is removed as follows:

§ 101-43.4901-365 [Removed]

PART 101-49—UTILIZATION, DONATION, AND DISPOSAL OF FOREIGN GIFTS AND DECORATIONS

4. Section 101-49.001-5 is amended by revising the introductory paragraph to read as follows:

§ 101-49.001-5 Minimal value.

"Minimal value" means a retail value in the United States at the time of acceptance of \$140 or less, except that:

5. Section 101-49.304 is amended to revise paragraphs (c)(1) and (2) to read as follows:

§ 101-49.304 Conditions of donation.

(c) * * *

(1) One year, for a gift valued at \$140 or less;

(2) Three years, for a gift valued at more than \$140 and less than \$1,000, and decorations;

[Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c); Sec. 515, 91 Stat. 862; 5 U.S.C. 7342]

Dated: September 29, 1981.

Ray Kline,

Acting Administrator of General Services.

[FR Doc. 81-30374 Filed 10-19-81; 9:45 am]

BILLING CODE 6820-96-M

Proposed Rules

Federal Register
Vol. 46, No. 202
Tuesday, October 20, 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.

CIVIL AERONAUTICS BOARD

14 CFR Part 298

[EDR-433; Docket No. 40133; Dated: October 14, 1981]

Dual Authority After Domestic Route Deregulation

AGENCY: Civil Aeronautics Board.

ACTION: Notice of proposed rulemaking.

SUMMARY: In a final rule issued along with this notice, the CAB has granted exemptions that allow certificated air carriers to operate with small aircraft under the air taxi rule as if they were air taxi operators. For passenger service, the exemptions are limited to flights outside the carrier's certificated route system. In this notice the CAB proposes to remove that route limitation, so that all of a certificated carrier's passenger operations with small aircraft would be considered as operations under the air taxi rule. This proposal is at the CAB's initiative.

DATES: Comments by: November 19, 1981.

Comments and other relevant information received after these dates will be considered by the Board only to the extent practicable.

Requests to be put on the Service List by: October 30, 1981.

Docket Section prepares the Service List and sends it to each person listed, who then serves comments on others on the list.

ADDRESSES: Twenty copies of comments should be sent to Docket 40133, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428. Individuals may submit their views as consumers without filing multiple copies. Copies may be examined in Room 711, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. as soon as they are received.

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

SUPPLEMENTARY INFORMATION:

Background

The Board's air taxi rule, 14 CFR Part

298, defines "air taxi operator" essentially as an air carrier that uses only small aircraft (up to 60 seats/18,000-pound payload capacity), does not have a certificate under section 401 of the Federal Aviation Act, and meets certain other conditions. Subpart B of Part 298 exempts air taxi operators from the section 401 certificate requirements, section 403 tariff-filing requirements, and a variety of other provisions of the Act. The exemption is conditioned on compliance with registration, liability insurance, reporting, and other requirements.

A certificated carrier is by definition not an air taxi operator, regardless of the size of its aircraft, and so has not qualified for air taxi operators' Subpart B exemptions. In a series of orders in recent years, however, the Board has granted exemptions from this definitional constraint to various carriers, enabling the carriers to hold dual authority. These orders generally enabled a dual authority carrier to conduct small-aircraft operations off its certificated route system as an air taxi operator under Part 298, while performing on-route operations with small or large aircraft under its section 401 certificate.

In ER-1251, a final rule adopted along with this notice, the Board has eliminated the need for individual dual authority exemption orders by amending Part 298 to embody the dual authority scheme directly in a new Subpart I of the air taxi regulation. The new scheme involves a slight change in terminology. A dual authority carrier is no longer both a certificated carrier and an air taxi operator at the same time. Instead, it is simply a certificated carrier, and Subpart I gives it the exemptions set out in Subpart B for air taxi operators *as if it were* an air taxi operator. The dual authority carrier's exemptions are conditioned on compliance with Subparts C through H, as they are for true air taxi operators, and further conditioned on the terms of Subpart I itself. In § 298.90(a), Subpart I provides that the exemptions cover small aircraft operations outside the carrier's certificated route system and, for cargo-only service, all the carrier's small aircraft operations, regardless of whether they are on- or off-route. These operations of a dual authority carrier are considered as "operations under Part 298" or "air taxi operations" rather than as operations under its certificate, even though the carrier is not an air taxi

operator. A full discussion of their treatment appears in ER-1251.

The Proposal

Under section 1601(a)(1)(C) of the Federal Aviation Act, the Board will have no authority after December 31, 1981, to specify terminal or intermediate points in certificates authorizing domestic passenger air transportation. The practical effect of this change is to give most certificated carriers virtually unlimited domestic route authority.¹ As a result, the provision in § 298.90(a) that limits the Subpart I exemption for passenger service to operations outside a carrier's "certificated route system" will lose its meaning and some type of change in the regulatory scheme will be necessary.

The Board now proposes to remove the route limitation, so that all of a dual authority carrier's passenger operations with small aircraft would come under Part 298. Even if such a change were not compelled by the impending changes in domestic route regulation, this would be the next logical step in the Board's efforts to align regulatory requirements with the nature of a carrier's operations instead of the less significant criterion of whether the carrier holds a certificate. For example, the Board has already granted unlimited domestic fare flexibility to certificated carriers for all their small aircraft operations, to provide parity with Part 298 operations (PS-92, 45 FR 24115, April 9, 1980). The Board has recently amended the denied boarding compensation rule to exclude coverage of small aircraft entirely (ER-1237, 46 FR 42442, August 21, 1981). And the smoking rule now applies uniformly to U.S. carriers' operations of aircraft with 30 or more seats, without regard to whether a carrier holds a certificate (ER-1245, 46 FR 45934, September 16, 1981).

The main practical effect of this proposal would be to extend the tariff-filing exemption. The reason for this is that the main exemptions that Part 298 provides to air taxi operators (Subpart B) and dual authority certificated carriers for their covered operations (Subpart I, incorporating Subpart B) are from the section 401 certificate requirement and the section 403 tariff-

¹ Under an interpretation of section 1601(a)(1)(C) that the Board plans to propose in the near future, such nationwide authority would not be available to a carrier whose only section 401 certificate was obtained under the unused authority provisions of section 401(d)(5).

filing requirement. The proposed extension of Subpart I coverage from off-route small aircraft operations to all small aircraft operations would have no substantive effect with regard to the section 401 exemption, because a section 401 exemption for operations already authorized by the carrier's section 401 certificate would merely be redundant.

The current tariff-filing scheme for dual authority carriers, which is established §§ 298.93 and 298.11(b), is best understood by dividing a carrier's service into three categories: (1) For service performed entirely under the carrier's section 401 certificate authority, tariffs must be filed. (2) For service performed entirely under the carrier's air taxi exemption authority (delineated in Subpart I), the dual authority carrier need not file tariffs except for joint fares that it has agreed to with another carrier where the other carrier's portion of the service is subject to tariff-filing requirements. (3) For "mixed service," *i.e.*, single-plane or connecting service on its own system that includes both section 401 and Part 298 segments, the dual authority carrier's current tariff-filing requirements depend on whether the connecting service is in domestic or foreign air transportation. If it is domestic, the carrier may file or not file a through fare, at its option. If it is foreign, filing is also optional unless the through fare is less than the sum of the local fares, in which case the through fare must be filed.

Under the proposed scheme there would be no change in § 298.93 or § 298.11(b), the provisions that directly address tariff filing, so there would be no change in the requirements applicable to each category of service. But the change in § 298.90 from a route criterion to an aircraft-size criterion would change the boundaries of the categories. For example, on-route flights with small aircraft are currently in the first category and therefore subject to tariff filing. Under the proposed rule, such flights would come under the carrier's air taxi exemption authority and therefore be included in the second category (no tariffs except for certain interline service). For another example, a small-aircraft through flight that includes both on-route and off-route segments is currently in the third, "mixed service" category, but under the proposed rule it would also fall into the second category. To summarize the effect of the proposed amendment: A certificated carrier would continue to file tariffs for all its large aircraft operations. For its small aircraft operations, tariffs would not be required

except for joint fares that it had agreed to with another carrier where the other carrier used large aircraft. For connecting service on its own system that involved both large and small aircraft, tariff filing would be optional domestically, and optional internationally except for through fares that were less than the sum of the local fares.

The Board also proposes to eliminate the air taxi registration requirement for dual authority carriers, with an exception discussed below. The main purpose of the registration scheme has been to provide the Board with certificates of insurance and a list of the air taxi operator's aircraft that can be used to verify that the insurance covers all of them. Under the new insurance rules all carriers will be filing certificates of insurance, and certificated carriers will not have to file lists of their aircraft. Any certificated carrier with unlimited domestic route authority beginning January 1, 1982, therefore, will have all the authority of an air taxi operator, except for the tariff-filing exemption and international small-aircraft route freedom, even without having to register for Part 298 operations. There appears to be no reason to require a certificated carrier to register merely to obtain the tariff exemption and that remaining route authority. The effect of this proposal would be that most certificated carriers would become dual authority carriers automatically, without registering under § 298.21. The proposed exception is for carriers whose only section 401 certificate authority was obtained under the unused authority program, section 401(d)(5). Without unlimited route authority, the above reasoning is inapplicable to them.

Miscellaneous

Antitrust provisions. Sections 408 and 409 of the Act generally require prior Board approval of merger and other control transactions and interlocking relationships involving air carriers.* Exemptions from the prior approval requirements in certain cases are provided by §§ 298.11(g), 298.14, and 298.92. The exemptions are explained in detail in ER-1251, the final rule that accompanies this proposal. The basic scheme is as follows: To determine whether the exemption is available for a specific transaction or relationship, examine the transaction or relationship but ignore certain operations, to be discussed below. If section 408 or 409 still applies to what is left in the picture, Part 298 provides no exemption. If, on the other hand, section 408 or 409 does not apply to what is left (*i.e.*, it applied to the original transaction or relationship only by virtue of the

involvement of the ignored operations), then Part 298 does provide an exemption.

In the current scheme, the operations to be ignored in performing the above analysis of a transaction or relationship are as follows: "operations under this part, or under section 401(d)(5) (unused authority) or 401(d)(7) (automatic entry) of the Act." The references to section 401(d)(5) and (d)(7) are included so that a carrier whose only certificate authority comes from those provisions would be treated like an air taxi operator. The Board now proposes to eliminate those references. This would simplify the rule. It would have little or no substantive effect, however, because the meaning of "operations under this part" would be broadened, by the main amendment proposed in this notice, to include all small-aircraft operations. Most, if not all, carriers whose only certificate authority is under section 401(d)(5) use small aircraft exclusively, so their section 401(d)(5) operations would continue to be ignored in the exemption analysis even without a specific reference to that provision. And the reference to section 401(d)(7) is no longer necessary, because the automatic market entry program has ended and all the carriers that obtained authority under it also have authority under section 401(d)(1) or (d)(3) of the Act.

Joint fares and 90-day notice of service suspensions. Section 37(c) of the Airline Deregulation Act (49 U.S.C. 148a) entitles commuter air carriers—air taxi operators that perform at least five scheduled round trips per week between a pair of points—to participate in any uniform joint fare system established by the Board. It also requires that a participating commuter give 90 days' notice before terminating its service in a market in which joint fares are offered. Failure to give the notice makes the commuter ineligible to participate in the joint fare system. In § 298.94, the current rule interprets the section 37(c) notice requirement, with respect to dual authority carriers, as applying to their air taxi but not their certificate operations. Without a change in § 298.94, the effect of the proposed change in Subpart I would be to apply the 90-day notice requirement to all small aircraft operations of all certificated carriers, a burden that was clearly not contemplated by Congress when it enacted section 37(c) and the route deregulation provisions of section 1601(a) that make this rulemaking proceeding necessary. The Board therefore proposes to amend § 298.94 to interpret section 37(c) as applying to none of the operations of a dual authority carrier.

Elimination of large-aircraft reporting. An air taxi operator is required by § 298.32 to report to the Board any proprietary interest in, and operations with, large aircraft. A dual authority carrier is required by § 298.96 to file the same reports, but not for aircraft that are used exclusively in its section 401 operations. The proposed changes in the scope of Subpart I do not require any change in the reporting requirements. However, the Board has tentatively concluded that these reports have outlived their usefulness, and proposes to eliminate both § 298.32 and § 298.96. The reports were originally designed to help the Board make sure that air taxi operators did not perform unauthorized operations with large aircraft. With large aircraft operating authority now relatively easy to obtain, the reporting burden outweighs the enforcement benefits.

Schedule filing. Under § 298.99 of the current rule, a dual authority carrier files schedules for its commuter operations under § 298.60 and for its section 401 operations under Part 231, *Transportation of Mail; Mail Schedules*. To avoid forcing certificated carriers to switch their schedule-filing routines for small-aircraft service that is currently on-route, the Board proposes to amend § 298.99 to give carriers the option of filing schedules under either § 298.60 or Part 231.

Airports. Under section 612 of the Act, the Federal Aviation Administration issues "airport operating certificates" to certain airports. Section 610 requires an airport to have an airport operating certificate if it serves any "air carriers certificated by the Civil Aeronautics Board." These provisions raise the following question: Must an airport have a section 612 airport operating certificate if it receives service from a dual authority carrier pursuant to that carrier's air taxi authority, but does not otherwise receive any service from a carrier that holds a certificate from the Board? The FAA has interpreted the Act and the existing dual authority scheme as not requiring airports to have section 612 certificates in such cases. It is the Board's understanding that if this rule is adopted as proposed, the FAA interpretation will continue, so that the requirement for a section 612 certificate will depend simply on whether the airport receives service from large aircraft. For further information about that interpretation, interested persons may contact the Chief Counsel, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591.

International markets; duration of exemptions. In some international

markets, such as New York-Ottawa, where bilateral agreements or public interest considerations call for some type of government oversight of market entry or terms of service, the needed U.S. government control could be compromised by the unlimited small-aircraft international route authority afforded to air taxi operators and dual authority carriers by Part 298. In some of these markets the Board may need to withdraw or condition the Part 298 exemptions. The rule already includes a provision, § 298.13, that enables the Board to terminate an exemption with respect to an air taxi operator or class of air taxi operators, upon an appropriate finding. The Board now proposes to revise § 298.13 in three ways: (1) To clarify that exemptions can be withdrawn or conditioned on a market-by-market basis; (2) to reflect the fact that Part 298 now affords exemptions not only to air taxi operators but also to other persons such as certificated carriers, persons controlling air carriers, and officers and directors of air carriers; and (3) to reflect the Airline Deregulation Act's elimination of the "undue burden" standard for exemptions under section 416 of the Federal Aviation Act.

Because of the need to have a final rule on the scope of Subpart I in place by January 1, 1982, the Board is limiting the public comment period for this proposal to 30 days. The Board also requests that any commenters objecting to the proposal suggest specific alternative approaches to the problem of distinguishing between the Part 298 operations and the certificated operations of a dual authority carrier.

Regulatory Flexibility Act

In accordance with 5 U.S.C. 605(b), as added by the Regulatory Flexibility Act, Pub. L. 96-534, the Board certifies that this rule will not, if adopted as proposed, have a significant economic impact on a substantial number of small entities. The small air carriers that would be affected by this proposed rule are the dual authority carriers that use only small aircraft. For them, the primary result would merely be to extend to all their routes a tariff-filing exemption that already covers most of their routes.

PART 298—EXEMPTIONS FOR AIR TAXI OPERATIONS

Accordingly, the Civil Aeronautics Board proposes to amend 14 CFR Part 298, *Classification and Exemption of Air Taxi Operators*, as follows:

1. The part would be retitled *Exemptions for Air Taxi Operations* as set forth above.

2. In § 298.2, a definition would be added, in alphabetical order, to read:

§ 298.2 Definitions.

"Small aircraft" means any aircraft that is not a large aircraft, as defined in this section.

3. In § 298.11, paragraph (g) would be amended by removing the last clause, so that it would read:

§ 298.11 Exemption authority.

Air taxi operators are exempt from the following provisions of Title IV of the Act:

(g) Sections 408(a) and 409, for transactions and relationships to which those sections apply only because of the involvement of operations under this part.

4. Section 298.13 would be revised to read:

§ 298.13 Duration of exemption.

The exemption from any provision of title IV of the Act provided by this part shall continue in effect only until such time as the Board shall find that enforcement of that provision would be in the public interest, at which time the exemption shall terminate or be conditioned with respect to the person, class of persons, or service (e.g., limited-entry foreign air transportation market) subject to the finding.

§ 298.32 [Reserved]

5. Section 298.32, *Requirements relating to interests in large aircraft or their operations*, would be removed and reserved.

6. In Subpart I, § 298.90 would be revised to read:

§ 298.90 Exemption for certificated carriers.

(a) Each certificated carrier is exempted from the Act in the manner set forth in Subpart B, subject to the terms of this subpart and Subparts C through H, as if it were an air taxi operator, for operations that are performed with small aircraft. However, a certificated carrier need not comply with the registration provisions of Subpart C (§§ 298.21-24) unless its only section 401 certificate authority was obtained under section 401(d)(5) of the Act (unused authority).

(b) All of a certificated carrier's operations with small aircraft shall be considered as operations "under this part" and not under its section 401 certificate.

7. In § 298.92, the last clause would be removed so that the section as revised would read:

§ 298.92 Antitrust provisions.

Certificated carriers operating under this part are exempted from sections 408(a) and 409 of the Act for transactions and relationships to which those sections apply only because of the

involvement of operations under this part.

8. Section 298.94 would be revised to read:

§ 298.94 Joint fares and 90-day notice of service modifications, suspensions or terminations.

The 90-day notice requirement in section 37(c) of the Airline Deregulation Act of 1978, 49 U.S.C. 1482a, does not apply to a certificated carrier's operations under this part.

§ 298.96 [Reserved]

9. Section 298.96, *Special reporting requirements relating to large aircraft*, would be removed and reserved.

10. In § 298.99, paragraph (a) would be revised to read:

§ 298.99 Scope of filing and reporting requirements.

(a) For its operations under this part, a certificated carrier shall file flight schedules in accordance with either § 298.60 (*Filing of flight schedules by commuter air carriers*) or Part 231 of this chapter (*Transportation of Mail; Mail Schedules*).

11. The Table of Contents would be amended accordingly.

(Secs. 101(3), 204, 401, 404, 407, 416, 418, 419, Pub. L. 85-726, as amended, 72 Stat. 737, 743, 754, 760, 766, 771, 91 Stat. 1284, 92 Stat. 1732 (49 U.S.C. 1301, 1324, 1371, 1374, 1377, 1386, 1388, 1389))

By the Civil Aeronautics Board,
Phyllis T. Kaylor,
Secretary.

[FR Doc. 81-30362 Filed 10-19-81; 8:45 am]
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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration (NOAA)

15 CFR Parts 923, 927, 928, and 931

Improving Coastal Management in the United States

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of proposed rulemaking (NPR).

SUMMARY: Pub. L. 96-464, the Coastal Zone Management Improvement Act of 1980 (the Act), which amended the Coastal Zone Management Act of 1972 (CZMA), requires the Secretary of Commerce to issue regulations for improving the administration of the national coastal zone management program established by the CZMA. This

notice sets out proposed rules for: (1) Encouraging states to achieve significant improvements in meeting certain national coastal management objectives; (2) allocating Federal financial assistance among eligible states to administer approved state coastal management programs; (3) awarding Federal financial assistance to eligible states to mitigate adverse coastal impacts caused by coal and alternative ocean energy activities; and (4) reviewing and evaluating the performance of approved state coastal zone management programs and coastal energy impact programs.

This notice of proposed rulemaking is issued to provide interested persons with an opportunity to contribute to the development of these regulations. Interested persons are invited to submit detailed written comments.

DATE: Comments must be received by November 20, 1981.

ADDRESS: Submit comments concerning the Notice of Proposed Rulemaking to: Jane P. Rogers, Deputy Director, Office of Policy, Evaluation and External Relations, Office of Coastal Zone Management, 3300 Whitehaven Street N.W., Washington, DC 20235.

FOR FURTHER INFORMATION CONTACT: Jane P. Rogers, Dan Hoydysh, Vickie Allin, or Nancy Carter, Office of Policy, Evaluation and External Relations (202-634-4245).

SUPPLEMENTARY INFORMATION:

I. Authority

This notice of proposed rulemaking is issued under authority of sections 306 and 317 of the CZMA and sections 5, 6, and 9 of the Act.

II. Availability of Comments

All comments submitted in response to this NPR will be available for examination during normal business hours in Room 310, Page Building Number 1, 2001 Wisconsin Avenue, N.W., Washington, DC 20235.

III. Final Rules

NOAA will issue final rules after comments received in response to this NPR have been evaluated. Since all of the issues covered in these rules have been reviewed extensively with the public through an Advanced Notice of Proposed Rulemaking and a series of issue papers and since it is desirable to have the regulations in effect as soon as possible for use in administration of fiscal year 1982 grant funds, NOAA has established a 30-day comment period. NOAA plans to issue final rules in December 1981.

IV. Regulatory Issues

A. General Background

The CZMA was enacted to encourage and assist states in developing and implementing management programs to preserve, protect, develop, and when possible, to restore or enhance the resources of our nation's coast. The primary purpose of the 1980 amendments is to reaffirm the nation's commitment to the wise use and management of our coastal resources through the coastal zone management program. To this end, key provisions of the CZMA were strengthened to encourage states to significantly improve their coastal management programs.

On December 30, 1980, NOAA issued an advance notice of proposed rulemaking (ANPR) to solicit public comment on rules to implement the amendments to the CZMA. Specifically, the ANPR solicited comments on rules for: (1) Encouraging states to achieve significant improvements in meeting certain national coastal management objectives (sections 303 and 306(a)); (2) allocating Federal financial assistance among eligible states to administer approved state coastal management programs (section 306(b)); (3) awarding Federal financial assistance to eligible states to mitigate adverse coastal impacts caused by coal and alternative ocean energy activities (section 308(c)(3)); (4) reviewing and evaluating the performance of approved state coastal zone management programs and coastal energy impact programs (section 312); (5) enhancing the protection of nationally significant coastal resources (section 306(l)); (6) awarding grants to eligible coastal states for preserving specific coastal areas, redeveloping urban waterfronts and ports, and providing access to public beaches and coastal waters (section 306A); and (7) awarding grants to assist eligible states in preserving islands (section 315). NOAA received 38 comments before the close of the comment period on January 31, 1981. In February 1981, NOAA distributed issue papers to approximately 400 interested parties on a mailing list established for this rulemaking and maintained by the Office of Coastal Zone Management. Sixty-six comments were received.

Based on comments on the ANPR and the issue papers, NOAA has prepared proposed rules. Because of budgetary constraints and the need to eliminate unnecessary regulations, only those regulations that are statutorily mandated and necessary to the operation of the coastal management

programs are proposed. Therefore, the NPR does not include regulations implementing sections 306(i), 306A and 315.

B. Legislative Amendments and Issues To Be Resolved Through Rulemaking

1. Improving Coastal Zone Management—Sections 303/306. The provisions of the CZMA paraphrased below relate to improving coastal management, and section 5(b) of the Act requires the Secretary to issue regulations for their implementation.

—Section 303 clarifies national coastal policy by describing specific national objectives that warrant full consideration during the implementation of approved state coastal management programs.

—Section 306(a) encourages more effective coastal management by requiring states with approved programs to expend an increasing proportion of administrative grants (up to a maximum of 30 percent unless a state agrees to a higher percentage) on activities that will result in significant improvement in achieving the national coastal objectives specified in section 303.

The proposed rules implementing sections 303 and 306(a) broadly define "significant improvements" to include state accomplishments that add elements to current management programs or strengthen existing elements. They provide that selection of management activities designed to result in significant improvements will be negotiated between OCZM and individual states, require states to expend in the second year of funding 20 percent of their Federal grant on significant improvement activities and increase expenditures by one percent in each succeeding year. They also provide that a state failing to agree to pursue significant improvements may not receive any financial assistance under section 306 to implement its program.

Generally, the proposed significant improvement regulations provide for a flexible and cooperative approach so that coastal states and NOAA can effectively deal with the phase down of Federal funding. These proposed regulations will be published as Subpart K of 15 CFR Part 923—the existing Coastal Zone Management Program Development and Approval Regulations.

2. Allocating Administrative Grants—Section 306(b). Section 306(b) requires that administrative grants under section 306 be allocated among coastal states with approved programs in accordance with rules and regulations that take into account "the extent" of the shoreline covered by the plan, "the population" of the area covered by the plan, and other relevant factors.

NOAA proposes an allocation formula that is simple, straightforward, and easy to administer and that will minimize the disruption in state funding from current levels. The proposed formula is based on (1) An established minimum share allocated to each state and (2) a proportionate share of the remainder to be allocated 60 percent on the length of shoreline, which provides a reasonable approximation of the magnitude of the resource to be managed, and 40 percent on coastal county population, which provides a reasonable approximation of the pressures for use of coastal resources. These factors provide continuity with past practice, since they have been used in the allocation process since the inception of the program and will produce the least disruption to the existing funding pattern. Other factors such as nature of the shoreline and need for management funds were considered but not selected because they were too subjective and difficult to quantify. The proposed allocation regulations will replace the existing allocation regulations published at 15 CFR Part 927.

3. Coal and Alternative Ocean Energy Impact Grants—Section 308(c)(3). New section 308(c)(3) authorizes the Secretary to make grants under the Coastal Energy Impact Program (CEIP) to eligible coastal states for preventing or mitigating unavoidable environmental and recreational losses in the coastal zone resulting from the "transportation, transfer or storage of coal or from alternative ocean energy activities." Funds must be allocated among eligible states in accordance with "rules and regulations . . . which shall take into account the number of coal or alternative ocean energy facilities, the nature of their impacts, and other relevant factors . . ." (section 308(c)(3)(B)).

The proposed regulations implementing section 308(c)(3) have been combined with existing regulations implementing sections 308(c)(1) and (2) and will replace Subpart D (Planning for the Consequences of Energy Facilities) and Subpart L (OCS State Participation Grants) of 15 CFR Part 931—the Coastal Energy Impact Program regulations. The proposed regulations will, therefore, govern the award of all grants under section 308(c). In addition, consolidation of the three categories of "c" grants under one subpart will greatly simplify the regulations for administering the CEIP.

Under the proposed consolidated approach, states would receive one allotment under section 308(c) that they will then apportion at their discretion among the allowable uses of subsections

(c)(1), (c)(2), and (c)(3). To assure the timely expenditure of section 308(c) funds, the proposed regulations require states to submit applications before the end of the fiscal year for which allotments were made; funds not applied for by then could be reallocated among other eligible states.

The proposed regulations also set forth the objectives of providing financial assistance to coastal states under section 308(c) and its allowable uses, describe procedures for allotting section 308(c) funds among eligible coastal states and for applying for assistance under section 308(c). In addition, the proposed rules broadly define coal to include the waste products of its combustion (ash and sludge), "coal facility" as any facility that utilizes, transports, transfers, stores, handles, processes or produces coal, and "alternative ocean energy facility" to include solar facilities.

The proposed rules consolidating the financial assistance provisions under section 308(c) will be published as Subpart L of 15 CFR Part 931—the Coastal Energy Impact Program regulations—and will replace the existing Subpart D and Subpart L.

The consolidation of section 308(c) regulations necessitates some minor conforming changes to Subpart G, which deals with OCS formula grants. These changes are necessary because Subpart D, which is being repealed, contained provisions that are required for administering the formula grants provisions of the CEIP regulations.

4. Review of Performance (Evaluation)—Section 312. Section 312 of the CZMA requires a "continuing review of the performance of coastal states with respect to coastal management" and section 9(b) of the Act requires the promulgation of rules to implement section 312. This review must include a written evaluation that assesses the extent to which the state has: (1) Implemented and enforced its approved program; (2) addressed the coastal management needs identified in section 303(2)(A)-(I); and (3) adhered to the terms of any grant, loan or cooperative agreement funded under the CZMA. Section 312 further requires that a public meeting be conducted as part of each evaluation and that opportunity be provided for oral and written comment by the public. Evaluation reports must be issued following each review of state performance. The Secretary is directed to reduce financial assistance under the CZMA by up to 30 percent if it is determined that a state is not making significant improvement in achieving the coastal management objectives

identified in section 303(2)(A)-(I), and to withdraw program approval and financial assistance if it is found that a state is failing to adhere to, or is unjustifiably deviating from, its approved program or the terms of any grant or cooperative agreement and refuses to remedy the deviation. The statute outlines procedural safeguards (such as notice to the state and an opportunity for a public hearing) that must be observed if the Secretary finds that program approval and financial assistance should be withdrawn.

The basic requirements for continuing review are set forth in the proposed regulations. They provide that evaluations will be conducted in the course of continuing reviews and that written findings will be prepared. Procedural memoranda will be issued periodically by the Office of Coastal Zone Management to provide more detailed information on the evaluation process, including the scheduling of evaluations, identifying issues, the site visit, preparation and issuance of findings, and follow-up.

The Office of Coastal Zone Management expects that the evaluation of a state's approved Coastal Zone Management Program and Coastal Energy Impact Program will occur at the same time. Findings of accomplishments and shortcomings will be made independently for each program and will be presented in separate sections of the evaluation report.

The proposed evaluation regulations will be published as 15 CFR Part 928, replacing the regulations currently codified at 15 CFR Part 928. The regulations proposed for repeal govern a one-time-only allocation of supplemental funds appropriated for FY 1975. Therefore, these regulations are no longer necessary for program administration.

The promulgation of regulations implementing section 312 (c), (d) and (e) necessitates some minor changes to 15 CFR 923.82(b)(3), which deals with sanctions for state implementation of unapproved amendments. The changes are necessary because this section references § 923.85, "Termination and Withdrawal of Administrative Funding," which is being repealed and replaced by § 928.5(b), "Withdrawal of Program Approval and Financial Assistance."

V. Other Actions Associated With the Notice of Proposed Rulemaking

A. Classification Under Executive Order (E.O.) 12291 of February 17, 1981

NOAA has concluded that these regulations are not major because they will not result in:

(1) An annual effect on the economy of \$100 million or more,

(2) A major increase in costs or prices for consumers, individual industries, Federal, state or local government agencies, or geographic regions; or

(3) Significant adverse effects on competition, employment, investment, productivity, innovation or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The proposed rules will foster improvements in an existing system for administering a program of financial assistance to state and local government. Therefore, the proposed rules only serve to strengthen the institutional framework for making rational coastal management decisions and will not result in any major direct or indirect economic or environmental impacts.

B. Regulatory Flexibility Analysis

A Regulatory Flexibility Analysis is not required for this notice of proposed rulemaking. The regulations set forth procedures for distributing Federal financial assistance among participating state governments and for evaluating the performance of those state governments in achieving coastal management objectives. The proposed rules affect only state government entities, which are not "small government jurisdictions" as defined by Pub. L. 96-354, The Regulatory Flexibility Act. The proposed rules will have no effect on small businesses or other small organizations.

C. Paper Work Reduction Act of 1980 (Pub. L. 96-511)

These regulations will impose no information collection requirements of the type covered by Pub. L. 96-511 on affected state governments. Information requirements of section 312 Continuing Review regulations embody existing procedures and do not constitute any increase in reporting on the part of any affected party.

D. National Environmental Policy Act (NEPA)

NOAA has concluded that publication of the proposed rules does not constitute a major Federal action significantly affecting the quality of the human environment. Therefore, an environmental impact statement is not required.

E. Public Participation

NOAA has actively encouraged public participation in the development of these proposed rules. NOAA has issued an advance notice of proposed

rulemaking with a 60-day comment period and has distributed issue papers dealing with the proposed rules to over 400 interested persons on a mailing list maintained by the Office of Coastal Zone Management. NOAA reviewed and considered 38 sets of comments on the ANPR and 66 sets of comments on the issue papers in developing these proposed regulations. In addition, meetings and briefings on the regulatory process and the substantive issues involved have been held with managers of state coastal zone management and coastal energy impact programs, Federal agency representatives, and interested groups. In the ANPR, NOAA advertised the availability of \$5,000 to compensate eligible persons for participating in the rulemaking. Because of the extensive public participation in the development of these proposed regulations and because of increased budgetary constraints, NOAA is not making public participation funds available for this proceeding.

William Matuszeski,

Acting Assistant Administrator for Coastal Zone Management.

PART 923—COASTAL ZONE MANAGEMENT PROGRAM DEVELOPMENT AND APPROVAL REGULATIONS

In consideration of the foregoing, the following regulations are proposed.

§ 923.85 [Removed]

1. The existing regulation at § 923.85 is removed.

2. Part 923 is amended by adding new Subpart K to read as set forth below:

Subpart K—Improving Coastal Zone Management

Sec.

923.101 General.

923.102 Significant improvement defined.

923.103 Selection and approval of activities leading to significant improvements.

923.104 Establishing the "increasing proportion".

923.105 Failure to agree to pursue significant improvements.

Authority: Secs. 306 and 317 of the Coastal Zone Management Act of 1972, as amended and sec. 5 of the Coastal Zone Management Improvement Act of 1980.

Subpart K—Improving Coastal Zone Management

§ 923.101 General.

(a) Statutory citations. (1) Section 303(2).

The Congress finds and declares that it is the national policy—
to encourage and assist the states to exercise effectively their responsibilities in the coastal

zone through the development and implementation of management programs to achieve wise use of the land and water resources of the coastal zone, giving full consideration to ecological, cultural, historic, and esthetic values as well as to the needs for economic development, which programs should at least provide for—

(A) the protection of natural resources, including wetlands, floodplains, estuaries, beaches, dunes, barrier islands, coral reefs, and fish and their habitat, within the coastal zone.

(B) the management of coastal development to minimize the loss of life and property caused by improper development in flood-prone, storm surge, geological hazard, and erosion-prone areas and in areas of subsidence and saltwater intrusion and by the destruction of natural protective features such as beaches, dunes, wetlands, and barrier islands.

(C) priority consideration being given to coastal-dependent uses and orderly processes for siting major facilities related to national defense, energy, fisheries development, recreation, ports and transportation, and the location, to the maximum extent practicable, of new commercial and industrial developments in or adjacent to areas where such development already exists.

(D) public access to the coasts for recreation purposes.

(E) assistance in the redevelopment of deteriorating urban waterfronts and ports, sensitive preservation and restoration of historic, cultural, and esthetic coastal features.

(F) the coordination and simplification of procedures in order to ensure expedited governmental decisionmaking for the management of coastal resources.

(G) continued consultation and coordination with, and the giving of adequate consideration to the views of, affected Federal agencies.

(H) the giving of timely and effective notification of, and opportunities for public and local government participation in, coastal management decisionmaking, and

(I) assistance to support comprehensive planning, conservation, and management for living marine resources, including planning for the siting of pollution control and aquaculture facilities within the coastal zone, and improved coordination between state and Federal coastal zone management agencies and state and Federal wildlife agencies.

(2) *Section 306(a)*. The Secretary may make grants to any coastal state for not more than 80 per centum of the costs of administering such state's management program if the Secretary—

(3) finds, if such program has been administered with financial assistance under this section for at least one year, that the coastal state will expend an increasing portion of each grant received under this section (but not more than 30 per centum of the grant unless the state chooses to expend a higher percentage) on activities that will result in significant improvement being made in achieving the coastal management

objectives specified in section 303(2) (A) through (I).

(b) States whose approved programs have been administered for at least one year with section 306 funds must expend an "increasing proportion" of each subsequent section 306 financial assistance award on activities that will result in "significant improvement" in achieving certain national coastal management objectives. This subpart defines "significant improvement", describes the process for determining which significant improvement activities a state may perform, establishes the formula for determining "increasing proportion", and sets forth the consequences of failure to pursue significant improvements.

§ 923.102 Significant improvement defined.

(a) A "significant improvement" is an accomplishment that addresses any of the objectives of section 303(2)(A)-(I) (§ 923.101(a)(1)) by:

(1) Substantially expanding the scope of the approved program (such expansion of program scope includes, but is not limited to an amendment or routine program implementation), or

(2) Substantially strengthening the ability of the state to implement or enforce the approved program.

(b) Significant improvements include, but are not limited to, the following types of accomplishments:

(1) The adoption of new enforceable policies for coastal decisionmaking or the conversion of nonenforceable (encouragement) policies to enforceable policies. The state (or local government) may adopt new policies by legislation, rulemaking, memoranda of understanding, executive order or other legally sufficient means.

(2) The adoption of refined enforceable policies for coastal decisionmaking including:

(i) more specific standards for the implementation of existing statutes.

(ii) site specific management plans for areas designated as Areas of Particular Concern and Areas for Preservation or Restoration or other areas beyond what is required by the approved program.

(3) The extension of existing enforceable coastal management policies to new geographic areas beyond what is required by the approved program.

(4) Development of more effective or efficient administration of the approved management program including:

(i) improved capability of the coastal management agencies to implement state coastal regulatory, planning, and management requirements contained in the approved program.

(ii) streamlined intergovernmental coordination and public participation mechanisms.

§ 923.103 Selection and approval of activities leading to significant improvements.

(a) The state's financial assistance application will describe the management activities it will perform and the significant improvements it expects to achieve over the course of the next financial assistance award period. This description will clearly identify specific schedules and expected products.

(b) Based on the results of the continuing review described in 15 CFR Part 928, the Assistant Administrator will determine if the management activities described in the state's application are likely to result in significant improvement in achieving the coastal management objectives of section 303(2) (A)-(I) (§ 923.101(a)(1)).

(c) The states and the Assistant Administrator will negotiate an agreement at the beginning of each financial assistance award period establishing: (1) The specific significant improvement objectives to be achieved during the financial assistance award period, (2) the Federal funds to be devoted to each task, and (3) the basis for assessing the state's progress in accomplishing each significant improvement task. The agreement will be included as part of the financial assistance award. There is no requirement that the state address each of the nine significant improvement objectives within an individual financial assistance award period.

(d) If unforeseen circumstances arise that affect the accomplishment of any significant improvement task, the state must provide the Assistant Administrator with prompt notice and negotiate with the Assistant Administrator any necessary changes to the schedule and products before the scheduled completion dates. Any such changes will be made part of the financial assistance award.

(e) Significant improvements need not be achieved within the period of one financial assistance award, if there is specific reason to identify a longer period.

§ 923.104 Establishing the "increasing proportion."

(a) During the first year a state is required to make significant improvements (its second 306 award) it must agree to expend 20 percent of its upcoming section 309 financial assistance award on activities designed

to lead to significant improvements. Thereafter, the state must agree to constant incremental increases of at least 1 percent in each succeeding year.

(b) In no case may a state be required to expend more than the incremental increases established by this section on significant improvement activities. However, states may voluntarily exceed the minimum requirement on significant improvement expenditures established by this section. Such expenditures in excess of the minimum requirement will be subject to the provisions of § 928.5(b) of this chapter, but not to the provisions of § 928.5(a) of this chapter.

§ 923.105 Failure to agree to pursue significant improvements.

(a) If a state chooses not to pursue significant improvements in accordance with this subpart, the Secretary must withhold all financial assistance under section 306. However, a decision not to grant section 306 funds does not necessarily require withdrawal of program approval. A state may continue to implement and enforce its approved program with state funds. Under these circumstances, a state will still be able to exercise its Federal consistency review rights under section 307 and will remain eligible for CEIP funds if it meets all other eligibility requirements.

(b) A discussion of the procedures by which the Assistant Administrator will evaluate whether a state has failed to make significant improvements is contained in 15 CFR Part 928, Review of Performance of State Coastal Management and Coastal Energy Impact Programs.

3. The existing allocation regulations at Part 927 are removed and Part 927 is revised as set forth below.

PART 927—ALLOCATION OF SECTION 306 PROGRAM ADMINISTRATION GRANTS

§ 927.1 Allocation formula.

(a) Statutory Citation—(1) Section 306(a).

The Secretary may make grants to any coastal state for not more than 80 per centum of the costs of administering such state's management program

(2) Section 306(b).

Such grants shall be allocated to the states with approved programs based on rules and regulations promulgated by the Secretary which shall take into account the extent and nature of the shoreline and area covered by the plan, population of the area, and other relevant factors: *Provided*, That no annual grant made under this section shall be less than 1 per centum of the total amount appropriated to carry out the purposes of this section: *And provided further*, That the Secretary shall waive the application of the 1

per centum minimum requirement as to any grant under this section, when the coastal state involved requests such a waiver.

(b) *Minimum/maximum allocation.* The Assistant Administrator may establish minimum and maximum state allocations.

(c) *Allocation formula factors and weighting.* Each state eligible to receive a financial assistance award shall be allocated an amount of the total available Federal funding based on:

(1) A minimum share (established by the Assistant Administrator) of the total funding available for allocation to eligible state coastal management programs, plus

(2) A proportionate share of the remainder to be divided as follows:

(i) Sixty percent will be allocated based on each eligible state's proportionate share of the length of tidal shoreline mileage of all participating states based on the most recent available data from the National Ocean Survey, and

(ii) Forty percent will be allocated based on each eligible state's proportionate share of the aggregate population of all coastal counties contained in whole or in part within the designated coastal boundary of all eligible state coastal programs based on official data of the most recent U.S. census.

(3) Should any state's base allocation exceed the maximum established by the Assistant Administrator, the excess amount shall be subtracted from the established maximum and redistributed proportionately among those eligible states with allocations not exceeding the established maximum.

(d) *Use of the allocation formula.* The allocation formula shall be used to establish base level allocations for each state coastal management program eligible to receive Federal funding.

(e) *Adjustment for phase down of Federal Funding.* The Assistant Administrator may adjust base level allocations as necessary to implement a phase down of Federal financial support. Any such adjustment shall be implemented in a manner which gives some priority to recently approved state coastal management programs. Options for implementation of a phase down will be submitted to the states for review and comment.

(f) *Calculation of financial assistance awards.* Actual financial assistance award levels will be set from base level allocations, any adjustments under paragraph (e) of this section, and in accordance with the provisions of section 312(a), (c), and (d). Award levels may fall below the 1 percent minimum established under section 306(b) for

purpose of implementing section 312(c) of the Act.

(Secs. 306 and 317 of the Coastal Zone Management Act of 1972, as amended)

PART 931—COASTAL ENERGY IMPACT PROGRAM

4. Part 931 is amended by removing Subpart D and by revising Subpart L to read as set forth below:

Subpart L—Coastal Energy Impact Grants

Sec.	
931.160	General.
931.161	Objectives.
931.162	Definitions.
931.163	Eligibility for financial assistance under this subpart.
931.164	Allowable uses.
931.165	Section 308 (c) allotment.
931.166	Application for financial assistance.
931.167	Limitations on expenditures.

Authority: Sec. 308 and 317 of the Coastal Zone Management Act of 1972.

Subpart L—Coastal Energy Impact Grants

§ 931.160 General.

This subpart sets forth the objectives of providing financial assistance to coastal states under section 308(c) and its allowable uses. It also describes procedures for allocation section 308(c) moneys among eligible coastal states and for applying for assistance under section 308(c).

§ 931.161 Objectives.

The objectives of assistance under this subpart are:

(a) To help coastal states and units of local government plan for economic, social, or environmental consequences of new or expanded energy facilities and to prevent, reduce, or mitigate losses resulting from the transportation, transfer, or storage of coal or from alternative ocean energy activity.

(b) To help coastal states develop the capability to participate effectively in Federal policy, planning, and managerial decisions relating to the development of OCS oil and gas resources.

(c) To provide financial assistance that is simple to administer and that permits the coastal states and units of local government a high degree of control and discretion.

§ 931.162 Definitions.

(a) *Coal.* The term "coal" includes all forms of anthracite and bituminous coal, peat, coke, and lignite. In addition to these substances, the term includes ash and sludge, which are waste products of burning coal.

(b) *Coal Facility.* The term "coal facility" includes the following:

(1) Any facility used in the transportation, transfer, or storage of coal. Such facilities include, but are not limited to:

- (i) Coal loading docks
- (ii) Coal barging terminals
- (iii) Coal ports
- (iv) Coal storage yards

(2) Any facility that converts coal into another form of energy usable by consumers or industry including but not limited to:

- (i) Power plants
- (ii) Synthetic fuel plants
- (iii) Liquefaction plants

(3) Any facility that utilizes, transports, transfers, stores, handles, processes or produces coal, including mines and steel mills.

(c) *Alternative Ocean Energy (AOE) Facility.* The term "alternative ocean energy facility" means:

(1) Any facility located in, or seaward of, the coastal zone whose primary purpose is to utilize the mechanical, chemical, physical, biological or thermal properties of ocean or lake waters in the conversion of those properties into a form of energy usable by consumers or industry. Facilities whose only reliance on ocean or lake waters is for cooling (such as nuclear power plants), liquefied natural gas facilities, and facilities for the exploration for and development of offshore oil and natural gas do not constitute AOE facilities. Solar facilities will also be considered AOE facilities. AOE facilities include, but are not limited to:

- (i) Ocean Thermal Energy Conversion (OTEC)
- (ii) Tidal and wave generation of electricity
- (iii) Ocean current generation of electricity
- (iv) Salinity gradient generation of electricity
- (v) Pumped storage generation of electricity
- (vi) Solar generation of electricity
- (vii) Biomass production—e.g., kelp farms
- (viii) Wind generation of electricity that depends on the sea or lake breeze

(d) *Likely to be affected by OCS energy activity.* The Assistant Administrator will find a coastal state "likely to be affected by OCS energy activity" if the Assistant Administrator determines:

(1) That the state can reasonably expect to be exposed to significant social, economic, or environmental consequences as a result of any OCS lease sale that has taken place or is scheduled to take place under the Department of the Interior's (DOI) Five Year Planning Schedule; or

(2) That the state has administrative, policy, operational, or managerial responsibilities under the OCS Lands Act that should properly be supported with section 308(c) funds.

§ 931.163 Eligibility for financial assistance under this subpart.

(a) A coastal state is eligible for financial assistance if it meets the basic eligibility requirements of Subpart C.

(b) A unit of local government may apply for assistance under this subpart through the state agency designated under Subpart C to apply for CEIP assistance.

§ 931.164 Allowable uses.

(a) Funds granted to a state under section 308(c) must be used in accordance with the provisions of this section.

(1) *Planning.* States may use section 308(c) funds to plan for any economic, social, or environmental consequence that has occurred, is occurring, or is likely to occur in the coastal zone as a result of siting, constructing, expanding or operating new or expanded energy facilities that significantly affect the coastal zone, and for reasonable costs of administering the state coastal energy impact program.

(2) *OCS State participation.* States likely to be affected by OCS energy activity may use section 308(c) funds to carry out their responsibilities under the OCS Lands Act. These responsibilities include participating in the administrative, policy, operational, and managerial decisions relating to management of the oil and natural gas resources of the Outer Continental Shelf.

(3) *Coal and AOE impact mitigation.* States may use section (c) funds to design and implement projects (including construction and land acquisition) to prevent, reduce, or mitigate unavoidable losses to valuable coastal environmental and recreational resources resulting from the transportation, transfer, or storage of coal or from AOE activities.

§ 931.165 Section 308(c) allotment.

(a) The Assistant Administrator will develop a formula for allotting available section 308(c) funds among eligible coastal states. This formula will be designed to estimate the relative need for planning, OCS participation, and coal and AOE impact mitigation among eligible states.

(b) This formula will be based on the number of existing and proposed new or expanded energy facilities, the number of existing and proposed coal facilities that significantly affect the coastal zone, the number of existing and proposed

AOE facilities located in, or seaward of, the coastal zone, the nature of their impacts and other relevant factors deemed appropriate by the Assistant Administrator such as coal tonnage, OCS leasing, production of OCS oil and natural gas, shoreline mileage, and coastal county population.

(c) Each fiscal year, before computing an allotment, the Assistant Administrator will submit this formula to all eligible coastal states for review and comment. If appropriate, the formula will be revised before any final allotments are calculated.

(d) The Assistant Administrator may establish minimum and maximum allotments.

§ 931.166 Application for financial assistance.

(a) Applications for financial assistance under this subpart may be submitted as soon as states are notified of their allotments under section 308(c).

(b) Applications for assistance under this subpart must contain the following certifications and information:

(1) A clear and brief description of the projects and activities that will be funded under section 308(c) as they relate to allowable uses under § 931.164. For construction projects, as defined in the Office of Management and Budget Circular A-102, or planning projects that are the first stages of site specific development projects, the following additional information is required:

- (i) environmental impact assessment data in detail sufficient to allow the Assistant Administrator to determine whether an EIS will be required under NEPA;
- (ii) copies of all necessary major Federal, state, and local permit or license applications or approvals;
- (iii) a map showing the location of the project; and
- (iv) a Preliminary Engineering Report.

(2) A showing that the state has complied with the requirements of the Project Notification and Review System established by Office of Management and Budget Circular A-95 (Part I).

(3) A certification by the state agency designated under § 931.25 that the assistance has been or will be allocated within the State in accord with the intrastate allocation process described in Subpart J of this part and a showing, if the application for assistance has not been submitted to the Project Notification and Review System established by OMB Circular No. A-95 (Part I), that a memorandum of agreement for coordination planning under section 308 has been established with appropriate areawide

clearinghouses in the state's coastal zone, pursuant to Part IV, Attachment A, of OMB Circular A-95;

(4) A certification by the state agency designated under § 931.26(a)(4)(iii) that the assistance will be used in a manner that is compatible with the state's developing, or consistent with the state's approved, coastal zone management program.

(c) Allotted funds not applied for by the end of the fiscal year for which allotments were made may be reallocated by the Assistant Administrator among other eligible states.

§ 931.167 Limitations on expenditures.

(a) Section 308(c) funds expended by a state for the purposes described in § 931.164 may not exceed 70 percent of the actual cost of carrying out projects;

(b) States and local governments may use in-kind contributions as the non-Federal matching share in accordance with OMB Circular A-102;

(c) Section 308(c) funds may not be used:

(1) For the prevention, reduction, or mitigation of any loss of an environmental or recreational resource that is directly attributable to the sale, lease, or rental of such resource by a state agency or unit of local government when the sale, lease, or rental occurs after October 17, 1980;

(2) To pay for that part of a project designed to prevent, reduce, or mitigate the loss of a valuable environmental or recreational resource which is incommensurate with the value of the loss or which can be paid for with funds readily available from any other Federal program;

(3) To pay for that part of a loss:

(i) That occurs after October 17, 1980, and

(ii) That could have been prevented by a reasonable exercise of a state's existing regulatory authority.

(4) For architectural, engineering, and other technical service fees or costs unless:

(i) Compensation is comparable to the cost of similar work awarded through open competitive bidding;

(ii) Compensation is not based on a cost plus a percentage-of-cost; and

(iii) Design and performance standards conform to professionally recognized national standards.

(5) The purchase of movable construction related equipment such as dump trucks and excavating equipment unless expressly authorized by the financial assistance award.

(d) All awards and expenditures of funds under this subpart are subject to the applicable requirements specified in Subpart I.

5. Part 931, Subpart G, is amended as follows:

§ 931.71 [Amended]

a. In § 931.71 add the following paragraph (d):

(d) To help coastal States and units of local government plan for the provision of public facilities and public services required as a result of OSC energy activity.

§ 931.74 [Amended]

b. In § 931.74 add the following paragraphs (d) and (e):

(d) Planning and study that are necessary to provide new or improved public services that are required as a result of OCS energy activity.

(e) Paying for reasonable costs of administering the provision of assistance under section 308 to the extent that funding for these administrative costs is not available under section 308(c).

6. Part 928 is revised as to read as set forth below:

PART 928—REVIEW OF PERFORMANCE

Sec.

928.1 General.

928.2 Definitions.

928.3 Procedure for conducting continuing reviews of approved state coastal management programs and state coastal energy impact programs.

928.4 Public participation.

928.5 Enforcement.

Authority: Secs. 312 and 317 of the Coastal Zone Management Improvement Act of 1980.

§ 928.1 General.

(a) These regulations set forth the requirements for review of approved state coastal zone management programs pursuant to section 312 of the Act, and of state coastal energy impact programs pursuant to sections 312 and 316 of the Act. They define "continuing review" and other important terms, and set forth the procedures for:

(1) Conducting continuing reviews of approved state coastal zone management programs and state coastal energy impact programs,

(2) Providing for public participation,

(3) Reducing financial assistance for failure to make significant improvement, and

(4) Withdrawing program approval and financial assistance.

(b) These regulations may be supplemented by procedural memoranda issued periodically by the Office of Coastal Zone Management to provide more detailed information on the conduct of continuing reviews.

§ 928.2 Definitions.

(a) "Continuing review" means monitoring state performance throughout the period of the work program. As part of the continuing review, evaluations of approved management programs will be conducted and written findings will be produced at least once every two years but not more than once every year. Evaluations of coastal energy impact programs will be conducted on a rotational basis on a schedule to be determined by the Assistant Administrator.

(b) "Adherence" means to comply with the approved management program and financial assistance award or work program.

(c) "Justifiable" means that the state must show that the deviation(s) from the approved management program was warranted. This determination will be made by the Assistant Administrator in consultation with the state on a case-by-case basis. The principal criterion to be used in making this determination is the extent to which the deviation was beyond state control. Other criteria, including, but not limited to, the following will be considered:

(1) The extent to which the deviation impairs the ability of the program to achieve its goals and objectives;

(2) Whether the deviation is part of a pattern or is an isolated incident;

(3) The magnitude of the deviation.

(d) "Approved management program" means those elements of the program required for program approval by the Secretary, under 15 CFR Part 923 (Development and Approval Provisions), including any changes to those elements made by approved amendments and routine program implementation.

(e) "Financial assistance award" means a legal instrument that creates a relationship between the Federal Government and another entity (recipient). The principal purpose of the award is the transfer of money or services in order to accomplish a public purpose authorized by Federal statute. [Pub. L. 95-224 and OMB Guidance.] The term "financial assistance award" encompasses grants, loans and cooperative agreements. The following elements constitute the award:

(1) The work program described in the approved application;

(2) The budget;

(3) The standard terms and conditions of the award;

(4) Any special award conditions included with the award;

(5) The statutes and regulations under which the award is authorized; and

(6) Applicable OMB cost principles and administrative requirements.

(f) "Work program" means a description of the tasks to be undertaken by a state for a given time period for the purpose of implementing and enforcing an approved coastal zone management program.

(g) "Assistant Administrator" means the Assistant Administrator for Coastal Zone Management or the NOAA Official responsible for directing the Federal Coastal Zone Management Program.

§ 928.3 Procedure for conducting continuing reviews of approved state coastal management programs and state coastal energy impact programs.

(a) Statutory citations—(1) Subsection 312(a).

The Secretary shall conduct a continuing review of the performance of coastal states with respect to coastal management. Each review shall include a written evaluation with an assessment and detailed findings concerning the extent to which the state has implemented and enforced the program approved by the Secretary, addressed the coastal management needs identified in section 303(2)(A) through (I), and adhered to the terms of any grant, loan, or cooperative agreement funded under this title.

(2) Section 316.

Section 316 includes a provision for a biennial Coastal Zone Management Report which must include:

* * * a description of the economic, environmental, and social consequences of energy activities affecting the coastal zone and an evaluation of the effectiveness of financial assistance under section 308 in dealing with such consequences.

(b) *Continuing review procedures.* (1) Each state will submit a work program on a timetable negotiated with the Assistant Administrator, describing the tasks to be undertaken by the state for the purpose of implementing and enforcing its approved management program.

(2) For the purpose of evaluation, the states will submit performance reports specified in the Special Award Conditions, or, if the state is not receiving an award, as negotiated with the Assistant Administrator. The reports will address all areas identified in each state's Performance Report Guidelines.

(3) The Assistant Administrator will collect information on the state programs on a continuing basis. At the beginning of each evaluation, the Assistant Administrator will analyze available information, identify information gaps, and formulate any additional information needs that will be the subject of a supplemental information request to the state.

(4) The Assistant Administrator may conduct a site visit as a part of the evaluation.

(5) Draft findings of the evaluation will be transmitted to the state. The state may have two weeks from receipt of the draft findings to review them and provide comments to the Assistant Administrator. This review time may be extended upon request from the state.

(6) Within two weeks from receipt of the draft findings, a state may request a meeting with the Assistant Administrator to discuss the draft findings and the state's comments.

(7) Following state review, the Assistant Administrator will issue final findings. Notice of the availability of the final findings will be published in the *Federal Register*. Copies will be sent to the head of the state coastal zone management agency, the state program manager, and any person who requests them.

(c) *Requirements for continuing review of approved state coastal zone management programs.* (1) *Scope of continuing reviews.* The continuing review of a state's approved coastal zone management program will include an evaluation of the extent to which the state has:

(i) implemented and enforced all of the elements of the approved management program;

(ii) addressed the coastal management needs identified in Section 303(2)(A)-(I), (§ 923.101(a)(1)); and

(iii) adhered to the terms of any grant, loan or cooperative agreement.

(2) *Procedure for assessing adherence to the approved management program.*

(i) In reviewing adherence of a state to its approved management program, the Assistant Administrator will evaluate all aspects of the "approved management program" as defined in § 928.2(d). The evaluation will examine the extent to which:

(A) the state is fully and effectively implementing its approved coastal management program;

(B) the management agency is effectively playing a leadership role in coastal issues, monitoring the actions of appropriate state and local agencies for compliance with the approved coastal management program, and assuring full participation of all interested entities in management program implementation; and

(C) the management agency is effectively carrying out the provisions of Federal consistency.

(ii) The findings concerning the state's adherence to its approved management program will be used in negotiating the next financial assistance award or work program, whichever is applicable.

(3) *Procedure for assessing how the state has addressed the coastal management needs identified in section 303(2) (A)-(I).* The assessment of the extent to which the state has addressed the coastal management needs identified in section 303(2) (A)-(I) (§ 923.101(a)(1)) will occur as follows:

(i) The state, in its performance report, will provide the Assistant Administrator with a listing of all actions it is taking during the performance report period to address the national coastal management needs and how these actions relate to conditions in the state and the objectives and priorities in the state management program.

(ii) The Assistant Administrator, in the evaluation findings, will assess the extent to which the state's actions are targeted to meeting identified "needs" and the effectiveness of the actions in addressing those needs. Based on this assessment, the Assistant Administrator will make findings and recommendations on the extent to which each state is addressing the coastal management needs identified in section 303.

(iii) The findings and recommendations concerning how the state has addressed the coastal management needs of section 303 will be used by the Assistant Administrator in negotiating the next financial assistance award, if any. The evaluation required by section 312(c), concerning whether a coastal state is "failing to make significant improvement in achieving the coastal management objectives," is detailed in § 928.5(a).

(4) *Procedure for assessing adherence to the terms of any grant, loan or cooperative agreement.* (i) Adherence to financial terms of each financial assistance award will be determined by the NOAA Grants Office and the Department of Commerce Inspector General based upon the findings of a financial audit of the award.

(ii) Adherence to programmatic and administrative terms of each financial assistance award will be determined by the Assistant Administrator and the NOAA Grants Office in accordance with the requirements outlined in these regulations and the following criteria:

(A) submission of required reports and satisfactory completion of work products as described in the approved application and within the time frame specified;

(B) compliance with Standard Terms and Conditions and Special Award Conditions within the specified time frames;

(C) use of award funds only for approved projects; and

(D) substantive modification of approved projects only with the prior agreement of NOAA.

(iii) The findings concerning adherence to the terms of grants, loans and cooperative agreements will be used in negotiating the next financial assistance award, if any.

(d) Requirements for continuing review of state coastal energy impact programs.

(1) *Scope of continuing reviews.* The continuing review of state coastal energy impact programs will include the following elements:

(i) an evaluation of the state's adherence to the terms of any grant, loan or cooperative agreement;

(ii) an evaluation of the relationship between coastal energy impact projects and the approved coastal zone management program;

(iii) a description of energy activities in coastal areas and the impacts resulting from these activities; and

(iv) an evaluation of the effectiveness of the coastal energy impact program in dealing with these consequences.

(2) *Procedure for assessing adherence to the terms of any grant, loan or cooperative agreement.* See § 928.3(c)(4).

§ 928.4 Public participation.

(a) *Statutory citation, Section 312(b).*

For the purpose of making the evaluation of a coastal state's performance, the Secretary shall conduct public meetings and provide opportunity for oral and written comments by the public. Each such evaluation shall be prepared in report form and the Secretary shall make copies thereof available to the public.

(b) *Requirements.* (1) The Assistant Administrator will publish a Notice of Intent to Evaluate in the *Federal Register* at least 45 days before the public meeting(s). The notice will include a statement of the availability of the state's performance report and the supplemental information request.

(2) Each state will issue a notice of the public meeting(s) on its evaluation in the newspaper(s) of largest circulation in the coastal area where the meeting is being held or take other reasonable action to inform the interested public, such as sending a notice of the meeting(s) to persons on its mailing list and publishing a notice in its newsletter, as much in advance of the public meeting(s) as possible. The state will inform the public that oral or written comments will be accepted and that attendance at the public meeting(s) is not necessary for submission of written comments.

(3) Notice of the availability of final findings to the public upon request will be published in the *Federal Register*.

§ 928.5 Enforcement.

(a) Reduction of financial assistance for failure to make significant improvement.

(1) *Statutory citation, section 312(c).*

The Secretary shall reduce any financial assistance extended to any coastal state under section 306 (but not below 70 per centum of the amount that would otherwise be available to the coastal state under such section for any year), and withdraw any unexpended portion of such reduction, if the Secretary determines that the coastal state is failing to make significant improvement in achieving the coastal management objectives specified in section 303(2) (A)-(I).

(2) *Requirements.* (i) The evaluation will examine whether the state is accomplishing the significant improvement tasks in accordance with specific schedules and expected products negotiated between the state and the Office of Coastal Zone Management before the beginning of each financial assistance award, in accordance with the procedures in 15 CFR 923.103.

(ii) If the Assistant Administrator finds, during the continuing review, that the state is not achieving one or more significant improvement objectives as negotiated, the state will be given an opportunity to demonstrate that it can accomplish the objective(s), as prescribed in the financial assistance award, before its expiration.

(iii) If the state cannot make this demonstration to the Assistant Administrator's satisfaction, the Assistant Administrator will determine that the state is failing to make satisfactory progress toward significant improvement in accordance with the previously negotiated agreement.

(iv) Based on this determination, the Assistant Administrator will reduce a state's financial assistance award and withdraw any unexpended portion of the current award by no more than the percentage required to be devoted to making significant improvements for that year. The reduction or withdrawal shall be proportional to the amount of funds allocated to tasks that have failed to result in satisfactory progress in achieving significant improvement.

(b) *Withdrawal of program approval and financial assistance.*

(1) *Statutory citation, Sections 312(d) and 312(e).*

(d) The Secretary shall withdraw approval of the management program of any coastal state, and shall withdraw any financial assistance available to that state under this title as well as any unexpended portion of such assistance, if the Secretary determines that the coastal state is failing to adhere to, is not justified in deviating from (1) the management program approved by the

Secretary, or (2) the terms of any grant or cooperative agreement funded under section 306, and refuses to remedy the deviation.

(e) *Management program approval and financial assistance may not be withdrawn under Subsection (d), unless the Secretary gives the coastal state notice of the proposed withdrawal and an opportunity for a public hearing on the proposed action. Upon the withdrawal of management program approval under this Subsection (d), the Secretary shall provide the coastal state with written specifications of the actions that should be taken, or not engaged in, by the state in order that such withdrawal may be canceled by the Secretary.*

(2) *Requirements.* (i) If the Assistant Administrator finds that a state is failing to adhere to, and is not justified in deviating from, its approved management program or those terms of its grant or cooperative agreement specifically implementing the approved management program, the Assistant Administrator will provide the state with written notice of this finding and the Assistant Administrator's obligation to withdraw program approval and financial assistance. This notice will set forth the deviation(s) from the approved program or the financial assistance award and will include specifications of the actions that must be taken in order to remedy the deviation(s). The state will be given 30 days from receipt of this notice to respond with evidence of adherence or justification for its deviation(s). During this 30-day period, the state may request up to 30 additional days to respond, for a maximum of 60 days from receipt of notice.

(ii) If the state does not respond satisfactorily within the time allowed, the Assistant Administrator will notify the state of intent to take the proposed action. This notice will be published in the *Federal Register* and will inform the state of its right to a public hearing.

(iii) If the state does not request a public hearing or submit satisfactory evidence of adherence or justification within 30 days of publication of this notice, the Assistant Administrator will decide whether to withdraw program approval and financial assistance and will notify the state in writing of the decision and the reasons for it. The notification will set forth actions by the state which would cause the Secretary to cancel the withdrawal.

(iv) If the state requests a public hearing within 30 days of publication of the notice of intent to withdraw program approval and financial assistance, the Assistant Administrator will publish 30 days advance notice of the hearing in the *Federal Register* and the newspaper(s) of largest circulation in the state's coastal zone. The hearing will

be held in a location convenient to the citizens of the state's coastal zone and a record of the hearing will be maintained. Within 30 days of the completion of the hearing, the Assistant Administrator will make a determination as set forth in paragraph (b)(2)(iii) of this section.

(v) If program approval and financial assistance are withdrawn pursuant to this section, a notice will be placed in the Federal Register and Federal consistency under section 307 of the Act will cease to apply to the state's program.

§ 923.82 [Amended]

Section 923.82(b)(3) is amended as follows:

a. After the words, "that State may be subject to," change the word "termination" to "withdrawal."

b. After the end of the sentence, change the reference "(See § 923.85)" to "(See 15 CFR 928.5(b))."

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 158

[Docket No. 81N-0270]

Quick Frozen Leeks; Advance Notice of Proposed Rulemaking on the Possible Establishment of a Standard

AGENCY: Food and Drug Administration.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Food and Drug Administration (FDA) offers to interested persons an opportunity to review the Recommended International Standard for Quick Frozen Leek (Codex standard) developed by the Codex Alimentarius Commission and to comment on the desirability and need for a U.S. standard for this food. The Codex standard was submitted to the United States for consideration for acceptance. If the comments received do not support the need for a U.S. standard for the food, FDA will not propose a standard.

DATE: Comments by December 21, 1981.

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

FOR FURTHER INFORMATION CONTACT: F. Leo Kauffman, Bureau of Foods (HFF-214), Food and Drug Administration, 200

C St. SW., Washington, D.C. 20204, 202-245-1164

SUPPLEMENTARY INFORMATION: The Food and Agriculture Organization (FAO) and the World Health Organization (WHO) jointly sponsor the Codex Alimentarius Commission, which conducts a program for developing worldwide food standards. The program has developed a large number of Codex standards, among which is that for quick frozen leeks.

As a member of the Codex Alimentarius Commission, the United States is under treaty obligation to consider all Codex standards for acceptance. The rules of procedure of the Codex Alimentarius Commission state that a Codex standard may be accepted by a participating country in one of three ways: full acceptance, target acceptance, or acceptance with specified deviations. A commitment to accept at a designated future date constitutes target acceptance. A country's acceptance of a Codex standard signifies that, except as provided for by specified deviations, a product that complies with the Codex standard may be distributed freely within the accepting country. A participating country that concludes that it will not accept a Codex standard is requested to inform the Codex Alimentarius Commission of this fact and the reasons therefor, the manner in which similar foods marketed in the country differ from the Codex standard, and whether the country will permit products complying with the Codex standard to move freely in that country's commerce.

For the United States to accept some or all of the provisions of a Codex standard for any food to which the Federal Food, Drug, and Cosmetic Act applies, it is necessary either to establish a standard under the authority of section 401 of the act [21 U.S.C. 341], or to revise an existing standard appropriately to incorporate the provisions within the U.S. standard. At present, there is no U.S. standard for quick frozen leeks.

Under the procedure prescribed in 21 CFR 130.6(b)(3) FDA is providing an opportunity for review and informal comment (1) on the need for, and desirability of, a standard for this food, (2) on the specific provisions of the Codex standard and additional or different requirements that should be included in a U.S. standard, if established, and (3) on any other pertinent points.

FDA advises that, in keeping with the current policy to limit the number of new regulations, if the comments

received do not support the need for a U.S. standard for this food, no U.S. standard will be proposed. If this decision is reached, the Codex Alimentarius Commission will be informed that an imported food which complies with the requirements of the Codex standard may move freely in interstate commerce in this country providing it complies with applicable U.S. laws and regulations.

Owing to the large number of countries, often with diverse food regulations, which are associated with Codex, certain provisions found in Codex standards may not be in keeping with aspects of U.S. policy and regulations. Codex standards customarily include hygiene requirements, limits on contaminants, certain basic labeling requirements, and other factors. These factors are not considered a part of food standards under section 401 of the Federal Food, Drug, and Cosmetic Act; rather, they are dealt with under other sections of the act and are not included in a proposed U.S. standard.

In addition, the Codex standard for quick frozen leeks specifies analytical methods by which compliance with certain provisions is to be determined. As stated in 21 CFR 2.19, it is FDA policy to employ the methods published in the latest edition of Official Methods of Analysis of the Association of Official Analytical Chemists, when these are available, in preference to other methods. FDA will adhere to this policy in any U.S. standard proposed under this notice.

Under 21 CFR 130.6(c), all persons who wish to submit comments are encouraged and requested to consult with different interested groups (consumers, industry, the academic community, professional organizations, and others) in formulating their comments, and to include a statement of any meetings or discussions that have been held with other groups.

The Codex standard under consideration is as follows:

[CAC/RS 104-1978]

Recommended International Standard for Quick Frozen Leek

1. Scope.

This standard shall apply to quick frozen leek of the species *Allium porrum* L. as defined below and offered for direct consumption without further processing, except for sizing or repacking, if required. It does not apply to the product when indicated as intended for further processing or for other industrial purposes.

2. Description.

2.1 Product Definition.

Quick frozen leek is the product prepared from fresh, clean, sound edible parts of the leek plant conforming to the characteristics of the species *Allium porrum* L., and which have been trimmed, washed, possibly blanched to ensure adequate stability of colour and flavour during normal marketing cycles.

2.2 Process Definition.

Quick frozen leek is the product subjected to a freezing process in appropriate equipment and complying with the conditions laid down hereafter. This freezing operation shall be carried out in such a way that the range of temperature of maximum crystallization is passed quickly. The quick freezing process shall not be regarded as complete unless and until the product has reached -18°C (0°F) at the thermal centre after thermal stabilization. The recognized practice of repacking quick frozen products under controlled conditions is permitted.

2.3 Handling Practice.

The product shall be handled under such conditions as will maintain the quality during transportation, storage and distribution up to and including the time of final sale. It is recommended that during storage, transportation, distribution and retail, the product be handled in accordance with the provisions in the *Recommended International Code of Practice for the Processing and Handling of Quick Frozen Foods* (Ref. No. CAC/RCP 8-1976).

2.4 Presentation.

2.4.1 Styles.

- (a) *Whole leek*—the leek plant with roots and non-tender leaves removed.
- (b) *Leek*—parts of the whole leek with a length, corresponding to the longest dimension of the package, but not less than 70 mm.
- (c) *Cut leek*—parts of the whole leek, cut perpendicularly to the longitudinal axis, minimum length 20 mm, maximum length 60 mm.
- (d) *Leek rings*—parts of the whole leek, cut perpendicularly to the longitudinal axis into slices, not thinner than 10 mm and not thicker than 20 mm.
- (e) *Chopped leek*—the whole leek chopped into pieces, such that the original structure is almost entirely lost, resulting in a "unit" generally smaller than 15 mm in size.

2.4.2 Other styles.

- Any other presentation of the product shall be permitted provided that it:
- (a) is sufficiently distinctive from other forms of presentation laid down in this standard;
- (b) meets all other requirements of this standard;

(c) is adequately described on the label to avoid confusing or misleading the consumer.

2.4.3 Colour.

- (a) leek may be presented as white;
- (b) if leek is presented as "white", not more than 10% m/m shall be present of leaves or parts of leaves with a green colour.

2.2.4 Sizing.

- (a) whole leek, may be presented as sized or unsized;
- (b) the minimum diameter of whole leek, measured perpendicularly to the axis immediately above the swelling at the neck shall be not less than 10 mm;
- (c) when sized, the difference between the largest and smallest leek in the same package, measured perpendicularly to the axis immediately above the swelling at the neck, shall be not more than 10 mm.

3. Essential Composition and Quality Factors.

3.1 Optional Ingredients.

- 3.1.1 Salt (sodium chloride).
- 3.1.2 Condiments, such as spices and herbs.

3.2 Quality Factors.

3.2.1 General Requirements.

Quick frozen leek shall:

- (a) have good colour characteristics;
- (b) be clean, sound, and practically free from foreign material;
- (c) be free from foreign flavour and odour, taking into consideration added optional ingredients;
- (d) have similar varietal characteristics;
- (e) be free from objectionable tough parts; and with respect to visual defects or other defects subject to a tolerance, shall be:
- (a) practically free from sand and grit;
- (b) free from yellow and/or yellowish leaves;
- (c) reasonably free from damage such as staining, discoloration, or insect injury;
- (d) reasonably free from extraneous vegetable material (EVM);
- (e) practically free from roots;
- (f) reasonably well trimmed;
- (g) practically free from loose or detached leaves (in whole style only).

3.2.2 Analytical Characteristics.

Mineral impurities—not more than 0.1% m/m, measured on the whole product basis.

3.2.3 Definition of Visual Defects.

(a) *Discoloration*—discoloration of any kind on the product and which materially detracts from the appearance of the product;

Minor—discoloration which is light in colour. Each area or combined area of $4\text{ cm}^2 = 1$ defect;

Major—discoloration which is dark in colour. Each area or combined area

of $4\text{ cm}^2 = 1$ defect.

(b) *Damaged*—each leaf or part of leaf that is affected by blemishes, staining or insect injury;

(c) *Extraneous Vegetable Material (EVM)*—each cm^2 harmless vegetable material other than from the leek;

(d) *Roots*—each disk of roots attached to the leek or loose;

(e) *Parts of roots*—parts of roots attached to the leek or loose;

(f) *Poorly trimmed*—the white or pale green portion is less than one-third of the total product;

—for the presentation "white" (2.4.3) not more than 10% m/m of green leaves is permitted;

(g) *Loose leaves*—leaf or part of it which is detached from the shaft (in whole style only).

3.2.4 Standard Sample Size.

The standard sample size for segregating and evaluating visual defects shall be as follows:

Style	Standard sample size
Whole leek	500 grammes but not less than two pieces (for sizing 10 pieces).
Leek and cut leek	500 grammes.
Leek rings	250 grammes.
Chopped leek	250 grammes.

3.2.5 Method of Examination.

For separation and enumeration of visual defects the standard sample (see standard sample size) is placed in water in a deep tray, and the shafts or leaf portions separated one by one.

3.2.6 Tolerances for Visual Defects.

Based on the standard sample sizes indicated in section 3.2.4, visual defects shall be assigned points in accordance with the appropriate Table in this section. The maximum number of defects permitted is the Total Allowable Points rating indicated for the respective defect categories Minor and Major or the Combined Total of the foregoing categories.

TABLE I.—WHOLE LEEK

[Standard Sample Size 500 Grammes But Not Less Than Two Pieces.]

Defect	Defect categories		
	Minor	Major	Total
Discoloration—Minor	1		
Major		2	
Damaged		2	
EVM	1		
Roots		2	
Parts of roots	1		
Poorly trimmed		2	
Loose leaves	1		
Total allowable points	8	6	10

TABLE II.—LEEK, CUT LEEK, LEEK RINGS AND CHOPPED LEEK

(Standard Sample Size 500 Grammes (Leek and Cut Leek)
Standard Sample Size 250 Grammes (Leek Rings and Chopped Leek))

Defect	Defect categories		
	Minor	Major	Total
Discoloration—Minor	2		
Major		2	
Damaged		2	
EVM	1		
Roots		2	
Parts of roots	1		
Poorly trimmed		2	
Total allowable points:			
Leek and cut leek	10	10	12
Leek rings and chopped leek	5	6	6

3.2.7 Tolerances for Sizing.

If size graded, the product shall contain not less than 80% by number of whole leek of the declared size.

3.3 Definition of "Defective" for Quality Factors.

Any sample unit taken in accordance with the *Sampling Plans for Prepackaged Foods* (AQL-6.5) (Ref. No. CAC/RM 42-1969) and which is adjusted to a standard sample size for applying the tolerances relating to "Visual Defects" shall be regarded as "defective" for the respective characteristics, as follows:

(a) any sample unit that fails to meet the general requirements of section 3.2.1.

(b) any sample unit that fails to meet the analytical requirements of section 3.2.2.

(c) any sample unit that fails the Total Allowable Points for defect categories Minor or Major; or which fails the Total Allowable Points for the combined Total of the respective defect categories as given in section 3.2.6.

(d) any sample unit that fails to comply with the sizing requirements of section 3.2.7.

3.4 Lot Acceptance for Quality Factors.

A lot is considered acceptable when the number of "defectives" as defined in section 3.3 does not exceed the acceptance number (c) for the appropriate sample size as specified in the *Sampling Plans for Prepackaged Foods* (AQL-6.5) (Ref. No. CAC/RM 42-1969). In applying the acceptance procedure each "defective" (as defined in section 3.3 sub-paragraphs (a) or (b) or (c) or (d)) is treated individually for the respective characteristics.

4. Food Additives.

None permitted.

5. Hygiene.

It is recommended that the product covered by the provisions of this standard is prepared in accordance with the *International Code of Practice—*

General Principles of Food Hygiene

(Ref. No. CAC/RCP 1-1969) recommended by the Codex Alimentarius Commission.

6. Labelling.

In addition to sections 1, 2, 4 and 6 of the *Recommended International General Standard for the Labelling of Prepackaged Foods* (Ref. No. CAC/RS 1-1969), the following provisions apply:

6.1 The Name of the Food.

6.1.1 The name of the food as declared on the label shall include the designation "leek".

6.1.2 The name of the food shall also include the style as appropriate: "whole", "cut", "rings", or "chopped" in accordance with Section 2.4.1 and when presented as white the word "white" in accordance with Section 2.4.3.

6.1.3 If the product is presented in accordance with sub-section 2.4.2 the label shall contain in close proximity to the word leek such additional words or phrases that will avoid misleading or confusing the consumer.

6.1.4 The words "quick frozen" shall also appear on the label, except that the term "Frozen" may be applied in countries where this term is customarily used for describing the product processed in accordance with subsection 2.2 of the standard.

6.1.5 Where a characterizing ingredient has been added, this shall be stated as "with X" or "X flavoured" as appropriate.

6.2 Size Designation.

If a term designating the size of whole leek is used, it shall:

(a) be supported by a statement of the predominant range of the maximum diameter of the leek in millimeters, or fractions of an inch in those countries where the English system is in general use; and/or

(b) conform to the customary method of declaring size in the country in which the product is sold.

6.3 List of Ingredients.

A complete list of ingredients shall be declared, in descending order of proportion in accordance with section 3.2(c) of the *Recommended International General Standard for the Labelling of Prepackaged Foods* (CAC/RS 1-1969).

6.4 Net Contents.

The net contents shall be declared by weight in either the metric system ("Système International" units) or avoirdupois or both systems of measurements as required by the country in which the food is sold.

6.5 Name and Address.

The name and address of the manufacturer, packer, distributor, importer, exporter or vendor of the product shall be declared.

6.6 Country of Origin.

The country of origin of the product shall be declared if its omission would mislead or deceive the consumer.

6.7 Lot Identification.

Each container shall be embossed or otherwise permanently marked, in code or in clear, to identify the producing factory and the lot.

6.8 Additional Requirements.

The packages shall bear clear directions for keeping from the time they are purchased from the retailer to the time of their use, as well as directions for cooking.

6.9 Bulk Packs.

In the case of quick frozen leek in bulk, the information required in 6.1 to 6.7 shall either be placed on the container or be given in accompanying documents, except that the name of the food accompanied by the words "quick frozen" (the term "frozen" may be used in accordance with section 6.1.4 of this standard) and the name and address of the manufacturer or packer shall appear on the container.

7. Packaging.

Packing used for quick frozen leek shall:

(a) protect the organoleptic and other quality characteristics of the product;

(b) protect the product against microbiological and other contamination;

(c) protect the product from dehydration, and where appropriate, leakage as far as technologically practicable;

(d) not pass to the product any odour, taste, colour or other foreign characteristics, throughout the processing (where applicable) and distribution of the product up to the time of final sale.

8. Methods of Examination, Analysis and Sampling.

The methods of examination, analysis and sampling described or referred to hereunder are international referee methods.²

8.1 Sampling.

Sampling shall be carried out in accordance with the *FAO/WHO Codex Alimentarius Sampling Plans for Prepackaged Foods* (AQL-6.5) (Ref. No. CAC/RM 42-1969).³

¹ "Frozen": this term is used as an alternative to "quick frozen" in some English speaking countries.

² See last paragraph of the section of this publication entitled "Introduction".

³ Pending endorsement by the Codex Committee on Methods of Analysis and Sampling.

8.2 Thawing Procedure.

FAO/WHO Codex Alimentarius Standard Procedure for Thawing of Quick Frozen Fruits and Vegetables (Ref. No. CAC/RM 32-1970).

8.3 Cooking Procedure.

FAO/WHO Codex Alimentarius Standard Procedure for Cooking of Quick Frozen Fruits and Vegetables Ref. No. CAC/RM 33-1970).

The cooking time for quick frozen leek may vary within the following range, depending upon variety, maturity and size:

leek and cut leek: 10-20 minutes

leek rings: 5-8 minutes

chopped leek: 3-5 minutes

8.4 Determination of Net Weight.

FAO/WHO Codex Alimentarius Standard Procedure for Determination of Net Weight of Quick Frozen Fruits and Vegetables (Ref. No. CAC/RM 34-1970); also contained in the *Recommended International Standard for Quick Frozen Peas* (Ref. No. CAC/RM 41-1970, sub-section 8.3).

8.5 Mineral Impurities.

FAO/WHO Codex Alimentarius Standard Procedure for Determination of Mineral Impurities in Quick Frozen Fruits and Vegetables (Ref. No. CAC/RM 54-1974).

Interested persons may, on or before December 21, 1981 submit to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, written comments (preferably two copies) regarding this notice. Each comment should identify the title of the Codex standard and the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Executive Order 12291 does not apply to regulations issued in accordance with the formal rulemaking provisions of the Administrative Procedure Act (5 U.S.C. 556, 557). Food standards promulgated under 21 U.S.C. 341 and 371(e) fall under this exemption. However, any comments submitted in support of establishing a U.S. standard for this food should be supported by appropriate information and data regarding impact on small business consistent with the requirements of the regulatory Flexibility Act (Pub. L. 96-354).

Dated: October 7, 1981.

Sanford A. Miller,

Director, Bureau of Foods.

[FR Doc. 81-30232 Filed 10-19-81; 0:45 am]

BILLING CODE 4110-03-M

DEPARTMENT OF LABOR**Employment Standards Administration, Wage and Hour Division****29 CFR Part 4****Service Contract Act; Labor Standards for Federal Service Contracts; Notice of Hearing**

AGENCY: Wage and Hour Division, ESA, Labor.

ACTION: Notice of hearing on a proposed rule.

SUMMARY: The Wage and Hour Division of the Department of Labor will conduct an informal public hearing to allow interested parties an opportunity to present their views regarding proposed revisions to the regulations on Labor Standards for Federal Service Contracts, 29 CFR Part 4, issued under the Service Contract Act.

On August 14, 1981 the Wage and Hour Division published proposed amendments to Part 4 in the *Federal Register* (46 FR 41380), allowing 60 days for public comment. As a result of the degree of interest expressed, it has been determined that an informal hearing is desired. In order to leave the record open for this purpose, a notice was published in the *Federal Register* on October 13, 1981 (46 FR 50397) extending the period for public comment by all interested parties until December 1, 1981.

DATES: A public hearing will be held on November 19, 1981 from 1 p.m. until 7 p.m. and will be continued on November 20, 1981 from 9 a.m. until 7 p.m., if necessary. Interested parties desiring to testify in person should so notify the Administrator, Wage and Hour Division in writing no later than November 9, 1981. Interested parties who do not desire to testify in person but who wish to submit written data, views, or arguments for inclusion in the hearing record should send their comments (three copies) to the Administrator no later than November 19, 1981.

ADDRESSES: The hearing will be held in Room 260, Merritt Island Branch Courthouse, 2575 N. Courtenay Parkway, Merritt Island, Florida 32952. Parties desiring to testify and parties desiring to submit comments should furnish their requests or comments to William M. Otter, Administrator, Wage and Hour Division, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210, Attention: Division of Government Contract Policy, Room S3030.

FOR FURTHER INFORMATION CONTACT: William M. Otter, Administrator, Wage

and Hour Division, U.S. Department of Labor, Room S-3502, 200 Constitution Avenue, N.W., Washington, D.C. 20210 (telephone: 202-523-8305).

SUPPLEMENTARY INFORMATION: Pursuant to Executive Order 12291, the Department conducted a thorough review of Regulations, Part 4 and proposed appropriate changes in the *Federal Register* on August 14, 1981.

Proposed major revisions include a two-step solicitation procedure where the geographic place of contract performance is unknown; elimination of the provisions that made bid specifications principally for services subject to the Act when the principal purpose of the entire contract is not for services; a revision to provide that contracts are not subject to the Act unless the services are performed principally by service employees; guidelines indicating when contracts for major overhaul or modification of equipment are subject to the Service Contract Act or Walsh-Healey Act; an exemption for R&D contracts; an exemption for certain contracts for the maintenance and repair of automated data processing equipment, including office information systems, related scientific and medical apparatus, and office/business machines; elimination of the provisions that contracts primarily for the sale of timber are subject to the Act; and limitation of the application of section 4(c) of the Act to situations where the successor contractor performs the contract in the same locality as the predecessor contractor. The proposed regulations should be referred to for more detailed information. Copies may be obtained from the Administrator.

The hearing is being held to allow interested parties an opportunity to present their views regarding the proposed regulatory changes. Because of concern which has been expressed to the Department, interested parties may also present their views on the effect of the Department's separate decision to consider Brevard County as the appropriate locality to be used in making future prevailing wage determinations for the Cape Kennedy Complex. Those desiring to testify in person are requested to notify the Administrator in writing no later than November 9, 1981. They should furnish the following information:

(1) The name(s), address(es), and telephone number(s) of the person(s) desiring to appear.

(2) If appearing in a representative capacity, the person(s) appearing should provide the name(s) and address(es) of

the person(s) or organization(s) being represented.

(3) The date, time of day, and length of time desired for the presentation.

(4) Where written data or comments are to be provided for the hearing record beforehand, they should be furnished in triplicate.

The Administrator will establish the tentative order and time for oral testimony prior to the hearing, and to the extent possible will accommodate all parties who submit a notice as provided above. All parties scheduled to present testimony will be notified by telephone of the approximate time for their appearance. As the hearing is limited to two days, there may not be sufficient time to allow all those wishing to testify to do so. Accordingly, in scheduling the presentations the Administrator will grant preference on the basis of when the notices of desire to testify are submitted, those submitted earliest being given the highest priority.

In an endeavor to hear all interested parties, groups and organizations are urged to limit the number of witnesses representing the group or organization, to limit presentations to 20 minutes in duration, and to avoid repetitious testimony. In addition, the use of prepared statements by witnesses is encouraged. Such statements (three copies) should be submitted at the hearing or beforehand.

Those persons who have not previously advised the Administrator that they wish to be heard will be heard following those who have so advised the Administrator if time permits, but they may be limited to ten minutes or less for their presentation.

Interested persons who do not desire to testify in person but who wish to submit written data, proposals or other related material for the hearing record should submit their comments (three copies) to the Administrator no later than November 19, 1981.

The oral proceedings shall be reported verbatim and, together with all written statements submitted, shall be included in the hearing record.

An Administrative Law Judge shall preside over the hearing, and shall have all the powers necessary or appropriate to conduct a fair and full informal hearing, including the powers: (a) To regulate the course of the hearing; (b) To dispose of procedural request, objections, and comparable matters; (c) To confine the presentations to matters pertinent to the proposed regulations; (d) To regulate the conduct of those present at the hearing by appropriate means; (e) In his or her discretion, to keep the record open for a reasonable stated time to receive written data from any person

who has participated in the oral proceeding.

Following the close of the hearing, the presiding Administrative Law Judge shall certify the record thereof to the Administrator, who shall in turn incorporate the record into the general body of comments received in response to the proposed revisions to Regulations, Part 4.

Signed at Washington, D.C., this 15th day of October, 1981.

William M. Otter,

Administrator, Wage and Hour Division.

[FR Doc. 81-30235 Filed 10-15-81; 11:23 am]

BILLING CODE 4510-27-M

VETERANS ADMINISTRATION

38 CFR Part 3

Veterans Benefits; Burial Allowance

AGENCY: Veterans Administration.

ACTION: Proposed regulation amendment.

SUMMARY: The Veterans Administration is proposing to amend its adjudication regulations to implement certain changes made by a new law, the Omnibus Budget Reconciliation Act of 1981. The new law restricts payment of the nonservice-connected death burial allowance to veterans who at time of death were in receipt of pension or compensation (or would have been in receipt of compensation but for receipt of military retired pay).

DATES: Comments must be received on or before November 19, 1981. These changes are effective for deaths occurring after September 30, 1981, the effective date specified in the new law, designated as Pub. L. 97-35.

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

Comments will be available for inspection at the address shown above during normal business hours until November 30, 1981.

FOR FURTHER INFORMATION CONTACT: T. H. Spindle, Jr. (202-389-3005).

SUPPLEMENTARY INFORMATION: We are proposing to amend 38 CFR 3.1600 to implement the burial allowance provisions of Pub. L. 97-35.

The Administrator hereby certifies that this proposed rule, if promulgated, will not have a significant economic impact, in terms of compliance costs, paperwork and recordkeeping, or any other regulatory burden on a substantial number of small entities as they are

defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601-612. Pursuant to 5 U.S.C. 605(b), this proposed rule is therefore exempt from the initial and final regulatory flexibility analyses requirements of sections 603 and 604. The reason for this certification is that this regulation implements a legislative enactment and imposes no regulatory burden on small entities (i.e., small business, small private profit and nonprofit organizations, and small governmental jurisdictions.)

In accordance with Executive Order 12291, Federal Regulation, we have determined that this regulation change, in itself, is nonmajor for the following reasons:

(1) It will not have an effect on the economy of \$100 million or more.

(2) It will not cause a major increase in costs or prices.

(3) It will not have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

(Catalog of Federal Domestic Assistance Program Number, 64.101)

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 November 30, 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. Visitors to VA field stations will be informed that the records are available for inspection only in Central Office and will be furnished the address and room number.

Approved: October 4, 1981.

D. Custis,

Acting Administrator.

PART 3—ADJUDICATION

The Veterans Administration proposes to amend Part 3, Title 38, Code of Federal Regulations as follows:

Section 3.1600 is amended to read as follows:

(a) By removing the citation "(Public Law 89-360)" in the first sentence of the

introductory portion preceding paragraph (a).

(b) By revising paragraphs (a), (b), (c) and (f) as follows:

§ 3.1600 Payment of burial expenses of deceased veterans.

(a) *Service-connected death burial allowance.* If a veteran dies as a result of a service-connected disability or disabilities, an amount not to exceed \$1100 (or if entitlement is under § 3.8(c) or (d), a rate in Philippine pesos equivalent to \$550) may be paid toward the veteran's funeral and burial expenses including the cost of transporting the body to the place of burial. Entitlement to this benefit is subject to the applicable further provisions of this section and §§ 3.1601 through 3.1610. Payment of the service-connected death burial allowance is in lieu of payment of any benefit authorized under paragraph (b), (c) or (f) of this section. (38 U.S.C. 907)

(b) *Nonservice-connected death burial allowance.* If a veteran's death is not service connected, an amount not to exceed \$300 (or if entitlement is under § 3.8(c) or (d), a rate in Philippine pesos equivalent to \$150) may be paid toward the veteran's funeral and burial expenses including the cost of transporting the body to the place of burial. Entitlement is subject to the following conditions:

(1) At the time of death the veteran was in receipt of pension or compensation (or but for the receipt of military retirement pay would have been was in receipt of pension or

(2) The veteran has an original or reopened claim for either benefit pending at the time of the veteran's death, and

(i) In the case of an original claim there is sufficient evidence of record on the date of the veteran's death to have supported an award of compensation or pension effective prior to the date of the veteran's death, or

(ii) In the case of a reopened claim, there is sufficient prima facie evidence of record on the date of the veteran's death to indicate that the deceased would have been entitled to compensation or pension prior to date of death. If the Veterans Administration determines that additional evidence is needed to confirm that the deceased would have been entitled prior to death, it shall be submitted within 1 year from date of request to the burial allowance claimant for submission of the confirming evidence. If the confirming evidence is not received by the Veterans Administration within 1 year from date

of request, the burial allowance claim shall be disallowed; and

(3) The applicable further provisions of this section and §§ 3.1601 through 3.1610. (38 U.S.C. 210(c), 902)

(c) *Death while properly hospitalized.* If a person dies from nonservice-connected causes while properly hospitalized by the Veterans Administration, there is payable an allowance not to exceed \$300 for the actual cost of the person's funeral and burial, and an additional amount for transportation of the body to the place of burial. (38 U.S.C. 903(a)). (If the hospitalized person's death is service connected, entitlement to burial benefits falls under paragraph (a) of this section instead of this paragraph.)

(f) *Plot or interment allowance.* When a veteran dies from non-service-connected causes, \$150 (or where entitlement is based on § 3.8(c) or (d), a rate in Philippine pesos equivalent to \$75) may be paid as a plot or interment allowance is payable to the person or entity who incurred the expenses. (For payment to a State or political subdivision thereof, see § 3.1604(c).) Entitlement is subject to the following conditions:

(1) The deceased veteran is eligible for the burial allowance under paragraph (b) or (c) of this section; or

(2) The veteran either served during a period of war or was discharged from the active military, naval, or air service for a disability incurred or aggravated in line of duty (or at time of discharge has such a disability, shown by official service records, which in medical judgment would have justified a discharge for disability; the official service department record showing that the veteran was discharged or released from service for disability incurred in line of duty will be accepted for determining entitlement to the plot or interment allowance notwithstanding that the Veterans Administration has determined, in connection with a claim for monetary benefits, that the disability was not incurred in line of duty); and

(3) The veteran is not buried in a national cemetery or other cemetery under the jurisdiction of the United States; and

(4) The applicable further provisions of this section and §§ 3.1601 through 3.1610. (38 U.S.C. 903(b))

[FR Doc. 81-30396 Filed 10-19-81; 8:45 am]

BILLING CODE 8320-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 264

[SWH-FRL 1937-1]

Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposal to suspend effective date of interim final rules.

SUMMARY: EPA is today proposing to temporarily suspend the effective dates of its January 1981 permitting standards for incinerators and storage surface impoundments, as applied to existing facilities, pending a re-examination of their appropriateness for existing facilities.

DATES: Comments on this proposal are due December 4, 1981. Requests for hearing must be filed by November 9, 1981. The request must contain the information prescribed in 40 CFR 260.20(d).

ADDRESS: All comments should be sent to Docket Clerk (Section 3004: Suspension of Incinerator and Storage Surface Impoundment Standards), Office of Solid Waste (WH-562), U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460.

Request for a hearing must be filed with Eileen Claussen, Director, Office of Management, Information and Analysis, Office of Solid Waste, (WH-562), U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460.

The public docket for this proposal is located in Room 2636, U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. and is available for viewing from 9 a.m. to 4 p.m. Monday through Friday, excluding holidays. The docket contains the public comments and other information on which this proposal is based.

FOR FURTHER INFORMATION CONTACT: The RCRA Hotline, 800/424-9346 (in Washington, D.C., 554-1404) or Eileen Claussen, Director, Office of Management, Information and Analysis, Office of Solid Waste, (202) 755-9177.

SUPPLEMENTARY INFORMATION:

I. Basis for Proposal

On January 12 and 23 of this year, EPA promulgated standards for permitting five types of hazardous waste treatment and storage facilities—tanks, container storage facilities, waste piles,

storage surface impoundments¹ and incinerators—under Section 3004 of the Resource Conservation and Recovery Act of 1976, as amended (RCRA). See 46 FR 2802 (January 12, 1981) and 46 FR 7666 (January 23, 1981). For the most part, these standards impose identical requirements on new and existing facilities.

At the time the January standards were published, EPA invited public comment on them. The Agency's major purpose in soliciting comments at this stage in the rulemaking was to assure that we had not overlooked any major problems in addressing comments received on the proposed standards. It was EPA's intent, if serious problems were surfaced by commenters, to remedy them before the regulation became effective.

In response to its invitation for comments, EPA received a number of comments from the regulated community contending that, for various cost, technical, and practical reasons, some of the standards are inappropriate for existing facilities. This criticism was voiced most strongly for two classes of facilities: existing incinerators and existing storage surface impoundments. A trade association which represents companies operating approximately 300 on-site incinerators has alleged that the retrofitting and energy costs which these companies would incur in complying with EPA's standards will force half of these incinerators (approximately 20 percent of the total nationwide) to shut down. The association additionally claims that many of these closures are unnecessary because the affected incinerators could continue to operate safely at standards less stringent than those promulgated by EPA in January. Finally, it alleges that for these 300 incinerators alone, the total cost of complying with EPA's regulations (including the cost of off-site waste incineration for the 150 facilities which will close) will be \$700 million per year.

Commenters have similarly argued that retrofitting existing storage surface impoundments to comply with EPA's standards will be very costly. They contend that retrofitting will not only require costly reconstruction² but may also require taking the impoundment out of service while it is being rebuilt, potentially for long periods of time. This

latter action may require a complete shutdown of the plant producing the hazardous waste if there are no other available alternatives for managing the waste. Commenters argue that the economic disruption potentially caused by the retrofitting of existing impoundments may not be necessary if alternative standards would assure protection of human health and the environment.

EPA has not had an opportunity to assess the merits of these assertions in detail. If they are correct, they raise serious questions concerning the appropriateness of EPA's incinerator and storage surface impoundment standards for existing facilities. In light of recent amendments to RCRA directing EPA, where appropriate, to distinguish between new and existing facilities in issuing standards under Section 3004,³ we think it is particularly important to assure that these issues are adequately evaluated before we begin to apply these standards to existing facilities.

Accordingly, EPA is today proposing to suspend the effective date of its January standards as applied to existing incinerators and storage surface impoundments pending a re-examination of the appropriateness of those standards for existing facilities. When the re-examination is complete, we will decide whether to lift the suspension or initiate additional rulemaking.

As part of the Regulatory Impact Analysis (RIA) which we are preparing on the January standards under Executive Order 12291, EPA has already started some of the work which would be necessary to more fully evaluate the assertions made by commenters. A major study is underway to evaluate the human health risk and economic impact of the incinerator standards and several alternative standards on existing facilities. This study will be based on a representative sample of existing incinerators. Because it requires a careful review of approximately 850 incinerator permit applications and site visits to each of the incinerators in the sample, we do not expect to complete our data gathering and preliminary analysis until April or May, 1982. A draft RIA should be ready for public review and comment by April 1983.

A similar study is currently being conducted for existing storage surface impoundments. We expect this study to be completed in approximately the same time frame.

³See Section 9 of the Solid Waste Disposal Act Amendments of 1980, Pub. L. 96-482 (October 21, 1980).

If a final decision is made to suspend the January standards for existing incinerators or storage surface impoundments, the Agency will shift the permitting resources which would otherwise have been applied to them to other RCRA facilities. During the period of the suspension, we would plan to use our imminent hazard authority under RCRA, the Clean Air Act, and the Safe Drinking Water Act, as well as the Comprehensive Environmental Response, Compensation and Liability Act ("Superfund") and other authorities, to deal with existing incinerators and storage surface impoundments which were posing a serious threat to human health or the environment.

EPA solicits comment on this proposed course of action, particularly the accuracy of the data and conclusions submitted by commenters and the availability of other information which would bear on the appropriateness of applying the January incinerators and storage surface impoundment standards to existing facilities.

II. Other Issues

A. Voluntarily Submitted Permit Applications

The process of issuing a RCRA permit to an existing facility will typically begin when EPA asks the owner and operator of a facility to submit Part B of their permit application. See 40 CFR 122.22(a)(4). In some cases, however, the owner and operator of a facility may not want to wait for EPA to initiate the permit process. For example, they may be renovating an on-site production facility and may want to upgrade their waste management areas at the same time. Or the state may be processing the facility's state hazardous waste permit and the owner and operator may wish to have EPA act on their RCRA permit at the same time. For these and other reasons, EPA regulations provide that the owner or operator of a facility may "voluntarily submit Part B of the application at any time." 40 CFR 122.22(a)(4).

Today's proposed suspension does not apply to these voluntarily-submitted permit applications. Thus, the owner or operator of any existing incinerator or storage surface impoundment who desires to obtain a RCRA permit based on the January standards will be able to do so even if a final decision is made to temporarily suspend the effective date of those standards with respect to other facilities. For the reasons stated above, this may be an attractive alternative for owners or operators of facilities which

¹Storage surface impoundments may also be used for the treatment of hazardous waste. See 40 CFR 264.220.

²The costs of retrofitting can, in fact, be high. EPA estimates that the cost of excavating wastes from a small (1-3 acre) impoundment and equipping it with a double plastic liner could be approximately five times as expensive as excavation of a new impoundment, of similar size.

are already meeting the January standards or who believe that they can do so at minimal additional cost.

B. Processing Permits for Existing Incinerators and Storage Surface Impoundments Pending Completion of Rulemaking

The task of issuing RCRA permits to all the hazardous waste management facilities which need to obtain them is an enormous one. There are now approximately 15,000 existing facilities—many with multiple hazardous waste units (e.g., three treatment tanks, a waste pile and seven drum storage areas)—which need RCRA permits. Approximately 90% of these facilities employ tanks, containers storage areas or waste piles, for which EPA has effective permitting regulations. In addition to existing facilities, EPA expects to receive, over the next two years, applications for permits for an estimated 600 new hazardous waste management facilities. Without RCRA permits, these facilities cannot commence operations, and, in some cases, construction as well. 40 CFR 122.22(b).

Given the large number of facilities needing permits, the Agency must establish priorities for its permitting efforts. In setting those priorities, EPA cannot conclude that one class of facilities necessarily presents greater risks than another class of facilities. EPA's information on damage cases shows that facilities of differing types could present environmental problems if not properly managed. EPA does not believe, however, that it would be a prudent allocation of resources to begin processing permits under standards whose effective date may shortly be suspended. Moreover until EPA has had a chance to better analyze the standards for existing storage surface impoundments and incinerators as a class, it will not be in a position to set out criteria for when particular facility applications should be called up for review.

Accordingly, it will be EPA's policy, starting today, pending a final decision on the suspension proposed today, not to call in Part B permit applications for existing incinerators and surface impoundments. The Agency will be processing voluntarily submitted permit applications for these facilities, however, and will be calling in permit applications for all other facilities for which it has effective standards (including existing tanks, container storage facilities and waste piles and new facilities of all types). Given the fact that it has established this interim permitting policy EPA intends to take

final action on the suspension being proposed today as expeditiously as possible.

C. State RCRA Programs.

Section 3006 of RCRA provides that states with "substantially equivalent" hazardous waste programs can be granted interim authorization to carry out the state program "in lieu of" the Federal program. EPA's guidelines for the authorization of state programs provide that interim authorization will be granted in two phases: Phase I (corresponding to the Federal program promulgated on May 19, 1980) and Phase II (consisting of the procedures and standards for permitting hazardous waste management facilities). See 40 CFR Part 123, as amended by 46 FR 8298 (January 26, 1981). Phase II, in turn, is separated into components which correspond to specified Parts and Subparts of the Federal regulations. To date EPA has announced that states may apply for authorization for two components: Component A, which covers the standards for tanks, container storage facilities, waste piles and storage surface impoundments and Component B, which covers incinerators. See 46 FR 7964 (January 26, 1981).

The proposed suspension of the effective dates for Federal permitting standards for existing incinerators and storage surface impoundments affects the authorization of state programs for Components A and B. In the period before a final decision is made on suspension, EPA will continue to review state applications for Components A and B for substantial equivalence with all aspects of the current Federal standards. However, EPA will only authorize state programs to permit the facilities not covered in the proposed suspension (*i.e.* new incinerators, new storage surface impoundments and all tanks, containers, and waste piles). Upon authorization for these parts of the appropriate component(s), states will be able to issue RCRA permits to such facilities. EPA will postpone decisions on the authorization of state permitting programs for existing incinerators and existing storage surface impoundments until the question of suspending the effective date of the Federal standards for those facilities is resolved.

If EPA decides *not* to suspend the effective date of the Federal standards, interim authorization for the facilities in question can be automatically extended to states which have approved programs for the remainder of the component(s). These states would have already demonstrated substantial equivalence to the Federal standards for new facilities,

and because the Federal standards for existing facilities would be the same, there would be no need for such states to submit additional materials or undergo further review.

On the other hand, if EPA does suspend the effective date of the Federal standards for existing incinerators and existing storage surface impoundments, EPA would not be able to authorize those parts of a state program until the suspension is lifted or revised Federal standards become effective. This is because EPA must judge the substantial equivalence of the state program with reference to the Federal program and there would not be a corresponding Federal program in effect for such facilities. States could continue to permit such facilities under state laws and regulations, but these permits would not be RCRA permits as defined in the Act.

If the standards for permitting existing surface impoundments or incinerators are suspended, EPA will have to amend its state program authorization guidelines or its notice of the content of Components A and B so the Agency can continue to authorize state permitting programs for the other elements of Components A and B during the suspension. This would be necessary because as the guidelines are currently written a state may only obtain Phase II interim authorization for an entire component. Second, a state may not obtain authorization for Component B unless it has already obtained (or simultaneously obtains) interim authorization for Component A. 40 CFR 123.122(d). Finally, interim authorization for each component cannot take effect until the effective date of the component (normally the effective date of the Federal regulations comprising that component).

If EPA were to suspend the effective date of its January standards for existing incinerators and storage surface impoundments without making any changes in the state program authorization guidelines or Components A and B, arguably no state could be authorized to issue RCRA permits for any type of hazardous waste management facility until the storage surface impoundment standards became effective. As noted above, this could delay all Phase II interim authorizations until mid-1982 at the earliest. Since this is not a desirable result nor is it our intent, if we make a final decision to suspend the effective date of the permitting standards for existing incinerators and storage surface impoundments we will simultaneously amend our state program authorization

guidelines or the content of Components A and B.

When revised Federal standards for existing incinerators and existing storage surface impoundments are promulgated (or if the suspension is lifted), states would have the opportunity to demonstrate that their state standards for existing incinerators and storage surface impoundments are substantially equivalent to the Federal standards. EPA may have to announce a separate component for this purpose.

Depending on the content of the final Federal and state regulations for existing surface impoundments and incinerators, a state would either go through the normal procedures for authorization of a component or could use very abbreviated authorization procedures. For example, if a state were already authorized to permit new surface impoundments and incinerators and the state used the same standards to permit existing facilities, it could demonstrate substantial equivalence to the Federal standards very easily if all aspects of the final Federal standards are the same as or less stringent than the January 1981 standards. Under such circumstances states would not have to submit any additional information to EPA and the authorization could be made virtually automatically.

EPA solicits comments on all aspects of the approach outlined above for adjusting the process for interim authorization to any changes in the effective dates or standards in the Federal regulations for existing incinerators and surface impoundments.

III. Regulatory Analyses

A. Executive Order 12291

Section 3(b) of Executive Order 12291 (46 FR 12193, February 19, 1981) requires EPA to prepare a regulatory impact analysis on all "major" rules. A major rule is defined as a regulation which is likely to result in:

- An annual effect on the economy of \$100 million or more;
- A major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies or geographic regions; or
- Significant adverse effects on competition, employment, investment, productivity, innovation or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Because the amendments proposed today, if promulgated, would temporarily suspend existing requirements for some hazardous waste management facilities, they would not result in an annual effect on the

economy of \$100 million or more, a major increase in costs or prices or have significant adverse effects on competition, employment, investment, productivity or innovation. Accordingly, a regulatory impact analysis is not being prepared on this regulation.

EPA has submitted this regulation to the Office of Management and Budget (OMB) for review as required by the Executive Order. OMB's comments, if any, have been filed in the RCRA public docket, Room 2636, U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460.

B. Regulatory Flexibility Analysis

Under the Regulatory Flexibility Act, 5 U.S.C. 601 *et. seq.*, EPA is required to determine whether a regulation will have a significant impact on a substantial number of small entities so as to require a regulatory analysis. EPA believes that few, if any, small entities would be affected by a temporary suspension of the Agency's permitting standards for existing hazardous waste incinerators and storage surface impoundments because relatively few of these facilities are owned and operated by small entities. To the extent they are affected, however, the suspension would temporarily reduce compliance burdens. Therefore, pursuant to 5 U.S.C. 605(b), I hereby certify that this proposed suspension, if promulgated, will not have a significant economic impact on a substantial number of small entities.

Dated: October 2, 1981.

Anne M. Gorsuch,
Administrator.

PART 264—STANDARDS FOR OWNERS AND OPERATORS OF HAZARDOUS WASTE TREATMENT, STORAGE, AND DISPOSAL FACILITIES

For the reasons set out in the preamble, 40 CFR Part 264 is proposed to be amended as follows.

1. The authority citation for Part 264 reads as follows:

Authority: Sections 1008, 2002(a), and 3004 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended (42 U.S.C. 6905, 6912(a), and 6924).

2. Section 264.220 is proposed to be amended by designating the existing text of the section as paragraph (a) and adding a new paragraph (b), as revised, § 264.220 reads as follows:

§ 264.220 Applicability.

(a) The regulations in this Subpart apply to owners and operators of facilities that use surface impoundments to treat or store hazardous waste, except as § 264.1 provides otherwise.

(b) Except for owners or operators of facilities that voluntarily submit Part B of their permit application under § 122.22(a)(4) of this Chapter, the regulations in this Subpart shall not become effective for the owners and operators of facilities which commenced construction prior to November 19, 1980 until the Administrator publishes a notice to that effect in the Federal Register.

3. Section 264.340 is proposed to be amended by adding the following new paragraph (d).

§ 264.340 Applicability.

(d) Except for owners and operators of facilities that voluntarily submit Part B of their permit under § 122.22(a)(4) of this Chapter, the regulations in this Subpart shall not become effective for the owners and operators of facilities which commenced construction prior to November 19, 1980, until the Administrator publishes a notice to that effect in the Federal Register.

[FR Doc. 81-30373 Filed 10-19-81; 8:45 am]
BILLING CODE 6560-30-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

41 CFR Parts 3-1 and 3-7

Indian Preference in Employment, Training, and Subcontracting Opportunities

AGENCY: Office of the the Secretary, HHS.

ACTION: Proposed rule.

SUMMARY: The Office of the Secretary, Department of Health, and Human Services is proposing to amend the Departmental procurement regulations by adding a new section and two contract clauses on Indian preference.

This new section and the contract clauses will implement section 7(b) of the Indian Self-Determination and Education Assistance Act (Pub. L. 93-638; 88 Stat. 2205; 25 U.S.C. 450e(b)).

DATE: Comments must be received by December 21, 1981.

ADDRESS: Any person or organization wishing to submit data, views, or comments pertaining to the proposed regulations may do so by filing them with E.S. Lanham, Office of Procurement Policy, OGP-OASMB-OS, Department of Health and Human Services, Room 538H, Hubert H. Humphrey Building, 200 Independence Avenue, SW, Washington, D.C. 20201.

FOR FURTHER INFORMATION CONTACT:

E. S. Lanham, Office of Procurement Policy (202-245-0481).

SUPPLEMENTARY INFORMATION:

Section 7(b) of the Indian Self-Determination and Education Assistance Act requires that any contract, subcontract, grant, or subgrant awarded pursuant to the Act, the Act of April 16, 1934 (48 Stat. 596; 25 U.S.C. 452), as amended, or any other Act authorizing Federal contracts with or grants to Indian organizations or for the benefit of Indians shall require that, to the greatest extent feasible: (1) Preferences and opportunities for training and employment in connection with the administration of the contracts or grants be given to Indians, and (2) Preference in the award of subcontracts and subgrants in connection with the administration of the contracts or grants be given to Indian organizations and Indian-owned economic enterprises as defined in section 3 of the Indian Financing Act of 1974 (Pub. L. 93-262; 88 Stat. 77; 25 U.S.C. 1452).

The proposed section 3-1.360, Indian preference in employment, training, and subcontracting opportunities, implements section 7(b) and provides direction for the application of the Indian Preference clause (§ 3-7.5015) and the Indian Preference Program clause (§ 3-7.5016). It also provides definitions of pertinent terms, instructions on compliance enforcement, and procedures for use of Indian tribal preference requirements.

The proposed Indian Preference and Indian Preference Program contract clauses provide requirements to be followed by contractors to promote preferences to Indians for employment and training opportunities and to Indian organizations in the award of subcontracts. However, the clauses are only to be used when appropriate; that is, when the contract is to be awarded pursuant to an act specifically authorizing contracts with Indian organizations or when the work to be performed under the contract is specifically for the benefit of Indians.

On April 9, 1980, a Notice of Intent to develop these proposed regulations was published in the Federal Register (45 FR 24211). On June 18, 1980, a preliminary draft of these proposed regulations was informally circulated to representative Indian tribal chairmen for comment. Many of the resulting suggestions are reflected in the following proposed regulations.

It is therefore proposed to amend 41 CFR Chapter 3 in the manner set forth below.

Dated: October 14, 1981.

Henry G. Kirschenmann, Jr.,

Deputy Assistant Secretary for Grants and Procurement.

1. Under Subpart 3-1.3, General Policies, of Part 3-1, General, § 3-1.360, Indian preference in employment, training, and subcontracting opportunities, is proposed to be added to 41 CFR Chapter 3. In addition, the table of contents for Part 3-1 is proposed to be amended to add the new section as follows:

PART 3-1—GENERAL**Subpart 3-1.3—General Policies**

* * * * *

Sec.

3-1.360 Indian preference in employment, training, and subcontracting opportunities.

* * * * *

§ 3-1.360 Indian preference in employment, training, and subcontracting opportunities.

(a) *Statutory requirements.* Section 7(b) of the Indian Self-Determinations and Education Assistance Act, Pub. L. 93-638, 88 Stat. 2205; 25 U.S.C. 450e(b), requires:

* * * Any contract, subcontract, grant, or subgrant pursuant to this Act, the Act of April 16, 1934 (48 Stat. 596), as amended, or any other Act authorizing Federal contracts with or grants to Indian organizations or for the benefit of Indians, shall require that to the greatest extent feasible—

(1) Preferences and opportunities for training and employment in connection with the administration of such contracts or grants shall be given to Indians; and

(2) Preference in the award of subcontracts and subgrants in connection with the administration of such contracts or grants shall be given to Indian organizations and to Indian-owned economic enterprises as defined in section 3 of the Indian Financing Act of 1974 (88 Stat. 77). * * *

(b) *Applicability.* (1) The Indian Preference clause, set forth in § 3-7.5015, shall be included in all solicitations and resultant contracts:

(i) When the contract is to be awarded pursuant to an act specifically authorizing contracts with Indian organizations; or

(ii) Where the work to be performed under the contract is specifically for the benefit of Indians and is in addition to any incidental benefits which might otherwise accrue to the general public.

However, solicitations issued and contracts awarded pursuant to Title I of Public Law (3-638 (25 U.S.C. 450 et seq.)) are exempted from use of this clause.

(2) The Indian Preference Program clause, set forth in § 3-7.5016, shall be included in all solicitations and

resultant contracts for nonconstruction work which may exceed \$50,000 and which contain the clause required by paragraph (b)(1) of this section, and where, prior to solicitation, it is determined that the work under the contract will be performed in whole or in substantial part on or near an Indian reservation(s). For construction work, the clause shall be included for procurements which may exceed \$100,000. The Indian Preference Program clause may also be included in solicitations issued and contracts awarded by a procuring activity which may not exceed the \$50,000 and \$100,000 levels for nonconstruction and construction contracts, respectively, but which contain the clause required by paragraph (b)(1) of this section and, in the opinion of the procuring activity, offer substantial opportunities for Indian employment, training, and subcontracting.

(c) *Definitions.* For purposes of this section, the following definitions shall apply:

(1) "Indian" means a person who is a member of an Indian Tribe. If the contractor has reason to doubt that a person seeking employment preference is an Indian, the contractor shall grant the preference but shall require the individual to provide evidence within thirty (30) days from the Tribe concerned that the person is a member of that Tribe.

(2) "Indian Tribe" means an Indian Tribe, pueblo, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in or establishment pursuant to the Alaska Native Claims Settlement Act (85 Stat. 688; 43 U.S.C. 1601) which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

(3) "Indian organization" means the governing body of any Indian Tribe or entity established or recognized by such governing body in accordance with the Indian Financing Act of 1974 (88 Stat. 77; 25 U.S.C. 1451).

(4) "Indian-owned economic enterprise" means any Indian-owned commercial, industrial, or business activity established or organized for the purpose of profit, provided that such Indian ownership shall constitute not less than 51 percent of the enterprise, and that ownership shall encompass active operation and control.

(5) "Indian reservation" includes Indian reservations, public domain Indian allotments, former Indian reservations in Oklahoma, and land held

by incorporated Native groups, regional corporations, and village corporations under the provisions of the Alaska Native Claims Settlement Act (85 Stat. 1688; 43 U.S.C. 1601 et seq.).

(6) "On or near an Indian Reservation" means on a reservation or reservation or within that area surrounding an Indian reservation(s) where a person seeking employment could reasonably be expected to commute to and from in the course of a work day.

(d) *Compliance enforcement.* (1) The concerned procuring activity shall be responsible for conducting periodic reviews to insure contractor compliance with the requirements of the clauses set forth in §§ 3-7.5015 and 3-7.5016. These reviews may be conducted with the assistance of the Indian Tribe(s) concerned.

(2) Complaints of noncompliance with the requirements of the clauses set forth in §§ 3-7.5015 and 3-7.5016 which are filed in writing with the procuring activity shall be promptly investigated and resolved by the contracting officer.

(e) *Tribal preference requirements.* (1) Where the work under a contract is to be performed on an Indian reservation, the procuring activity may supplement the clause set forth in § 3-7.5016 by adding specific Indian preference requirements of the Tribe on whose reservation the work is to be performed. The supplemental requirements shall be jointly developed for the contract by the procuring activity and the Tribe. Supplemental preference requirements must represent a further implementation of the requirements of section 7(b) of Public Law 93-638 and must be approved by the Department's Office of Procurement Policy, OGP, in cooperation with the Office of General Counsel and the affected program director before being added to a solicitation and resultant contract. Any supplemental preference requirements to be added to the clause in § 3-7.5016 shall be included in the solicitation and clearly identified in order to ensure uniform understanding of the additional requirements by all prospective bidders or offerors.

(2) Nothing in these regulations shall be interpreted to preclude Tribes from independently developing and enforcing their own tribal preference requirements. Such independently developed tribal preference requirements shall not, except as provided in paragraph (e)(1) of this section, become a requirement in contracts covered under this § 3-1.360 and must not hinder the Government's right to award contracts and to administer their provisions.

2. Under Part 3-7, Contract Clauses, Subpart 3-7.50, Special Contract Clauses, is proposed to be amended to add sections 3-7.5015, Indian preference, and 3-7.5016, Indian preference program. In addition the table of contents for Part 3-7 is proposed to be amended to add the following:

PART 3-7—CONTRACT CLAUSES

Subpart 3-7.50—Special Contract Clauses

* * * * *

Sec.

3-7.5015 Indian preference.

3-7.5016 Indian preference program.

* * * * *

§ 3-7.5015 Indian preference.

The following clause shall be used as prescribed in § 3-1.360 (b)(1):

Indian Preference

(a) The Contractor agrees to give preference in employment opportunities under this contract to Indians who can perform required work, regardless of age (subject to existing laws and regulations), sex, religion, or tribal affiliation, and, to the extent feasible and consistent with the efficient performance of this contract, the Contractor further agrees to give preference in employment and training opportunities under this contract to Indians who are not fully qualified to perform regardless of age (subject to existing laws and regulations), sex, religion, or tribal affiliation. The Contractor also agrees to give preference to Indian organizations and Indian-owned economic enterprises in the awarding of any subcontracts consistent with the efficient performance of this contract. The contractor shall maintain such records as are necessary to indicate compliance with this paragraph.

(b) In connection with the Indian employment preference requirements of this clause, the Contractor shall also provide opportunities for training incident to such employment. Such training shall include on-the-job, classroom or apprenticeship training which is designed to increase the vocational effectiveness of an Indian employee.

(c) If the Contractor is unable to fill its training and employment opportunities after giving full consideration to Indians as required by this clause, those needs may be satisfied by selection of persons other than Indians in accordance with the clause of this contract entitled "Equal Opportunity."

(d) If no Indian organizations or Indian-owned economic enterprises are available under reasonable terms and conditions, including price, for awarding of subcontracts in connection with the work performed under this contract, the Contractor agrees to comply with the provisions of this contract involving utilization of small business concerns, small business concerns owned and controlled by socially and economically disadvantaged individuals, or labor surplus area concerns.

A responsive Indian bid or acceptable proposal which is not more than 10% higher than the low responsive bid or acceptable proposal shall be considered reasonable.

If the subcontract is not awarded to an Indian source which submitted a responsive bid or acceptable proposal within 10% of the lowest responsive bid or acceptable proposal, the Contractor shall within 10 working days, notify the Indian bidder or offeror why it did not receive the subcontract award.

(e) As used in this clause:

(1) "Indian" means a person who is a member of an Indian Tribe. If the Contractor has reason to doubt that a person seeking employment preference is an Indian, the Contractor shall grant the preference but shall require the individual to provide evidence within thirty (30) days from the Tribe concerned that the person is a member of that Tribe.

(2) "Indian Tribe" means an Indian Tribe, pueblo, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (85 Stat. 688; 43 U.S.C. 1601) which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

(3) "Indian organization" means the governing body of any Indian Tribe or entity established or recognized by such governing body in accordance with the Indian Financing Act of 1974 (88 Stat. 77; 25 U.S.C. 1451); and

(4) "Indian-owned economic enterprise" means any Indian-owned commercial, industrial, or business activity established or organized for the purpose of profit, provided that such Indian ownership shall constitute not less than 51 percent of the enterprise, and that ownership shall encompass active operation and control of the enterprise.

(f) The Contractor agrees to include the provisions of this clause, including this paragraph (f), in each subcontract awarded at any tier under this contract.

(g) In the event of noncompliance with this clause, the Contractor's right to proceed may be terminated in whole or in part by the Contracting Officer and the work completed in a manner determined by the Contracting Officer to be in the best interests of the Government.

§ 3-7.5016 Indian preference program.

The following clause shall be used as prescribed in § 3-1.360(b)(2):

Indian Preference Program

(a) In addition to the requirements of the clause of this contract entitled "Indian Preference," the Contractor agrees to establish and conduct an Indian preference program which will expand the opportunities for Indian organizations and Indian-owned economic enterprises to receive a preference in the awarding of subcontracts and which will expand opportunities for Indians to receive preference for training and employment in connection with the work to be performed under this contract. In this connection, the Contractor shall:

(1) Designate a liaison officer who will (i) Maintain liaison with the Government and the Tribe(s) on Indian preference matters; (ii) Supervise compliance with the provisions of

this clause; and (iii) Administer the Contractor's Indian preference program.

(2) Advise its recruitment sources in writing and include a statement in all advertisements for employment that Indian applicants will be given preference in employment and training incident to such employment.

(3) Not less than twenty (20) calendar days prior to commencement of work under this contract, post a written notice in the Tribal office of any reservations on which or near where the work under this contract is to be performed that sets forth the Contractor's employment needs and related training opportunities. The notice shall include the approximate numbers and types of employees needed; the approximate dates of employment; the experience or special skills required for employment, if any; training opportunities available; and all other pertinent information necessary to advise prospective employees of any other employment requirements. The Contractor shall also request the Tribe(s) on or near whose reservation(s) the work is to be performed to provide assistance to the Contractor in filling its employment needs and training opportunities. The Contracting Officer will advise the Contractor of the name, location, and phone number of the Tribal officials to contact in regard to the posting of notices and requests for Tribal assistance.

(4) Establish and conduct a subcontracting program which gives preference to Indian organizations and Indian-owned economic enterprises as subcontractors and suppliers under this contract. Consistent with the efficient performance of this contract, the Contractor shall give public notice of existing subcontracting opportunities by soliciting bids or proposals only from Indian organizations or Indian-owned economic enterprises. The Contractor shall request assistance and information on Indian firms qualified as suppliers or subcontractors from the Tribe(s) on or near whose reservation(s) the work under the contract is to be performed. The Contracting Officer will advise the Contractor of the name, location, and phone number of the Tribal officials to be contacted in regard to the request for assistance and information. Public notices and solicitations for existing subcontracting opportunities shall provide an equitable opportunity for Indian firms to submit bids or proposals by including: (i) A clear description of the supplies or services required, including quantities, specifications, and delivery schedules which facilitate the participation of Indian firms; (ii) A statement indicating that preference will be given to Indian organizations and Indian-owned economic enterprises in accordance with section 7(b) of Pub. L. 93-638; (88 Stat. 2205; 25 U.S.C. 450e(b)); (iii) Definitions for the terms "Indian organization" and "Indian-owned economic enterprise" as prescribed under the "Indian Preference" clause of this contract; (iv) A representation to be completed by the bidder or offeror that it is an Indian organization or Indian-owned economic enterprise; and (v) A closing date for receipt of bids or proposals which provides sufficient time for preparation and submission of a bid or proposal. If after

soliciting bids or proposals from Indian organizations and Indian-owned economic enterprises, no responsive bid or acceptable proposal is received, the Contractor shall comply with the requirements of paragraph (d) of the "Indian Preference" clause of this contract. If one or more responsive bids or acceptable proposals are received, award shall be made to the low responsible bidder or acceptable offeror if the price is determined to be reasonable. If the low responsive bid or acceptable proposal is determined to be unreasonable as to price, the Contractor shall attempt to negotiate a reasonable price and award a subcontract. If a reasonable price cannot be agreed upon, the Contractor shall comply with the requirements of paragraph (d) of the "Indian Preference" clause of this contract.

A responsive Indian bid or acceptable proposal which is not more than 10 percent higher than the low responsive bid or acceptable proposal shall be considered reasonable.

(5) Maintain written records under this contract which indicate: (i) The names and addresses of all Indians seeking employment under this contract; (ii) The number and types of positions filled by (A) Indians and (B) non-Indians, and the name, address and position of each Indian employed under this contract; (iii) For those positions where there are both Indian and non-Indian applicants, and a non-Indian is selected for employment, the reason(s) why the Indian applicant was not selected; (iv) Actions taken to give preference to Indian organizations and Indian-owned economic enterprises for subcontracting opportunities which exist under this contract; (v) Reasons why preference was not given to Indian firms as subcontractors or suppliers for each requirement where it was determined by the Contractor that such preference would not be consistent with the efficient performance of the contract, and (vi) The names and addresses of all Indian organizations and Indian-owned economic enterprises (A) contacted, and (B) receiving subcontract awards under this contract.

(6) Submit to the Contracting Officer for approval a quarterly report which summarizes the Contractor's Indian preference program and indicates the number and types of available positions filled and dollar amounts of all subcontracts awarded to (i) Indian organizations and Indian-owned economic enterprises, and (ii) All other firms.

(7) Maintain records pursuant to this clause and keep them available for review by the Government until expiration of one (1) year after final payment under this contract, or for such longer period as may be required by any other clause of this contract or by applicable law or regulation.

(b) For purposes of this clause, the following definitions of terms shall apply: (1) The terms "Indian," "Indian Tribe," "Indian Organization," and "Indian-owned economic enterprise" are defined in the clause of this contract entitled "Indian Preference."

(2) "Indian reservation" includes Indian reservations, public domain Indian Allotments, former Indian reservations in Oklahoma, and land held by incorporated

Native groups, regional corporations, and village corporations under the provisions of the Alaska Native Claims Settlement Act (85 Stat. 688; 43 U.S.C. 1601 et seq.).

(3) "On or near an Indian Reservation" means on a reservation or reservations or within that area surrounding an Indian reservation(s) where a person seeking employment could reasonably be expected to commute to and from in the course of a work day.

(c) Nothing in the requirements of this clause shall be interpreted to preclude Indian Tribes from independently developing and enforcing their own Indian preference requirements. Such requirements must not hinder the Government's right to award contracts and to administer their provisions.

(d) The Contractor agrees to include the provisions of this clause including this paragraph (d) in each subcontract awarded at any tier under this contract and to notify the Contracting Officer of such subcontracts.

(e) In the event of noncompliance with this clause, the Contractor's right to proceed may be terminated in whole or in part by the Contracting Officer and the work completed in a manner determined by the Contracting Officer to be in the best interest of the Government.

[FR Doc. 81-30333 Filed 10-19-81; 8:45 am]
BILLING CODE 4110-12-M

INTERSTATE COMMERCE COMMISSION

49 CFR Chapter X

[Ex Parte No. 55 (Sub-53)]

Motor Carrier Consolidation Procedures, General Policy Statement

AGENCY: Interstate Commerce
Commission.

ACTION: Notice of proposed policy
statement.

SUMMARY: This proposed policy statement discusses the criteria to be considered in motor carrier consolidation, merger, and acquisition proceedings. The Commission determines that the amendments to 49 U.S.C. 11344 promulgated by the Staggers Rail Act of 1980 were not intended to alter the criteria applicable to motor carrier proceedings. The Commission proposes to apply the traditional statutory criteria existing prior to that legislation in motor carrier proceedings.

DATE: Comments are due on or before
November 19, 1981.

Comments: All interested parties are invited to comment. Comments (an original and 20 copies, if possible) should be sent to: Ex Parte No. 55 (Sub-No. 53), Room 5414, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT:

Ellen Hanson, (202) 275-7245.

SUPPLEMENTARY INFORMATION: The purpose of this proposed policy statement is to clarify the criteria which the Commission plans to consider in motor carrier consolidation proceedings.¹ As explained below, recent amendments to 49 U.S.C. 11344 have raised uncertainties concerning the proper construction of this statute. Because of this uncertainty, the Commission will request Congressional clarification. This policy statement announces the interpretation of the statute which the Commission plans to apply in all motor carrier consolidation proceedings until Congress acts on this request. The public is invited to comment on all issues in this notice. The Commission will consider these comments in order to determine whether this proposed policy statement should be adopted.

49 U.S.C. 11344 contains the statutory criteria to be applied in both rail and motor carrier consolidation proceedings. Subsection (c) imposes a general public interest standard. It also gives us authority to impose conditions on our approval of transactions, and states several other criteria to be used in specific types of transactions. Prior to the passage of the Staggers Rail Act of 1980 (Pub. L. No. 96-448) (Staggers Act), subsection (b) further set forth four specific factors which we were required to consider in all consolidation proceedings. These were:

- (1) the effect of the proposed transactions on the adequacy of transportation to the public;
- (2) the effect on the public interest of including, or failing to include, other rail carriers in the area involved in the proposed transaction;
- (3) the total fixed charges that result from the proposed transactions; and
- (4) the interest of carrier employees affected by the proposed transaction.

¹Under 49 U.S.C. 11343(a), Commission approval is necessary for any regulated carrier to:

- (1) purchase, lease, or enter into a contract to operate the properties of another carrier;
- (2) consolidate or merge with another carrier; or
- (3) acquire control of another carrier through stock ownership, management, or otherwise.

See 49 U.S.C. 11343(a)(1)-(3). Moreover, under sections 11343 (a)(4-5), Commission approval is—under certain circumstances—required even where a noncarrier seeks to acquire control of a carrier.

For ease of reference, we refer to all these transactions as consolidations.

Prior to the Staggers Act, subsections (b) and (c) applied to both rail and motor transactions.

Section 228 of the Staggers Act amended section 11344. It limited the provisions of subsection (b) to transactions which involve the merger or control of at least two class I railroads and added a fifth factor for our consideration in such cases.² Subsection (c) was left unchanged. A new Subsection (d) was added which governs all transactions that do not involve the control or merger of at least two class I railroads. This new section mandates approval of such transactions unless:

(1) as a result of the transaction, there is likely to be a substantial lessening of competition, creation of a monopoly, or restraint of trade in freight surface transportation in any region of the United States; and

(2) the anticompetitive aspects of the transactions outweigh the public interest in meeting significant transportation needs.

Thus, the Staggers Act amendments create two differing standards under Section 11344, one applicable to merger and control transactions involving two or more class I rail carriers and another applicable to all other consolidation proceedings. Ostensibly, motor carrier transactions would fall into the latter category.

However, this interpretation conflicts with the obvious intent of both the Staggers Act and the Motor Carrier Act of 1980 (Pub. L. No. 96-296, July 1, 1980). It is a well established principle of statutory construction that the clearest indication of legislative intent is the wording of the statute itself. *U.S. v. New England Coal & Coke Co.*, 318 F. 2d 138 (1st Cir. 1963). Where, as here, a statute is arguably clear on its face and unambiguous, it is not normally open to construction. Nevertheless, the most basic general principles of statutory construction yield to contrary evidence of legislative intent. *National Railroad Passenger*, 414 U.S. 453 (1974), rehearing denied 415 U.S. 952 (1974); and *United States v. American Trucking Ass'n, Inc.*, 310 U.S. 534, 543-44 (1940).

In passing the Staggers Act, Congress did not envision making any change in

²The Commission was instructed to consider "... (5) whether the proposed transaction would have an adverse effect on competition among rail carriers in the affected region."

the criteria for deciding motor carrier applications under Section 11344. The legislative history of the Staggers Act indicates that it was aimed exclusively at rail transportation matters. Motor carriers are not even mentioned in the conference report concerning the amendments to Section 11344. See H.R. Rept. No. 96-1430, 96th Cong., 2nd Sess. at 120.

Furthermore, the Staggers Act was enacted within a few months after passage of the Motor Carrier Act. The Motor Carrier Act was the culmination of 18 months of study of the motor carrier industry. It was a comprehensive piece of legislation aimed at reducing federal regulation and modernizing the existing regulatory system. In enacting that legislation, Congress altered several statutory provisions affecting motor carrier consolidations.³ Most significantly, however, it left Section 11344 unchanged.

We believe it would be unreasonable to assume that Congress intended to change the standards for regulation of motor carrier consolidations in the absence of supporting legislative history. Therefore, until we receive clarification from Congress, we plan to continue to apply the statutory criteria existing prior to the Staggers Act [i.e., the public interest standard of section 11344(c), including consideration of the four factors listed in former section 11344(b)] in deciding motor carrier consolidation applications.

Dated: October 8, 1981.

By the Commission, Chairman Taylor, Vice Chairman Clapp, Commissioners Gresham and Gilliam. Commissioner Gresham concurred with a separate expression.

Agatha L. Mergenovich,
Secretary.

Commissioner Gresham, concurring:
I would encourage those who comment on this proposed policy statement to include in their presentations other statutory constructions which they believe are reasonable and which they feel could be adopted in lieu of the one which the Commission proposed to adopt.

[FR Doc. 81-30213 Filed 10-19-81; 8:45 am]

BILLING CODE 7035-01-M

³Section 18 of the Motor Carrier Act raised the monetary limits of the exemptions from Commission jurisdiction under 49 U.S.C. 11343 (d)(1).

Section 27 added a new statutory provision, 49 U.S.C. 11345a, intended to expedite disposition of motor carrier consolidation proceedings.

DEPARTMENT OF AGRICULTURE**Federal Grain Inspection Service ¹****7 CFR Part 68****Proposed Revisions to United States Standards for Beans***Correction*

In FR Doc. 81-28813 appearing on page 49066 in the issue of Monday, October 5, 1981, the tables in §§ 68.135 through 68.138 (pages 49069 and 49070) contained errors. The tables are corrected as follows:

BILLING CODE 1505-01-M

¹ Authority to exercise the functions of the Secretary of Agriculture contained in the Agricultural Marketing Act of 1946 as amended (7 U.S.C. 1621-1627) concerning inspection and standardization activities related to grain and similar commodities and products thereof, has been delegated to the Administrator, Federal Grain Inspection Service (7 U.S.C. 75a; 7 CFR 68.2(e)).

§ 68.135 Grades and Grade Requirements for the classes Yelloweye beans and Cranberry beans.

GRADE	GENERAL APPEARANCE	PERCENT MAXIMUM LIMITS OF ---							
		MOISTURE 1./	TOTAL DEFECTS (Total damage, Total foreign material, Con- trasting classes, Splits)	TOTAL DAMAGE	FOREIGN MATERIAL		CONTRASTING CLASSES 2./	CLASSES THAT BLEND 3./	IN ADDITION TO CLASSES THAT BLEND, WHITE BEANS SIMILAR IN SIZE AND SHAPE IN THE CLASS YELLOWEYE BEANS
					TOTAL (Includes Stones)	STONES			
U.S. No. 1	THE SPECIAL GRADE OFF-COLOR MAY BE APPLIED AFTER REMOVAL OF TOTAL DEFECTS	18.0	4.0	2.0	0.5	0.2	0.5	5.0	5.0
U.S. No. 2		18.0	6.0	4.0	1.0	0.4	1.0	10.0	5.0
U.S. No. 3		18.0	8.0	6.0	1.5	0.6	2.0	15.0	---
U.S. Substandard		18.0	U.S. Substandard shall be beans which do not meet the requirements for the grades U.S. No. 1 through U.S. No. 3, or U.S. Sample grade. Beans which are not well screened shall also be U.S. Substandard, except for beans which meet the requirements for U.S. Sample grade.						
U.S. Sample grade		18.0	U.S. Sample grade shall be beans which are musty, sour, heating, materially weathered, or weevily; which have any commercially objectionable odor; which contain insect webbing or filth, animal filth, any unknown foreign substance; broken glass or metal fragments; or which are otherwise of distinctly low quality.						

1./ Beans with more than 18.0 percent moisture are graded High moisture.

2./ Beans with more than 2.0 percent contrasting classes are graded Mixed beans.

3./ Beans with more than 15.0 percent classes that blend are graded Mixed beans.

§ 68.136 Grades and Grade Requirements for the class Pinto beans.

GRADE	GENERAL APPEARANCE	PERCENT MAXIMUM LIMITS OF ---						
		MOISTURE 1./	TOTAL DEFECTS (Total damaged, Total foreign material Contrasting classes, Splits)	TOTAL DAMAGED	FOREIGN MATERIAL		CONTRASTING CLASSES 2./	CLASSES THAT BLEND 3./
					TOTAL (Includes Stones)	STONES		
U.S. No. 1	THE SPECIAL GRADE OFF-COLOR MAY BE APPLIED AFTER REMOVAL OF TOTAL DEFECTS	18.0	3.0	3.0	0.5	0.2	0.5	5.0
U.S. No. 2		18.0	5.0	5.0	1.0	0.4	1.0	10.0
U.S. No. 3		18.0	7.0	7.0	1.5	0.6	2.0	15.0
U.S. Substandard		18.0	U.S. Substandard shall be beans which do not meet the requirements for the grades U.S. No. 1 through U.S. No. 3 and U.S. Sample grade. Beans which are not well screened shall also be U.S. Substandard, except for beans which meet the requirements for U.S. Sample grade.					
U.S. Sample grade		18.0	U.S. Sample grade shall be beans which are musty, sour, heating, materially weathered, or weevily; which have any commercially objectionable odor; which contain insect webbing or filth, animal filth, any unknown foreign substance, broken glass, or metal fragments; or which are otherwise of distinctly low quality.					

1./ Beans with more than 18.0 percent moisture are graded High moisture.

2./ Beans with more than 2.0 percent contrasting classes are graded Mixed beans.

3./ Beans with more than 15.0 percent classes that blend are graded Mixed beans.

Republication of page 49069 of the Federal Register of Monday, October 5, 1981.

§ 68.137 Grades and Grade Requirements for the classes Marrow, Great Northern, Small White, Flat Small White, White Kidney, Light Red Kidney, Dark Red Kidney, Small Red, Pink, Black Turtle Soup, and miscellaneous beans.

GRADE	GENERAL APPEARANCE	PERCENT MAXIMUM LIMITS OF ---						
		MOISTURE <u>1./</u>	TOTAL DEFECTS (Total damaged, Total foreign material, Contrasting classes, Splits)	TOTAL DAMAGED	FOREIGN MATERIAL		CONTRASTING CLASSES <u>2./</u>	CLASSES THAT BLEND <u>3./</u>
					TOTAL (includes Stones)	STONES		
U.S. No. 1	THE SPECIAL GRADE OFF-COLOR MAY BE APPLIED AFTER REMOVAL OF TOTAL DEFECTS	18.0	2.0	2.0	0.5	0.2	0.5	5.0
U.S. No. 2		18.0	4.0	4.0	1.0	0.4	1.0	10.0
U.S. No. 3		18.0	6.0	6.0	1.5	0.6	2.0	15.0
U.S. Substandard		18.0	U.S. Substandard shall be beans which do not meet the requirements for the grades U.S. No. 1 through U.S. No. 3 or Sample grade. Beans which are not well screened shall also be U.S. Substandard, except for beans which meet the requirements for U.S. Sample grade.					
U.S. Sample grade		18.0	U.S. Sample grade shall be beans which are musty, sour, heating, materially weathered, or weevily; which have any commercially objectionable odor; which contain insect webbing or filth, animal filth, any unknown foreign substance, broken glass or metal fragments; or which are otherwise of distinctly low quality.					

1./ Beans with more than 18.0 percent moisture are graded High moisture.

2./ Beans with more than 2.0 percent contrasting classes are graded Mixed beans.

3./ Beans with more than 15.0 percent classes that blend are graded Mixed beans.

§ 68.138 Grades and Grade Requirements for the class Mung beans.

GRADE	GENERAL APPEARANCE	PERCENT MAXIMUM LIMITS OF ---							
		MOISTURE <u>1./</u>	TOTAL DEFECTS (Total damaged, Total foreign material, Contrasting classes, Splits)	TOTAL DAMAGED	CLEAN-CUT WEEVIL BORED <u>2./</u>	FOREIGN MATERIAL		CONTRASTING CLASSES <u>3./</u>	CLASSES THAT BLEND <u>4./</u>
						TOTAL (includes Stones)	STONES		
U.S. No. 1	THE SPECIAL GRADE OFF-COLOR MAY BE APPLIED AFTER REMOVAL OF TOTAL DEFECTS	18.0	2.0	2.0	0.1	0.5	0.2	0.5	5.0
U.S. No. 2		18.0	4.0	4.0	0.2	1.0	0.4	1.0	10.0
U.S. No. 3		18.0	6.0	6.0	0.5	1.5	0.6	2.0	15.0
U.S. Substandard		18.0	U.S. Substandard shall be beans which do not meet the grade requirements for the grades U.S. No. 1 through U.S. No. 3 or U.S. Sample grade. Beans which are not well screened shall also be U.S. Substandard, except for beans which meet the requirements for U.S. Sample grade.						
U.S. Sample grade		18.0	U.S. Sample grade shall be beans which are musty, sour, heating, materially weathered, or weevily; which have any commercially objectionable odor; which contain insect webbing or filth, animal filth, any unknown foreign substance, broken glass or metal fragments or are otherwise of distinctly low quality.						

1./ Beans with more than 18.0 percent moisture are graded High moisture.

2./ Beans with more than 0.5 percent clean cut weevil bored beans are graded U.S. Sample grade.

3./ Beans with more than 2.0 percent contrasting classes are graded Mixed beans.

4./ Beans with more than 15.0 percent classes that blend are graded Mixed beans.

Republication of page 49070 of the Federal Register of Monday, October 5, 1981.

BILLING CODE 1505-01-M

Notices

Federal Register

Vol. 46, No. 202

Tuesday, October 20, 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

Office of the Secretary

1982 Crop Upland Cotton; National Marketing Quota and National Acreage Allotment

ACTION: Notice of determinations of a national marketing quota and national acreage allotment for the 1982 crop of upland cotton.

SUMMARY: The purpose of this notice is to announce that it has been determined that a national marketing quota of 14,666,667 bales and a national acreage allotment of 16,000,000 acres shall be in effect for the 1982 crop of upland cotton. These determinations are required by Sections 342 and 344 of the Agricultural Adjustment Act of 1938, as amended (7 U.S.C. 1342 and 1344 (b)) (hereinafter referred to as the "Act").

EFFECTIVE DATE: October 15, 1981.

FOR FURTHER INFORMATION CONTACT: Charles V. Cunningham, Chief, Program Analysis Branch, Production Adjustment Division, USDA-ASCS, P.O. Box 2415, Washington, D.C. 20013, (202) 447-7873. The Final Regulatory Impact Analysis describing the options considered in developing this notice of determinations is available on request from the above named individual.

SUPPLEMENTARY INFORMATION: This notice of determinations has been reviewed in accordance with the provisions of Executive Order 12291 and Secretary's Memorandum No. 1512-1 and has been classified "not major" because it will not result in: (1) An annual effect on the economy of \$100 million or more; (2) major increases in costs or prices for consumers, individual industries, Federal, State, or local Government agencies, or geographic regions; or (3) significant adverse impacts on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to

compete with foreign-based enterprises in domestic or export markets.

The title and number of the federal assistance program that this notice applies to are: Title—Cotton Production Stabilization, number—10.052, as found in the Catalog of Federal Domestic Assistance.

This action will not have a significant impact specifically on area and community development. Therefore, review as established under OMB Circular A-95 was not used to assure that units of local government are informed of this action.

It has been determined that the Regulatory Flexibility Act is not applicable to this notice since there is no requirement that a notice of proposed rulemaking be published with respect to the subject matter of these determinations in accordance with 5 U.S.C. 553 or any other provision of law.

Section 342 of the Act provides that whenever during any calendar year the Secretary determines that the total supply of cotton for the marketing year that begins in such calendar year will exceed the normal supply of cotton for such marketing year, the Secretary shall determine and proclaim a marketing quota for the crop produced in the next calendar year. Section 301(b)(10)(C) of the Act defines "normal supply" as the sum of the estimated domestic consumption plus the estimated exports of cotton for the marketing year, plus 30 per centum of the sum of such consumption and exports as an allowance for carry-over.

Section 342 of the Act also requires that the amount of the national marketing quota be adequate, together with the estimated carryover at the beginning of the marketing year that begins in the next calendar year and the estimated imports during such marketing year, to make available a normal supply of cotton. Section 342 of the Act further provides that, beginning with the 1961 crop, the national marketing quota may not be less than a number of bales equal to the sum of the estimated domestic consumption plus estimated exports (less estimated imports) for the marketing year for which the quota is proclaimed. The Secretary may adjust the amount of the quota as he determines necessary to assure the maintenance of adequate but not excessive stocks to provide a continuous and stable supply of cotton and for

purposes of national security. However, in making such an adjustment, the Secretary may not reduce the national marketing quota below (1) one million bales less than the sum of the estimated domestic consumption and estimated exports, or (2) ten million bales, whichever is larger. In addition, Section 342 specifies that, notwithstanding any other provisions of the Act, the national marketing quota for upland cotton for 1959 and subsequent years shall not be less than the number of bales required to provide a national acreage allotment of sixteen million acres.

Section 344(a) of the Act provides that, whenever a national marketing quota is proclaimed under Section 342, the Secretary shall determine and proclaim a national acreage allotment for the crop of cotton to be produced in the next calendar year. The national acreage allotment shall be that acreage, based on the national average yield per acre for the four years immediately preceding the calendar year in which the national marketing quota is proclaimed, required to produce an amount of cotton equal to the national marketing quota.

Since the national marketing quota and the national acreage allotment for the 1982 crop of upland cotton are calculated in accordance with the formula prescribed by Sections 342 and 344 of the Act and since the proclamation of such quota and allotment is required to be made by October 15, 1981, it has been determined that no further public rulemaking is required with respect to the promulgation of this notice of determinations.

Accordingly, the Secretary has made the following determinations with respect to the 1982 crop of upland cotton.

Determinations

1. *National Marketing Quota.* In accordance with Section 342 of the Agricultural Adjustment Act of 1938, as amended, it is hereby determined that a marketing quota for upland cotton shall be in effect for the 1982-83 marketing year. This determination is based on the following:

Item	Bales
A. Total supply: Carryover, August 1, 1981.....	2,620,000

—Continued

Item	Bales
Estimated production, 1981 crop	15,410,000
Estimated imports, 1981-82	10,000
Total supply	18,040,000
B. Normal supply:	
Estimated domestic consumption, 1981-82	6,100,000
Estimated exports, 1981-82	7,000,000
Subtotal	13,100,000
Allowance for carryover (30 percent of estimated domestic consumption and exports)	3,930,000
Normal supply	17,030,000

2. Amount of the National Marketing Quota. In accordance with Section 342 of the Agricultural Adjustment Act of 1938, as amended, the amount of the national marketing quota is hereby determined to be 14,666,667 bales. This determination is based on the following:

A. The marketing quota must provide an adequate supply, together with beginning carryover and imports, to make available a normal supply.

Item	Bales
Normal supply, 1982-83	17,680,000
Less estimated beginning carryover, 1982-83	5,000,000
Subtotal	12,680,000
Less estimated imports, 1982-83	10,000
Total	12,670,000

B. The marketing quota cannot be less than the total of the estimated domestic consumption plus estimated exports less estimated imports, plus an adjustment to assure adequate but not excessive stocks.

Item	Bales
Estimated domestic consumption, 1982-83	6,300,000
Estimated exports, 1982-83	7,300,000
Subtotal	13,600,000
Less estimated imports, 1982-83	10,000
Plus stock adjustment	—
Total	13,590,000

C. The national marketing quota cannot be less than the amount needed to provide for a national acreage allotment of 16,000,000 acres. 16,000,000 acres times the national four-year average (1977-1980) yield per acre of 440 pounds divided by 480 pounds per bale equals the national marketing quota of 14,666,667 bales.

3. National Acreage Allotment. In accordance with Section 344 of the Agricultural Adjustment Act of 1938, as amended, the national acreage allotment is hereby determined to be 16,000,000 acres. This determination is based on the following:

National marketing quota (bales)	14,666,667
Times pounds per standard bale	480
Equals national marketing quotas in pounds	7,040,000,160
Divided by national average yield per acre	440
Equals national acreage allotment (acres)	16,000,000

(Secs. 301, 342, 344, 375, 52 Stat. 38, as amended; 63 Stat. 670, as amended; 52 Stat. 66, as amended [7 U.S.C. 1301, 1342, 1344, 1375])

Signed at Washington, D.C. on October 14, 1981.

Richard E. Lyng,
Secretary.

[FR Doc. 81-30275 Filed 10-15-81; 12:05 am]

BILLING CODE 3410-05-M

Food and Nutrition Service

National Average Payments, Maximum Reduced Price Charges, and October/March Estimates

AGENCY: Food and Nutrition Service, USDA.

ACTION: Notice.

SUMMARY: This notice announces adjustments to the "national average payments", the amount of money the Federal Government gives States for lunches and breakfasts served to children participating in the National School Lunch and School Breakfast Programs. The Department also announces adjustments in the "maximum reimbursement rates", the maximum per meal rate a State can provide its School Food Authorities for meals served to children participating in the lunch and breakfast programs. These revised payments and rates are in effect through June 30, 1982 and will hereafter be adjusted on an annual basis each July. In addition, Notice is given that the Department has amended the National School Lunch and School Breakfast Program regulations to eliminate the requirement that each school provide October and March estimates of the number of children eligible for a free or reduced price meal. Notice is also given that the Department has amended these regulations to increase the maximum price a school may charge children who are eligible for reduced price meals. The maximum charge is 40 cents for a reduced price lunch and 30 cents for a reduced price breakfast. All of the above changes are required by Public Law 97-35.

EFFECTIVE DATES: August 13, 1981—Maximum Reduced Price Charges, September 1, 1981—National Average Payment Factors/Reimbursement Rates, October 1, 1981—Elimination of October/March Estimates.

FOR FURTHER INFORMATION CONTACT: Stanley C. Garnett, Branch Chief, Policy

and Program Development Branch, School Programs Division, Food and Nutrition Service, U.S. Department of Agriculture, Washington, D.C. 20250. (202) 447-9069.

SUPPLEMENTARY INFORMATION:

Classification

This notice has been reviewed under Executive Order 12291 and Secretary's Memorandum No. 1521-1. The Department estimates that the changes announced in this notice will result in a savings of at least \$100 million in Fiscal Year 1982. Therefore, this notice is classified as "major" because the changes announced will have a significant annual effect on the economy through significant program cost savings of more than \$100 million. However, these changes will not result in major increases in costs or prices, and will not have a significant adverse effect on competition, employment, productivity, investment, or foreign trade. Further, the changes announced are unrelated to the ability of United States-based enterprises to compete with foreign-based enterprises. While the Department has determined that the changes announced shall be classified as "major" the Office of Management and Budget has determined that an impact statement is not required because the changes in the National Average Payment Factors, the Elimination of the October/March Estimates, and the Increase in the Maximum Reduced Price Charges announced in this notice are required by law, are nondiscretionary, and result in cost savings to the Federal Government.

G. William Hoagland, Administrator of the Food and Nutrition Service, has determined pursuant to 5 U.S.C. 553 (b) and (d) that good cause exists for making the changes announced in this notice effective earlier than 30 days after publication because Public Law 97-35 mandates that the provisions of this notice be effective on August 13, 1981 (Maximum Reduced Price Charges), September 1, 1981 (National Average Payment Factors/Reimbursement Rates) and October 1, 1981 (Elimination of the October/March Estimates). Solicitation of public comments is not necessary and contrary to the public interest because the provisions of this notice are nondiscretionary.

Finally, this notice has been reviewed with regard to the agreements of Public Law 96-354, the Regulatory Flexibility Act. G. William Hoagland, Administrator of the Food and Nutrition Service, has certified that this action will not have a significant economic impact on a substantial number of small

entities. The action announced in this notice will implement provisions of the 1981 Omnibus Reconciliation Act aimed at reducing Federal payments for fiscal year 1982 to State agencies under the National School Lunch and School Breakfast Programs.

For a more detailed explanation of the following regulatory changes, see the Emergency Final Rule published in the Regulations section of this **Federal Register**.

Background

In an effort to decrease Federal expenditures and increase State and local program flexibility, provisions of Public Law 97-35 authorize the following changes in the National School Lunch and School Breakfast Programs:

National Average Payment Factors (NAPF)

National School Lunch Program: Section 4 of the National School Lunch Act provides general cash for food assistance payments to States to assist schools in purchasing food. Section 801 of Public Law 97-35 has adjusted the general Section 4 NAPF for each lunch served (free, reduced price or paid) in School Food Authorities in which less than 60 percent of the lunches served during the second preceding school year were served free or at a reduced price, and makes the Section 4 NAPF for the 60 percent or more School Food Authorities *two cents more* than the general Section 4 NAPF. To supplement these Section 4 payments, Section 11 of the National School Lunch Act provides special cash assistance payments to aid schools in providing free and reduced price lunches. Public law 97-35 adjusts the payments for free lunches and sets the Section 11 NAPF for each reduced price lunch served at *40 cents less* than the Section NAPF for each free lunch served.

School Breakfast Program: Section 4 of the Child Nutrition Act of 1966 establishes national average payment factors for the School Breakfast Program and additional payments to schools determined to be in "severe need". Public Law 97-35 adjusts the NAPF for free and paid breakfasts and provides that the NAPF for reduced price breakfasts shall be *one-half* the NAPF

for free breakfasts, or *30 cents less* than the NAPF for free breakfasts, whichever is greater. Public Law 97-35 made no change in the reimbursement rate for free breakfasts for "severe need" schools other than the elimination of the semi-annual adjustments discussed below. The reimbursement rate for reduced price breakfasts was changed to 30 cents less than the rate for free breakfasts.

Annual Adjustments

In addition to the above changes, Section 801 of Public Law 97-35 permanently eliminates the January semi-annual adjustment to the national average payment factors. Adjustments will now be made annually each July 1, and will be based on changes in the food away from home series of the Consumer Price Index for all Urban Consumers, published by the Department of Labor, Bureau of Labor Statistics. The following specific Section 4 and Section 11 NAPF rates are in effect through June 30, 1982. Due to a higher cost of living, the payments and reimbursement rates for Alaska and Hawaii are higher than those for all other States.

National School Lunch Program Rates: Section 4 Reimbursement Rates—Except in Alaska and Hawaii, the Section 4 rates for all lunches served (free, reduced price and paid) in School Food Authorities in which "less than 60 percent" of the meals served during School Year 1979-80 were served free or at a reduced price is set at *10.50 cents*, and the Maximum Section 4 reimbursement rate is *18.50 cents*. The Section 4 reimbursement rate and the Maximum Section 4 reimbursement rate for Alaska are: *17.00 cents* and *28.75 cents* respectively; and for Hawaii the rates are: *12.25 cents* and *21.25 cents* respectively.

Except for Alaska and Hawaii, the Section 4 rate for all School Food Authorities where "60 percent or more" of the meals served during School Year 1979-80 were served free or at a reduced price is set at *12.50 cents* and the Maximum Section 4 reimbursement rate is *18.50 cents*. The Section 4 reimbursement rate and the Maximum Section 4 reimbursement rate for Alaska are: *19.00 cents* and *28.75 cents*

respectively; and for Hawaii the rates are: *14.25 cents* and *21.25 cents* respectively.

Section 11 Reimbursement Rates—Except in Alaska and Hawaii, the rates are set at *98.75 cents* for each free lunch served and *58.75 cents* for each reduced price lunch served. Reimbursement rates for free and reduced price lunches served in Alaska are *160.00 cents* and *120.00 cents* and respectively; and in Hawaii the rates are: *115.00 cents* and *75.50 cents* respectively.

School Breakfast Program Rates: "Schools Not In Severe Need"—Except in Alaska and Hawaii, the national average payment for a free breakfast is *57.00 cents*, for a reduced price breakfast is *28.50 cents*, and for a paid breakfast is *08.25 cents*. The national average payments for a free, reduced price and paid breakfast in Alaska are: *92.25 cents*, *62.25 cents* and *13.25 cents* respectively; and in Hawaii the rates are: *66.75 cents*, *36.75 cents* and *09.75 cents* respectively.

"Schools in Severe Need"—Except in Alaska and Hawaii, the national average payment for a free breakfast is *68.50 cents*, for a reduced price breakfast is *38.50 cents*, and for a paid breakfast is *08.25 cents*. The national average payments for a free, reduced price and paid breakfast in Alaska are: *11.00 cents*, *81.00 cents* and *13.25 cents* respectively; and in Hawaii the rates are: *80.25 cents*, *50.25 cents* and *09.75 cents* respectively.

Section 801 of the Omnibus Reconciliation Act of 1981 requires that these rates be effective September 1, 1981.

Rate Table

The following table illustrates the national average payment factors and maximum reimbursement rates expressed in dollars and fractions thereof. Also illustrated are the School Breakfast Program national average payment factors for "severe need" schools and schools *not* in "severe need."

BILLING CODE 3410-30-M

NATIONAL AVERAGE PAYMENT/REIMBURSEMENT RATES

Effective from *September 1,* 1981 to June 30, 1982
(Expressed in Dollars or Fractions Thereof)

NATIONAL SCHOOL LUNCH PROGRAM	LESS THAN 60%*	60% OR MORE*	MAXIMUM RATE
<u>ALL STATES - LUNCH REIMBURSEMENT TOTALS</u> (Except Alaska and Hawaii)			
PAID - SECTION 4 =	.1050	.1250	.1850
REDUCED PRICE - SECTION 4 + SECTION 11 =	.6925	.7125	.8625
FREE - SECTION 4 + SECTION 11 =	1.0925	1.1125	1.2625
<u>ALASKA - LUNCH REIMBURSEMENT TOTALS</u>			
PAID - SECTION 4 =	.1700	.1900	.2875
REDUCED PRICE - SECTION 4 + SECTION 11 =	1.3700	1.3900	1.6325
FREE - SECTION 4 + SECTION 11 =	1.7700	1.7900	2.0325
<u>HAWAII - LUNCH REIMBURSEMENT TOTALS</u>			
PAID - SECTION 4 =	.1225	.1425	.2125
REDUCED PRICE - SECTION 4 + SECTION 11 =	.8775	.8975	1.0725
FREE - SECTION 4 + SECTION 11 =	1.2775	1.2975	1.4725
<u>SCHOOL BREAKFAST PROGRAM</u>		NOT A SEVERE NEED SCHOOL	SEVERE NEED SCHOOL
<u>ALL STATES - BREAKFAST</u> (Except Alaska and Hawaii)			
PAID =		.0825	.0825
REDUCED PRICE =		.2850	.3850
FREE =		.5700	.6850
<u>ALASKA - BREAKFAST</u>			
PAID =		.1325	.1325
REDUCED PRICE =		.6225	.8100
FREE =		.9225	1.1100
<u>HAWAII - BREAKFAST</u>			
PAID =		.0975	.0975
REDUCED PRICE =		.3675	.5025
FREE =		.6675	.8025

*The 60 percent criteria for higher payments or rates is based on lunches served in a School Food Authority in School Year 1979-80.

Elimination of the October and March Estimates

In addition to announcing the changes in the national average payment factors and reimbursement rates, the Department announces that it has amended the National School Lunch Program and School Breakfast Program regulations to eliminate the October and March estimates of the number of children eligible for a free or a reduced price meal. The compilation of this information has been eliminated to reduce the administrative requirements imposed on State and local agencies. This action is required by Section 812 of Public Law 97-35 and is effective October 1, 1981.

Maximum Charge for Reduced Price Breakfasts and Lunches

Lastly, as required by Section 801 of Public Law 97-35, the Department announces that it has amended the National School Lunch Program and School Breakfast Program regulations to increase the maximum charge for reduced price lunches and for reduced price breakfasts. Such increases in meal charges will enable School Food Authorities to offset the decrease in Federal funding for meals. Prior to Public Law 97-35 the maximum charge was 10 cents for a reduced price breakfast, and 20 cents for a reduced price lunch. Effective August 13, 1981 a child eligible for a reduced price meal may be charged up to 30 cents for a reduced price breakfast, or up to 40 cents for a reduced price lunch.

(Catalog of Federal Domestic Assistance Nos. 10.553 and 10.555)

(Sections 801, 803, 812; Public Law 97-35, 95 Stat. 521-535; 42 U.S.C. 1753, 1759(a), 1773, 1758)

Signed in Washington, D.C. on October 13, 1981.

G. William Hoagland,
Administrator.

[FR Doc. 81-30085 Filed 10-19-81; 8:45 am]

BILLING CODE 3410-30-M

CIVIL AERONAUTICS BOARD

[Order 81-10-67; Docket 39831]

Air India; United States-India Fares

By Order 81-7-160, dated July 24, 1981, the Board suspended and investigated the conditions governing four fares proposed by Air India: The first-class advance-purchase excursion fare; the 120-day excursion fare; the advance-purchase excursion fare; and the group inclusive-tour fare (rules 227, 228, 229

and 425, respectively).¹ The rules and conditions of these fares, which had been established by order of the Government of India, required single carrier and/or single-plane service. The Government of India permitted interlining of other fares and had previously approved interlining of these fares by Trans World Airlines. However, on December 9, 1980, it refused to authorize the U.S. carrier to interline the advance purchase excursion fare, and restricted this carrier's interlining of the other three fares to third and fourth freedom carriers, because TWA did not provide direct service between the United States and India. This severely inhibited TWA from participating on an interline basis in U.S.-India traffic using these fares, which were among the most widely used fares in the market. The Board tentatively found that by these actions, the Government of India had imposed unjustifiable, unreasonable, and discriminatory restrictions on U.S.-carrier access to the U.S.-India market and had unilaterally acted to prevent TWA from charging prices contained in its tariffs lawfully filed with the Board. For the present, the Board found it in the public interest to suspend and investigate the rules in Air India's tariffs governing interlining, although such action would have no immediate effect on the operations of Air India. However, the Board indicated that finalization of its tentative findings would allow further reciprocal action to protect U.S.-carrier access to the U.S.-India market. Air India was directed to show cause why the Board should not make final its tentative findings and conclusions.

On August 17, 1981, Air India filed an objection to finalization of the tentative finding, in Order 81-7-160 and a petition for reconsideration of the suspension and investigation of its tariff rules. Air India did not challenge the statement of facts, as described by the Board, underlying the current dispute. However, the carrier argued that the Government of India was not legally required under the terms of the U.S.-India Air Transport Agreement (bilateral agreement) to allow TWA to file matching fares on an interline basis because TWA, while designated under the agreement, does not provide direct service to India, that the Board violated the bilateral agreement by suspending the conditions attached to Air India's tariff filing because those conditions were identical to the pre-existing tariff conditions, and the Board is not permitted by the agreement to suspend

¹Tariff C.A.B. No. 71, issued by Air Tariffs Corp., Agent.

an existing, effective tariff; and that any disagreement between the Governments of India and the United States over the right of U.S. carriers to interline those fares should be resolved through consultation and arbitration under Articles 12 and 13 of the bilateral agreement.

TWA filed an answer in opposition to Air India's objections and petition for reconsideration on August 27, 1981. TWA stated that the Board's findings were justified by the discriminatory and anti-competitive actions of the Government of India, which had caused financial harm to TWA and had seriously impaired its ability to participate in the market; that, as a designated carrier, it is entitled to the protections of the bilateral agreement; and that other remedial action may be justified under section 23 of the International Air Transportation Competition Act of 1979 to preserve the rights of U.S. carriers.

On September 1, 1981, Air India filed a Motion for Leave to File an Otherwise Unauthorized Document; namely, a Reply to TWA's answer. Air India repeated its previous arguments, and added that TWA had failed to quantify the financial harm it had suffered as a result of the actions of the Government of India, and that TWA's request for additional sanctions would violate Air India's right under the agreement to a "fair and equal opportunity" to compete. On September 11, 1981, TWA filed a Motion for Leave to File an Otherwise Unauthorized Document and a Contingent Response to Air India's reply.² TWA stated that it had suffered unquantifiable financial harm from the loss of interline partners beginning in 1980; that this had resulted from a change in policy by the Government of India which sought to prohibit interline services with carriers other than Air India or Pan American; that interline arrangements with carriers that provide direct services in the same market tend to be noncompetitive and unprofitable; and that the unilateral shift in policy by the Government of India justified reciprocal action by the Board to protect the interests of U.S. carriers.

We have decided to deny Air India's petition for reconsideration and to finalize our tentative findings and conclusions. There can be no question that TWA, which has been properly designated under the bilateral agreement, is entitled to the protections

²We will grant the motions of Air India and TWA for leave to file otherwise unauthorized documents. However, we will deny Air India's additional pleading, filed September 18, 1981, for leave to file an answer to TWA's contingent response.

of that agreement and may not be required to discontinue an effective fare through the unilateral action of the Government of India. Since 1975, TWA has provided interline service under connecting fares that have been approved by the Government of India. Under Article 11 of the agreement, the governments may not unilaterally disapprove existing fares; they may withhold approval of a proposed fare only within 30 days of a timely notice of dissatisfaction to the carrier's government. These protections are not limited to designated carriers, but extend to any "airline or airlines of either contracting party."² Air India argues that the agreement should be "read as a whole," and that the articles which refer to "airlines operating under this Agreement" and airlines that "operate on any route," when read together with the articles on designation of carriers, demonstrate an intention to limit the scope of Article 11 to designated carriers that provide direct service.⁴ We disagree. The absence of these qualifications in Article 11 clearly implies that those benefits will apply whether or not a carrier utilizes operating rights contained in other parts of the agreement. A bilateral agreement is not a contract between specific groups of air carriers, but an agreement between sovereign nations for the benefit of their respective citizens. As an "airline of either contracting party" under Article 11, and as a "designated airline" under Articles 1, 2, and 3, TWA is clearly within the class of carriers that may exercise U.S. rights under the agreement.

Air India is incorrect in stating that the Board was without statutory authority to suspend Air India's tariff rules when the carrier submitted new fare levels for Board approval. The filing of any new fare includes the rules governing that fare, regardless of which tariff pages incorporate those rules.⁵ In addition, the tariff rules suspended by the Board were contained in the revised tariff pages which were submitted by

² 7 U.S.T. 275, T.I.A.S. No. 3504, at 7. In general, tariff articles have been interpreted literally. See Bin Cheng, *The Law of International Air Transport*, 442-443 (1962).

⁴ Air India also cites the *United States-France Arbitral Award of 1978* to show that bilateral agreements contain a concept of "continuous service" between the signatory countries. However, there is nothing in the *Award*, to whatever extent relevant, to suggest that interline services are not "continuous," provided that a carrier's direct operations originate or terminate in its home country.

⁵ When the Board suspends and investigates new fare levels it typically includes the "rules, regulations, and practices affecting such fares and provisions" in its investigation. See, e.g., Order 81-3-162, dated March 18, 1981.

Air India when it proposed its new fare levels. Consequently, the Board had ample power to suspend those rules, and the Board's action was consistent with the bilateral agreement, which allows either government to withhold approval of proposed tariffs under the procedures set forth in Article 11, without requesting consultation or arbitration.⁶

Nonetheless, because of events that have occurred since the Board issued Order 81-7-160, we have decided to vacate the suspension and terminate the investigation of Air India's tariffs. On July 28, 1981, TWA filed new interline fares with the Government of India, for effectiveness August 28, 1981, making specific reference to the tariff-filing requirements of the bilateral agreement. The Government of India did not submit a notice of dissatisfaction with any of those fares, and it is our understanding that TWA has encountered no difficulty in implementing them. Thus, it appears that no action against Air India is necessary at this time, and that no immediate purpose would be served by continuing the suspension or investigation. We should emphasize that, having finalized our tentative findings, we retain the ability to take further action expeditiously should our interpretation of recent events be incorrect.⁷

Accordingly, pursuant to 49 U.S.C. 1159(b), 1302, 1324(a), 1373, 1482(j)(1) and (3), and 1502:

1. We make final our tentative findings and conclusions in Order 81-7-160, dated July 24, 1981;
2. We vacate the suspension and terminate the investigation of the tariffs of Air India instituted in Order 81-7-160;
3. We deny the petition for reconsideration of Air India;
4. We shall submit this order to the President⁸ and, unless disapproved by the President within ten days, it shall become effective on October 12, 1981; and
5. We shall file copies of this order in Air India's tariff and shall serve them on Air India, Trans World Airlines, Inc., and the Ambassador of India in Washington, D.C.

⁶ The United States did transmit a notice of dissatisfaction with Air India's proposed fares, as required by the agreement.

⁷ As affirmed in the *United States-France Arbitral Award of 1978*, a party to a bilateral agreement is permitted to take retaliatory action if it reasonably believes that the other party has violated the agreement. See page 54. While both sides have an obligation to pursue consultations to settle the dispute, self-help measures to protect a party's rights are not prohibited pending completion of consultations or arbitration.

⁸ We submitted this order to the President on October 2, 1981.

We shall publish this order in the Federal Register.

By the Civil Aeronautics Board.

Phyllis T. Kaylor,
Secretary.

[FR Doc. 81-30327 Filed 10-19-81; 8:45 am]

BILLING CODE 6320-01-M

Air Service Certificate; Application for an All-Cargo

October 14, 1981.

In accordance with part 291 (14 CFR Part 291) of the Board's Economic regulations (effective November 8, 1978), notice is hereby given that the Civil Aeronautics Board has received an application, Docket 40109, from Southeast Air Cargo, Inc., 3500 N.W. 59th Avenue, Building 1031, Miami International Airport, Miami, Florida 33152 for an all-cargo air service certificate to provide domestic cargo transportation.

Under the provisions of § 291.12(c) of part 291, interested persons may file an answer in opposition to this application within twenty-one (21) days after publication of this notice in the Federal Register. An executed original and six copies of such answer shall be addressed to the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428. It shall set forth in detail the reasons for the position taken and must relate to the fitness, willingness, or ability of the applicant to provide all-cargo air service or to comply with the Act or the Board's orders and regulations. The answer shall be served upon the applicant and state the date of such service.

Phyllis T. Kaylor,
Secretary.

[FR Doc. 81-30390 Filed 10-18-81; 8:46 am]

BILLING CODE 6320-01-M

[Docket 31620]

Angelo L. Pera v. American Airlines, Inc., Enforcement Proceeding; Hearing

Notice is hereby given, pursuant to the Federal Aviation Act of 1958, as amended, that a hearing in the above-entitled proceeding is assigned to be held on November 2, 1981, at 10:00 a.m. (local time) in Room 1003, Hearing Room "B", Universal North Building, 1875 Connecticut Avenue, N.W., Washington, D.C., before the undersigned administrative law judge.

Dated at Washington, D.C., October 13, 1981.

John M. Vittone,

Administrative Law Judge.

[FR Doc. 81-30328 Filed 10-19-81; 8:45 am]

BILLING CODE 6320-01-M

[Docket 38748]

**Capitol International Airways, Inc.,
Violations of Part 250 Enforcement
Proceeding; Postponement of
Prehearing Conference**

Notice is hereby given that the prehearing conference in the above-entitled matter, originally scheduled for October 7, 1981 (46 FR 46976), and later postponed until November 5, 1981, will now be held on November 6, 1981 at 10:00 a.m. (local time) in Room "B", Universal North Building, 1875 Connecticut Avenue, N.W., Washington, D.C., before the undersigned administrative law judge.

Dated at Washington, D.C., October 13, 1981.

John M. Vittone,

Administrative Law Judge.

[FR Doc. 81-30329 Filed 10-19-81; 8:45 am]

BILLING CODE 6320-01-M

[Order 81-10-92; Amdt. Six to Order 79-10-51]

**Class Rate IX; Establishes Subsidy
Rate for Five Local Service Carriers;
July 1, 1981 Through December 31,
1981**

AGENCY: Civil Aeronautics Board.

ACTION: Summary of Order 81-10-92, Amendment Six to Order 79-10-51.

SUMMARY: The Board has adopted the maximum subsidy rates due and payable to the five local service carriers for the period July 1, 1981, through December 31, 1981. Under the provisions of Class Rate IX, semi-annual reviews are conducted to determine adjustments to the base period subsidy rates as set in Order 79-10-51. The adjustments in this order are based on operating results for the year ended March 31, 1981. The annual subsidy level effective July 1, 1981, for the entire class is \$87.5 million. This includes an upward median percentage change of 64.59 percent applied to the base period net formula provisions and service incentive payments of eligible carriers, and an increase in the industry's Federal Tax allowance by \$9 million. Due to service suspensions during the rate period, the maximum annual subsidy rate has declined to \$79.2 million.

DATES: Parties must file exceptions and supporting rationale within 7 days of the date of service.

FOR FURTHER INFORMATION CONTACT:

John R. Hokanson, or James Craun, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428. (202) 673-5368.

The complete text of Order 81-10-92 is available from our Distribution Section. Persons outside the metropolitan area may send a postcard request for the order to the Distribution Section, B-22b, Civil Aeronautics Board, Washington, D.C. 20428.

By the Civil Aeronautics Board: October 14, 1981.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 81-30331 Filed 10-19-81; 8:45 am]

BILLING CODE 6320-01-M

CIVIL RIGHTS COMMISSION

**Kansas 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 Kansas Advisory Committee to the Commission will convene at 7:00 p.m. and will end at 9:00 a.m. p.m. on November 6, and at 9:00 and will end at 12:30 p.m. on November 7, 1981, at the Hilton Inn, 1001 East Sixth Street, Junction City, Kansas, 66441. The purpose of this meeting is to orientate and introduce the new members, and to discuss programs for the FY 1982.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Benjamin H. Day, 313 Prospect, Leavenworth, Kansas, 66048, (913) 296-3469 or contact the Central States Regional Office, Old Federal Office Building, Room 3103, 911 Walnut Street, Kansas City, Missouri, 64106, (816) 374-5253.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., October 14, 1981.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 81-30278 Filed 10-19-81; 8:45 am]

BILLING CODE 6335-01-M

**New York 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 New York Advisory Committee to the Commission will convene on November 4, 1981, at the Phelps Stokes Fund, 10 East 87th Street, New York, New York 10021. The purpose of this meeting is to discuss the programs that have been planned for the Fiscal Year 1982.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Honorable Franklin H. Williams, Phelps Stokes Funds, 10 East 87th Street, New York, New York, 10021, (212) 427-8100 or contact the Eastern Regional Office, Jacob K. Javits Building, 26 Federal Plaza, Room 1639, New York, New York, 10278, (212) 264-0400.

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

Dated at Washington, D.C., October 14, 1981.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 81-30277 Filed 10-19-81; 8:45 am]

BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

**Investigation of Imports of Chromium,
Manganese, and Silicon Ferroalloys and
Related Materials**

AGENCY: Office of Industrial Resource Administration (formerly Office of Industrial Mobilization), International Trade Administration, Commerce.

On October 8, 1981, a Notice was published in the *Federal Register* (46 FR 49927) concerning the initiation of an investigation to determine the effect on the national security of imports of chromium, manganese and silicon ferroalloys and related materials under Section 232 of the Trade Expansion Act of 1962, as amended (19 U.S.C. 1862).

Preliminary research indicates that the following TSUS item numbers should be added to the listing of TSUS item numbers that appears on page 49927 of the Notice: 632.18, 632.30, 632.42 and 632.86.

Dated: October 14, 1981.

Bo Denysyk,

Deputy Assistant Secretary for Export Administration.

[FR Doc. 81-30192 Filed 10-19-81; 8:45 am]

BILLING CODE 3510-25-M

Tomato Products From Greece; Final Results of Administrative Review of Countervailing Duty Order

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of final results of administrative review of countervailing duty order.

SUMMARY: On August 7, 1981, the Department of Commerce published the preliminary results of its administrative review of the countervailing duty order on tomato products from Greece. The review is based upon information for the period January 1, 1979 through December 31, 1979.

Interested parties were given an opportunity to submit written or oral comments. We received no comments. Therefore, we have determined the net amounts of the subsidy to be those listed in Appendix A.

EFFECTIVE DATE: October 20, 1981.

FOR FURTHER INFORMATION CONTACT: Joseph A. Black or Lorenza Olivas, Office of Compliance, International Trade Administration, Room 2803, U.S. Department of Commerce, Washington, D.C. 20230 (202-377-1774 or 377-1775).

SUPPLEMENTARY INFORMATION:

Procedural Background

On March 28, 1972, the Department of the Treasury published in the *Federal Register* (37 FR 6360) a final countervailing duty determination on tomato products from Greece, T.D. 72-88. This order became effective on May 13, 1972. On February 20, 1974, the Treasury Department published T.D. 74-65 (39 FR 6516) which established the countervailing duty rates for liquidation of this merchandise.

On August 7, 1981, the Department of Commerce ("the Department") published in the *Federal Register* a notice of "Preliminary Results of Administrative Review of Countervailing Duty Order" on tomato products from Greece (46 FR 40245). The Department has now completed its administrative review of that countervailing duty order.

Scope of the Review

Imports covered by this review are tomato paste and sauce, peeled tomatoes, and tomato juice from Greece. These imports are currently classifiable under item numbers 141.65, 141.66, and 166.30 respectively, of the Tariff Schedules of the United States.

The review is based upon information for the period January 1, 1979 through December 31, 1979 and was limited to

the granting of cash payments to tomato growers, which was the only program found countervailing in the final determination.

Final Results of the Review

Interested parties were invited to comment on our preliminary results, but we received no comments. Therefore, the final results of our review are the same as those presented in the preliminary results of the review.

There are no known unliquidated entries of Greek tomato products entered, or withdrawn from warehouse, for consumption prior to January 1, 1980.

As provided by section 751(a)(1) of the Tariff Act of 1930 ("the Tariff Act"), the Customs Service shall continue to collect cash deposits of estimated countervailing duties at the rates established by the Treasury Department in T.D. 74-65 as the best information available, that is, the rates listed in Appendix A, on all shipments entered, or withdrawn from warehouse, for consumption on or after the date of publication of these final results.

This deposit requirement will remain in effect until publication of the final results of the next administrative review. Liquidation of shipments of this merchandise entered, or withdrawn from warehouse, for consumption on or after January 1, 1980, will continue to be suspended. The Department intends to conduct the next review by the end of May 1982.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 355.41 of the Commerce Regulations (19 CFR 355.41).

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

October 15, 1981.

APPENDIX A.—TOMATO PASTE AND TOMATO SAUCE

Percentage of dry ¹ tomato extract (percent)	Drachmas per metric ton, unpacked
15	750
16	800
17	850
18	900
19	950
20	1,000
21	1,050
22	1,100
23	1,150
24	1,200
25	1,250
26	1,300
27	1,350
28	1,400
29	1,450
30	1,500
31	1,550
32	1,600
33	1,650
34	1,700

APPENDIX A.—TOMATO PASTE AND TOMATO SAUCE—Continued

Percentage of dry ¹ tomato extract (percent)	Drachmas per metric ton, unpacked
35	1,750
36	1,800
37	1,850
38	1,900
39	1,950
40	2,000

¹When tomato paste or tomato sauce is entered in a range of concentration, for example, 30 percent—32 percent, the median concentration (31 percent) shall be used in assessing countervailing duties.

Tomato Juice:

330 drachmas per metric ton, unpacked

Peeled Tomatoes:

330 drachmas per metric ton, unpacked

[FR Doc. 81-30324 Filed 10-19-81; 8:45 am]

BILLING CODE 3510-25-M

[A-475-076]

Perchloroethylene from Italy; Final Results of Administrative Review of Antidumping Finding

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of Final Results of Administrative Review of Antidumping Finding.

SUMMARY: On August 4, 1981, the Department of Commerce published the preliminary results of its administrative review of the antidumping finding on perchloroethylene from Italy. The review covered the two known exporters of this merchandise to the United States for the period May 1, 1980 through April 30, 1981. Interested parties were given an opportunity to submit oral or written comments.

EFFECTIVE DATE: October 20, 1981.

FOR FURTHER INFORMATION CONTACT: Arthur N. DuBois or John Kugelman, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230 (202-377-3314/5289).

SUPPLEMENTARY INFORMATION:

Background

On August 4, 1981, the Department of Commerce ("the Department") published in the *Federal Register* (46 FR 39637) the preliminary results of its administrative review of the antidumping finding on perchloroethylene from Italy (44 FR 29046, May 18, 1979). The Department has now completed its administrative review of that finding.

Scope of the Review

The imports covered by this review are perchloroethylene, including technical

grade and purified grade perchlorethylene. Perchlorethylene is a clear water-white liquid at ordinary temperature with a sweet odor and is completely capable of being mixed with organic liquids. It is a chlorinated solvent used mainly for dry cleaning of clothing, but is also used in other applications such as vapor degreasing of metals. Perchlorethylene is currently classifiable under item 429.3400 of the Tariff Schedules of the United States Annotated (TSUSA).

The Department knows of only two Italian producers or exporters of perchlorethylene to the United States. Those firms are Rumanca, S.p.A. and Montedison, S.p.A. The review covers the period May 1, 1980 through April 30, 1981. There were no known shipments to the United States during the review period and there are no known unliquidated entries. Interested parties were afforded an opportunity to furnish oral or written comments. The Department received no such comments.

Final Results of the Review

The final results of our review are the same as those presented in the preliminary results of review.

As required by § 353.48(b) of the Commerce Regulations, a cash deposit of 37.8 percent and 29 percent of the entered value for Rumanca and Montedison, respectively, shall be required on all shipments of perchlorethylene from Italy entered, or withdrawn from warehouse, for consumption on or after the date of publication of these final results. For any shipment from a new exporter not covered in this administrative review, unrelated to any covered firm, a cash deposit shall be required at the highest rate for responding firms with shipments during the most recent period in which shipments occurred. This cash deposit requirement shall remain in effect until publication of the final results of the next administrative review. The Department intends to conduct the next review by the end of May 1983.

This administrative review and notice are in accordance with § 751(a)(1) of the Tariff Act of 1930 (19 U.S.C. 1675(a)(1)) and § 353.53 of the Commerce Regulations (19 CFR 353.53).

October 14, 1981.

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 81-30229 Filed 10-19-81; 8:45 am]

BILLING COE 3510-25-M

National Oceanic and Atmospheric Administration

Price Schedule for Purchase of Prints of Aerial Photographs From National Ocean Survey

AGENCY: National Oceanic and Atmospheric Administration, Commerce.

ACTION: Notice of Revised Price Schedule for Prints from Aerial Photographs.

SUMMARY: NOAA is hereby notifying interested parties of the establishment of a new price schedule for purchase of prints of aerial photographs from National Ocean Survey, NOAA.

Black and white	Size	Color
\$5.00 paper	9" contact print	\$15.00 ciba
10.00	9" film positive	25.00
12.00	9" film negative	15.00 B&W
25.00 paper	18" print	35.00 ciba
30.00 paper	27" print	50.00 ciba
35.00 paper	36" print	N/A

EFFECTIVE DATE: December 1, 1981.

FOR FURTHER INFORMATION CONTACT: Cdr. Walter S. Simmons, Chief, Photogrammetry Division, National Ocean Survey, 6001 Executive Boulevard, Rockville, Maryland 20852, at 443-8744.

Dated: October 13, 1981.

Francis J. Balint,

Acting Director, Office of Information and Management Services.

[FR Doc. 81-30240 Filed 10-19-81; 8:45 am]

BILLING CODE 3510-12-M

Patent and Trademark Office

Taking Effect in the United States of the International Convention for the Protection of New Varieties of Plants

The International Convention for the Protection of New Varieties of Plants (the UPOV Convention) will take effect in the United States on November 8, 1981. It will apply to all applications for the patenting of plants under the provisions of title 35, United States Code, which are filed on or after November 8, 1981. The actual filing date will govern in determining whether the Convention will apply to an application, even though the application may be entitled to an earlier effective date under section 119 or 120 of Title 35, United States Code.

In addition to the United States, the UPOV Convention will be in effect as of November 8, 1981, in the following fourteen States: Belgium, Denmark, Federal Republic of Germany, France, Ireland, Israel, Italy, Netherlands, New

Zealand, Republic of South Africa, Spain, Sweden, Switzerland, and the United Kingdom.

No changes in the patent law are needed to implement the UPOV Convention in the United States. An applicant for a plant patent will be required, however, to submit for registration a variety name for the plant to be patented. Registration is required by Article 13 of the UPOV Convention.

Registrability shall be determined in accordance with the International Code of Nomenclature for Cultivated Plants (1980). As an interim procedure pending the promulgation of an appropriate rule, inclusion of the variety name in the application will be accepted as a submission of the name for registration. No plant patent as a result of an application filed on or after November 8, 1981, shall be issued without the registration of a variety name. Questions concerning this variety naming requirement or the UPOV Convention may be addressed to: Mr. Michael K. Kirk, Director, Office of Legislation and International Affairs, Box 4, U.S. Patent and Trademark Office, Washington, D.C. 20231.

Mr. Kirk's telephone number is (703) 557-3065.

Dated: October 15, 1981.

Gerald J. Mossinghoff,

Commissioner of Patents and Trademarks.

[FR Doc. 81-30345 Filed 10-19-81; 8:45 am]

BILLING CODE 3510-16-M

Office of the Secretary

National Voluntary Laboratory Accreditation Program (NVLAP), Quarterly Report (July 1-September 30, 1981)

This report has been prepared in accordance with §§ 7a.17(a), 7b.17(a), and 7c.17(a) of the National Voluntary Laboratory Accreditation Program (NVLAP) Procedures (15 CFR Parts 7a, 7b, and 7c). In addition, to fulfill NVLAP requirements for monthly reporting, notice of accreditation actions under NVLAP for the month of September is included in this quarterly report.

Accreditation Granted

One laboratory was accredited during the third quarter of 1981—Pittsburgh Testing Laboratory, ATTN: Martin C. Falk, 850 Poplar Street, Pittsburgh, PA 15220, Phone: (412) 922-4000. The test methods for which accreditation was granted (for one year beginning July 7, 1981) are:

Test Method and Short Title

- ASTM C31—Making and Curing Concrete Test Specimens in the Field
 ASTM C172—Sampling Fresh Concrete
 ASTM C143—Slump of Portland Cement Concrete
 ASTM C138—Unit Weight, Yield, and Air Content (Gravimetric) of Concrete
 ASTM C231—Air Content of Freshly Mixed Concrete by the Pressure Method
 ASTM C39—Compressive Strength of Cylindrical Concrete Specimens
 ASTM C173—Air Content of Freshly Mixed Concrete by the Volumetric Method

Accreditation Terminated

Lowry Testing Laboratories of Sacramento, California voluntarily terminated its accreditation, effective September 30, 1981.

Requesting NVLAP Accreditation

NVLAP accreditation is granted on a continual basis only for those test methods identified under the established laboratory accreditation programs (LAPs). A request for a NVLAP application or other information should be addressed to the NVLAP Coordinator, Room 3876, U.S. Department of Commerce (DOC), Washington, D.C. 20230; phone (202) 377-2054.

Compliance With Existing Laws

NVLAP accreditation shall in no way relieve any laboratory from the necessity of observing and complying with any existing Federal, State, and local statutes, ordinances, and regulations that may be applicable to its operations, including consumer protection and antitrust laws.

Potential LAPs

An interagency agreement between the U.S. Nuclear Regulatory Commission (NRC) and the National Bureau of Standards (NBS) to develop a radiation dosimetry LAP was signed on July 17, 1981. This LAP concerns the processing (i.e., testing) of personnel dosimeters which are carried or worn by workers who are potentially exposed to ionizing radiation. The LAP is intended to assess the competence of processors (i.e., laboratories) that determine the individual doses of ionizing radiation measured by personnel dosimeters. The technical details for administering this LAP are being developed. A notice announcing its formal establishment is anticipated in the first quarter of 1982.

DOC is proceeding with the request of the U.S. Department of Housing and Urban Development (HUD) for a LAP to accredit laboratories that test solid fuel room heaters (46 FR 17073-17074). A public workshop to develop the technical details necessary to implement

this LAP was held October 13-14, 1981 at NBS.

Final finding of need for a LAP to accredit laboratories that provide acoustical testing services and for a LAP to accredit laboratories that provide electromagnetic calibration services are still being considered.

Amendment to NVLAP Procedures

An amendment to the NVLAP Procedures proposed on January 27, 1981 (46 FR 8910-8919) was approved. It was published on July 17, 1981 (46 FR 37029-37040). This amendment revises the NVLAP Procedures by:

1. Adding the current NVLAP accreditation criteria to the NVLAP Procedures in the *Code of Federal Regulations* (15 CFR Parts 7a, 7b, and 7c);
2. Eliminating separate Criteria Committees for each LAP in favor of one Advisory Committee to advise the Department on program and policy issues concerning NVLAP and laboratory accreditation; and
3. Providing workshops for newly established LAPs to address technical issues involved in administering such LAPs.

Dated: October 14, 1981.

Robert B. Elert,

Acting Assistant Secretary for Productivity, Technology, and Innovation.

[FR Doc. 81-30323 Filed 10-19-81; 8:45 am]

BILLING CODE 3510-13-M

CONSUMER PRODUCT SAFETY COMMISSION
Sulfuric Acid Drain Cleaners; Notice of Regulatory Decision

AGENCY: Consumer Product Safety Commission.

ACTION: Notice of regulatory decision.

SUMMARY: In December, 1978, the Commission granted a petition to ban sulfuric acid drain cleaners for household use. Based on injury and economic information gathered since that time, the Commission has now concluded that it is unable to find that a mandatory banning rule is currently needed to address any risk associated with these drain cleaners. Therefore, the Commission has decided not to propose a ban, but to participate in a voluntary industry effort to reduce the risks associated with consumer use of sulfuric acid drain cleaners.

ADDRESS: Copies of all Commission documents related to sulfuric acid drain cleaners may be obtained from the Office of the Secretary, Consumer

Product Safety Commission, 1111 18th Street, N.W., Washington, D.C. 20207.

FOR FURTHER INFORMATION CONTACT: Virginia White, Office of Program Management, Consumer Product Safety Commission, Washington, D.C. 20207 (301) 492-6453.

SUPPLEMENTARY INFORMATION:**Background**

In December, 1978 the Commission granted a petition from Hercules Chemical Company, Inc. (HP 78-1) to ban sulfuric acid drain cleaners intended for use in or around a household. The Commission instructed the staff to prepare for Commission consideration a draft proposed banning regulation for sulfuric acid drain cleaners which are consumer products, under section 8 of the Consumer Product Safety Act (CPSA). The Commission decision to grant the petition was based on available information indicating that these products could cause severe chemical burn injuries when used by consumers.

Based on injury and economic information gathered since that time and discussed below, the Commission has now concluded that it is unable to find that a mandatory banning rule is needed at this time to address any risk associated with these drain cleaners. Therefore, the Commission has decided not to propose a ban and instead, as is also discussed below, to participate in a voluntary industry effort to reduce the risks associated with consumer use of sulfuric acid drain cleaners.

Nature and Degree of the Risk of Injury

Sulfuric acid drain cleaners consist primarily of concentrated sulfuric acid (85-100%) which is highly corrosive and, upon contact, capable of causing severe burns and serious eye damage. When concentrated sulfuric acid is added to water in a clogged drain, a violent, heat generating reaction may occur and may result in a sudden eruption of the hot acid/water mixture from the drain, spraying and burning anyone in the vicinity of the drain.

In an effort to obtain information on the frequency and nature of injuries associated with sulfuric acid drain cleaners, the Commission staff reviewed relevant cases from the National Electronic Injury Surveillance System (NEISS), in-depth investigations, consumer complaints, and death certificates.

For 1977, of an estimated 2950 injuries associated with drain cleaners treated in hospital emergency rooms, an estimated 130 injuries could be linked with drain cleaners containing sulfuric

acid. An estimated 850 injuries could be identified as involving alkaline drain cleaners. Of an estimated 2300 drain cleaner injuries treated in hospital emergency rooms in 1978, an estimated 73 could be identified as involving sulfuric acid, and an estimated 1700 as involving alkaline drain cleaners. During 1979, of an estimated 3600 injuries, an estimated 300 were identified as acid drain cleaner injuries and an estimated 2100 were identified as alkaline drain cleaner injuries. In 1980, there were an estimated 2752 drain cleaner injuries, 156 of which are estimated to involve sulfuric acid drain cleaners.

The NEISS data indicate that the number of injuries associated with sulfuric acid drain cleaners is relatively low compared to the number of injuries associated with alkaline drain cleaners. The Commission believes that the small number of sulfuric acid drain cleaner related injuries indicates that the vast majority of these products may be used without incident, even considering the fact that the frequency of injuries per unit for sulfuric acid drain cleaners may be greater than for alkaline cleaners because of the greater sales of alkaline products.

The staff injury analysis of data contained in in-depth investigations and consumer complaints indicates, however, that the potential for more severe injuries, chiefly chemical burns to the face and/or eyes, may be greater from the use of sulfuric acid drain cleaners than from the use of other drain cleaners due to the greater propensity of sulfuric acid cleaners to splash back. The Commission is aware, though, that these data do not represent a statistical sample of the population.

Sixteen death certificates currently on file at the Commission mention the involvement of drain cleaners, one death also being the subject of an in-depth investigation. Three of the deaths were associated with sulfuric acid drain cleaners, one with a hydrochloric acid drain cleaner, and twelve with alkaline drain cleaners.

The staff injury analysis also indicates that while injuries have been reported due to ingestion or inhalation of fumes of sulfuric acid drain cleaners, the majority of injuries seem to occur in two ways: an individual accidentally spills some of the product on himself or herself during the use of the drain cleaner, or the individual is sprayed with acid as it erupts from the drain. Sulfuric acid has a great affinity for water, and when the two liquids are mixed, a tremendous amount of heat is liberated. The heat generated from this reaction can cause explosive splattering of the acid-water mixture from the drain,

spraying persons standing near the drain. In fact, where sulfuric acid drain cleaners are used, the heat generated is from 4 to 15 times the amount of heat generated with alkaline drain cleaners.

Thus, while the Commission believes that the potential for serious splashback or other injury is clearly present from consumer use of sulfuric acid drain cleaners, the Commission also believes that the limited injury data associated with consumer use of the product do not support a banning action.

Information available to the Commission indicates that the injuries which are associated with sulfuric acid drain cleaners tend to result from consumers' failure to follow the detailed label instructions that accompany the product. The labeling currently required under the Federal Hazardous Substances Act (FHSA) for these products provides extensive warnings and instructions. For example, users are warned that the use of the drain cleaners may cause an eruption of hot acid when poured into a drain. Labels inform users to protect the face (especially the eyes) and other portions of the body when using the products and to place an inverted pan over the drain immediately after pouring the acid into the drain. While not required to do so, labels often suggest removing standing water from the drain before applying the drain cleaner. The Commission believes that if consumers were to follow these instructions carefully, the number and severity of injuries would be reduced. Therefore, the Commission concludes that efforts to improve the labeling and packaging of these products by making the warnings and safety instructions more prominent and more easily understood might have a significant impact on safe use of these drain cleaners by consumers (see below).

Economic Information

In addition to the limited injury data, information available to the Commission indicates that sulfuric acid drain cleaners may be the only type of chemical drain cleaner effective against certain cellulosic clogs such as disposable diapers, rags, or sanitary napkins. Therefore, in the event of a ban, consumers might have to use mechanical devices to remedy cellulosic clogs or might need to incur the expense of professional plumbing services. The Commission believes that the fact that sulfuric acid drain cleaners serve this useful function within the household argues against a mandatory banning regulation.

Conclusion

Despite its decision not to propose a ban, the Commission remains concerned about the potential for serious injury from the use of sulfuric acid drain cleaners and the limited number of serious injuries which have occurred. The Commission believes that efforts directed at improved labeling and product design and consumer education could reduce the risks of injury associated with these products. Therefore, the Commission has directed its staff to participate with the Ad Hoc Association of Chemical Producers (ACP), an industry group of producers of sulfuric acid drain cleaners, in a voluntary effort to seek safer consumer use of sulfuric acid drain cleaners. The group will develop a plan of voluntary initiatives, including labeling or the use of a separate instruction booklet warning of the hazards of these products and improved packaging designs, such as the use of a heat sealed safety cap to reduce the risk of injury from accidental spillage or the use of a special plug which will permit only a small amount of the product to flow at any time.

Dated: October 15, 1981.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 81-30346 Filed 10-19-81; 8:45 am]

BILLING CODE 6355-01-M

DEPARTMENT OF DEFENSE

Department of the Army

Coastal Engineering Research Board; Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given of a meeting of the Coastal Engineering Research Board.

The meeting will be held in the Conference Room of the U.S. Army Engineer Division, Lower Mississippi Valley (LMVD), 1400 Walnut Street, Vicksburg, MS, from 8:00 a.m. to 11:30 a.m. on 16 November, from 8:00 a.m. to 9:00 a.m. on 17 November, and from 8:30 a.m. to 12:00 a.m. on 18 November 1981.

The 16 November session will be devoted to an overview of the coastal engineering research program; and presentations and discussions on projects within the Lower Mississippi Valley division (LMVD). The afternoon will be devoted to a visit to the U.S. Army Engineer Waterways Experiment Station (WES) to receive briefings on research underway at WES.

The morning session on 17 November will be a briefing on the afternoon aerial field inspection of LMVD projects. The remainder of the day will be an aerial inspection from New Orleans to Lake Charles, LA.

The morning of 18 November will be devoted to discussion of the field inspection, report on research results at the Field Research Facility; a presentation on the Oceanside, CA project by the Los Angeles District; CERB discussion of the Coastal Engineering Research Program; and closing remarks.

Participation by the public is scheduled at 9:00 a.m. on 18 November. Members of the public may attend the field inspection but must provide own transportation.

The entire meeting is open to the public subject to the following:

1. Since seating capacity of the meeting room at the LMVD is limited, advance notice of intent to attend, although not required, is requested in order to assure adequate arrangements for those wishing to attend.

2. Oral participation by public attendees is encouraged during the time scheduled on the agenda; written statements may be submitted prior to the meeting or up to 30 days after the meeting.

Inquiries and notice of intent to attend the meeting may be addressed to Colonel Ted E. Bishop, Executive Secretary, Coastal Engineering Research Board, Kingman Building, Fort Belvoir, VA 22060.

Dated: 30 September 1981.

John O. Roach II,

Department of the Army, Liaison Officer for the Federal Register.

[FR Doc. 81-30322 Filed 10-19-81; 8:45 am]

BILLING CODE 3710-06-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

Hamilton Brothers Petroleum Corp.; Proposed Remedial Order

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy hereby gives notice of a Proposed Remedial Order which was issued to Hamilton Brothers Petroleum Corporation of Denver, Colorado.

This Proposed Remedial Order charged Hamilton Brothers Petroleum Corporation with pricing violations in the amount of \$1.6 million in sales of propane, butane, and natural gasoline during the time period September 1, 1973 through March 31, 1975.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from William D. Miller, District Manager of Enforcement, 324 East 11th Street, Kansas City, Missouri 64106-2466. On or before November 4, 1981, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, 2000 M Street, N.W., Washington, D.C. 20461, in accordance with 10 CFR 205.193.

Issued in Kansas City, Missouri, on the 2nd day of October, 1981.

William D. Miller,

District Manager, Economic Regulatory Administration.

[FR Doc. 81-30243 Filed 10-19-81; 8:45 am]

BILLING CODE 6450-01-M

Sauvage Gas Co.; Proposed Remedial Order

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy hereby gives notice of a Proposed Remedial Order which was issued to Sauvage Gas Company of Oberlin, Kansas.

This Proposed Remedial Order charged Sauvage Gas Company with pricing violations in the amount of \$24.9 million in sales of propane, butane, natural gasoline, and natural gas liquids during the time period September 1, 1973 through July 31, 1977.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from William D. Miller, District Manager of Enforcement, 324 East 11th Street, Kansas City, Missouri 64106-2466. On or before November 4, 1981, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, 2000 M Street, N.W., Washington, D.C. 20461, in accordance with 10 CFR 205.193.

Issued in Kansas City, Missouri, on the 2nd day of October, 1981.

William D. Miller,

District Manager, Economic Regulatory Administration.

Concurrence:

David H. Jackson,

Chief Enforcement Counsel, Central Enforcement District.

[FR Doc. 81-30242 Filed 10-19-81; 8:45 am]

BILLING CODE 6450-01-M

Riddle Oil Co.; Action Taken on Consent Order

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of action taken on a Consent Order.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces notice of a final Consent Order.

EFFECTIVE DATE: October 20, 1981.

FOR FURTHER INFORMATION CONTACT: Wayne I. Tucker, District Manager for Enforcement, P.O. Box 35228, Dallas, Texas 75235 (phone) 214/767-7745.

SUPPLEMENTARY INFORMATION: On August 27, Vol. 46, Page 42235, 1981, the Office of Enforcement of the ERA published notification in the Federal Register that it had executed a proposed Consent Order with Riddle Oil Company on August 5, 1981 which would not become effective sooner than thirty days after publication. Pursuant to 10 CFR 205.199(c), interested persons were invited to submit comments concerning the terms, conditions or procedural aspects of the Proposed Consent Order.

Although interested persons were invited to submit comments regarding the Consent Order, no comments were received. The proposed Consent Order, therefore, was finalized and made effective on September 28, 1981.

Issued in Dallas, Texas on the 7th day of October, 1981.

Wayne I. Tucker,

Southwest District Manager, Economic Regulatory Administration.

[FR Doc. 81-30332 Filed 10-19-81; 8:45 am]

BILLING CODE 6450-01-M

Energy Information Administration

Publication of Alternative Fuel Price Ceiling and Incremental Price Threshold for High Cost Natural Gas

The Natural Gas Policy Act of 1978 (NGPA) (Public Law 95-621) signed into law on November 9, 1978, mandated a new framework for the regulation of most facets of the natural gas industry. In general, under Title II of the NGPA, interstate natural gas pipeline companies are required to pass through certain portions of their acquisition costs for natural gas to industrial users in the form of a surcharge. The statute requires that the ultimate cost of gas to the industrial facility does not exceed the cost of the fuel oil which the facility could use as an alternative.

Pursuant to Title II of the NGPA of 1978, Section 204(e), the Energy Information Administration (EIA) herewith publishes for the Federal Energy Regulatory Commission (FERC) computed natural gas ceiling prices and high cost gas incremental pricing

threshold which are to be effective November 1, 1981. These prices are based on the prices of alternative fuels.

For further information contact: Leroy Brown, Jr., Energy Information Administration, Federal Building, 12th and Pennsylvania Avenue NW., Rm. 4121, Washington, D.C. 20461, (202) 633-9710.

Section I. Alternative Fuel Price Ceilings

As required by FERC Order No. 50, computed prices are shown for the 48 contiguous States. The District of Columbia's ceiling is included with the ceiling for the State of Maryland. FERC, by an Interim Rule issued on March 2, 1981, in Docket No. RM79-21, revised the methodology for calculating the monthly alternative fuel price ceilings for State regions. Under the revised methodology, the applicable alternative fuel price ceiling published for each of the contiguous States shall be the lower of the alternative fuel price ceiling for the State or the alternative fuel price ceiling for the multistate region in which the State is located.

The price ceiling is expressed in dollars per million British Thermal Units (BTU's). The method used to determine the price ceilings is described in Section III.

State	Dollars per million British thermal units
Alabama	3.67
Arizona ¹	3.63
Arkansas ¹	3.02
California	3.62
Colorado	3.69
Connecticut ¹	4.05
Delaware ¹	3.91
Florida	3.62
Georgia ¹	3.86
Idaho ¹	3.69
Illinois	4.04
Indiana ¹	4.05
Iowa ¹	4.00
Kansas	3.76
Kentucky ¹	4.05
Louisiana	2.96
Maine	4.02
Maryland ¹	3.91
Massachusetts ¹	4.00
Michigan ¹	4.05
Minnesota ¹	4.00
Mississippi ¹	3.86
Missouri	3.59
Montana ¹	3.69
Nebraska ¹	4.00
Nevada ¹	3.63
New Hampshire ¹	4.05
New Jersey ¹	3.91
New Mexico ¹	3.02
New York	3.81
North Carolina ¹	3.86
North Dakota ¹	4.00
Ohio	3.93
Oklahoma ¹	3.02
Oregon	3.51
Pennsylvania ¹	3.91
Rhode Island ¹	4.05
South Carolina ¹	3.86
South Dakota ¹	4.00
Tennessee ¹	3.86
Texas ¹	3.02
Utah ¹	3.69

State	Dollars per million British thermal units
Vermont ¹	4.05
Virginia ¹	3.86
Washington ¹	3.63
West Virginia ¹	4.05
Wisconsin ¹	4.05
Wyoming	3.47

¹ Region based price as required by FERC Interim Rule, issued on March 2, 1981, in Docket No. RM79-21.

Section II. Incremental Pricing Threshold for High Costs Natural Gas

The EIA has determined that the volume-weighted average price for No. 2 distillate fuel oil landed in the greater New York City Metropolitan area during August 1981 was \$39.83 per barrel. In order to establish the incremental pricing threshold for high cost natural gas, as identified in the NGPA, Title II, Section 203(a)(7), this price was multiplied by 1.3 and converted to its equivalent in millions of BTU's by dividing by 5.8. Therefore, the incremental pricing threshold for high cost natural gas, effective November 1, 1981, is \$8.93 per million BTU's.

Section III. Method Used To Compute Price Ceilings

The FERC, by Order No. 50, issued on September 29, 1979, in Docket No. RM79-21, established the basis for determining the price ceilings required by the NGPA. FERC also, by Order No. 167, issued in Docket No. RM81-27 on July 24, 1981, made permanent the rule that established that only the price paid for No. 6 high sulfur content residual fuel oil would be used to determine the price ceilings. In addition, the FERC, by Order No. 181, issued on October 6, 1981, in Docket No. 81-28, established that price ceilings should be published for only the 48 contiguous States on a permanent basis.

A. Data Collected

The following data were required from all companies identified by the EIA as sellers of No. 6 high sulfur content (greater than 1 percent sulfur content by weight) residual fuel oil: for each selling price, the number of gallons sold to large industrial user in the months of June 1981, July 1981, and August 1981.² All reports of volume sold and price were identified by the State into which the oil was sold.

² Large Industrial User—A person/firm which purchases No. 6 fuel oil in quantities of 4,000 gallons or greater for consumption in a business, including the space heating of the business premises. Electric utilities, governmental bodies (Federal, State or Local) and the military are excluded.

B. Method Used to Determine Alternative Price Ceilings

(1) *Calculation of Volume-Weighted Average Price.* The prices which will become effective November 1, 1981, (shown in Section I) are based on the reported price of No. 6 high sulfur content residual fuel oil, for each of the 48 contiguous States, for each of the 3 months, June 1981, July 1981, August 1981. Reported prices for sales in June 1981 were adjusted by the percent change in the nationwide volume-weighted average price from June 1981 to August 1981. Prices for July 1981 were similarly adjusted by the percent change in the nationwide volume-weighted average price from July 1981 to August 1981. The volume-weighted 3-month average of the adjusted June 1981 and July 1981, and the reported August 1981 prices were then computed for each State.

(2) *Adjustment for Price Variation.* States were grouped into the regions identified by the FERC (see Section III.C.). Using the adjusted prices and associated volumes reported in a region during the 3-month period, the volume-weighted standard deviation of prices was calculated for each region. The volume-weighted 3-month average price (as calculated in Section III.B.(1) above) for each State was adjusted downward by two times this standard deviation for the region to form the adjusted weighted average price for the State.

(3) *Calculation of Ceiling Prices.* The lowest selling price within the State was determined for each month of the 3-month period (after adjusting up or down by the percent change in oil prices at the national level as discussed in Section III.B.(1) above). The products of the adjusted low price for each month times the State's total reported sales volume for each month were summed over the 3-month period for each State and divided by the State's total sales volume during the 3 months to determine the State's average low price. The adjusted weighted average price (as calculated in Section III.B.(2)) was compared to this average low price, and the higher of the values was selected as the base of determining the alternative fuel price ceiling for each State. For those States which had no reported sales during one or more months of the 3-months period, the appropriate regional volume-weighted alternative fuel price was computed and used in combination with the available State data to calculate the State's alternative fuel price ceiling base. The State's alternative fuel price ceiling base was compared to the alternative fuel price

ceiling base for the multistate region in which the State is located and the lower of these two prices was selected as the final alternative fuel price ceiling base for the State. The appropriate lag adjustment factor (as discussed in Section III.B.4.) was then applied to the alternative fuel price ceiling base. The alternative fuel price (expressed in dollars per gallon) was multiplied by 42 and divided by 6.3 to estimate the alternative fuel price ceiling for the State (expressed in dollars per million BTU's).

(4) *Lag Adjustment.* The EIA has implemented a procedure to partially compensate for the two-month lag between the end of the month for which data are collected and the beginning of the month for which ceiling prices become effective. It was determined that *Platt's Oilgram Price Report* publication provides timely information relative to the subject. The prices found in *Platt's Oilgram Price Report* publication are given for each trading day in the form of high and low prices for No. 6 residual oil in 21 cities throughout the United States. The low posted prices for No. 6 residual oil in these cities were used to calculate a national and a regional lag adjustment factor. The national lag adjustment factor was obtained by calculating a weighted average price for No. 6 high sulfur residual fuel oil for the ten trading days ending October 13, 1981, and dividing that price by the corresponding weighted average price computed from prices published by *Platt's* for the month of August 1981. A regional lag adjustment factor was similarly calculated for four regions. These are: one for FERC Regions A and B combined; one for FERC Region C; one for FERC Regions D, E, and G and one for FERC Regions F and H combined. The lower of the national or regional lag factor was then applied to the alternative fuel price ceiling for each State in a given region as calculated in Section III.B.(3).

Listing of States by Region

States were grouped by the FERC to form eight distinct regions as follows:

Region A

Connecticut
Maine
Massachusetts
New Hampshire
Rhode Island
Vermont

Region B

Delaware
Maryland
New Jersey
New York

Pennsylvania

Region C

Alabama
Florida
Georgia
Mississippi
North Carolina
South Carolina
Tennessee
Virginia

Region D

Illinois
Indiana
Kentucky
Michigan
Ohio
West Virginia
Wisconsin

Region E

Iowa
Kansas
Missouri
Minnesota
Nebraska
North Dakota
South Dakota

Region F

Arkansas
Louisiana
New Mexico
Oklahoma
Texas

Region G

Colorado
Idaho
Montana
Utah
Wyoming

Region H

Arizona
California
Nevada
Oregon
Washington.

Issued in Washington, D.C. October 16, 1981.

Albert H. Linden, Jr.,

Deputy Administrator, Energy Information Administration.

[FR Doc. 81-80612 Filed 10-19-81; 10:36 am]

BILLING CODE 6450-01-M

Office of Energy Research

Energy Research Advisory Board; Open Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770), notice is hereby given of the following meeting:

Name: Energy Research Advisory Board

Date and time: Wednesday, November 4, 1981—9:00 a.m. to 6:00 p.m. Thursday, November 5, 1981—8:30 a.m. to 5:00 p.m.

Place: Department of Energy, Forrestal Building, Room 7E-069, 1000 Independence Avenue, SW., Washington, D.C. 20585

Contact: Georgia Hildreth, Chief, Advisory Committee Management Branch, Department of Energy, Forrestal Building, Room 4B222, 1000 Independence Avenue, SW., Washington, D.C. 20585, Telephone: 202/252-5187

Purpose of the board: To advise the Department of Energy on the overall research and development conducted in DOE and to provide long-range guidance in these areas to the Department

Tentative agenda:

- Working Session on R&D Priorities Draft Report
- Consideration of Draft Biomass Panel Report
- Briefing on Acid Rain

Public Participation: The meeting is open to the public. Written statements may be filed with the Board either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact the Advisory Committee Management Branch at the address or telephone number listed above. Requests must be received at least 5 days prior to the meeting and reasonable provision will be made to include the presentation on the agenda. The Chairperson of the Board is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business

Transcripts: Available for public review and copying at the Public Reading Room, Room 1E190, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C., between 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays

Executive summary: Available approximately 30 days following the meeting from the Advisory Committee Management Branch Issued at Washington, D.C. on October 14, 1981.

K. Dean Helms,

Advisory Committee Management Officer.

[FR Doc. 81-30244 Filed 10-19-81; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Project No. 3142-002]

City of Ann Arbor, Michigan; Application for Exemption for Small Hydroelectric Power Project Under 5 MW Capacity

October 13, 1981.

Take notice that on September 2, 1981, the City of Ann Arbor, Michigan (Applicant) filed an application under Section 408 of the Energy Security Act of 1980 (Act) (16 U.S.C. 2705 and 2708 as amended), for exemption of a proposed hydroelectric project from licensing

under Part I of the Federal Power Act. The proposed small hydroelectric project (FERC Project No. 3142) would be located on the Huron River in the City of Ann Arbor, County of Washtenaw, State of Michigan. Correspondence with the Applicant should be directed to: Mr. Dan Hanlon, Engineering Department, City of Ann Arbor, P.O. Box 8647, Ann Arbor, Michigan 48107.

Project Description—The proposed project would consist of: (1) an existing impoundment with a surface area of approximately 348 acres and a gross storage capacity of 7,300 acre-feet; (2) an existing concrete overflow spillway 29 feet high and 207 feet long; (3) an existing 1,500-foot long earthen embankment on the right side of the spillway and a 60-foot long earthen embankment on the left side of the spillway; (4) proposed installation of new generation equipment into an existing powerhouse with an installed capacity of 900 kW; (5) existing transmission lines; and (6) appurtenant facilities. The average annual energy production is estimated to be 3.6 GWh.

Purpose of Project—All project energy produced will be sold to the Detroit Edison Power Company by the Applicant.

Agency Comments—The U.S. Fish and Wildlife Service, The National Marine Fisheries Service, and the State of Michigan, Department of Natural Resources, Wildlife Division are requested, for the purposes set forth in Section 408 of the Act, to submit within 60 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or to otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies that receive this notice through direct mailing from the Commission are requested to provide any comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 60 days from the date of issuance of this notice, it will be presumed to have no

comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Competing Application—Any qualified license applicant desiring to file a competing application must submit to the Commission, on or before November 27, 1981 either the competing license application that proposes to develop at least 7.5 megawatts in that project, or notice of intent to file such a license application. Submission of a timely notice of intent allows an interested person to file the competing license application no later than Applications for preliminary permit will not be accepted.

A notice of intent must conform with the requirements of 18 CFR 4.33(b) and (c) (1980). A competing license application must conform with the requirements of 18 CFR 4.33(a) and (d) (1980).

Comments, Protests, or Petitions to Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before November 27, 1981.

Filing and Service of Responsive Documents—Any filings, must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB, 825 North Capitol Street, N.E., Washington, D.C. 20426. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative

of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,
Secretary.

[PR Doc. 81-30261 Filed 10-19-81; 9:45 am]
BILLING CODE 6717-02-M

[Project No. 3150-002]

**City of Ann Arbor, Michigan;
Application for Exemption for Small
Hydroelectric Power Project Under 5
MW Capacity**

October 13, 1981.

Take notice that on September 2, 1981, the City of Ann Arbor, Michigan (Applicant) filed an application, under Section 408 of the Energy Security Act of 1980 (Act) (16 U.S.C. 2705, and 2708 *as amended*), for exemption of a proposed hydroelectric project from licensing under Part I of the Federal Power Act. The proposed small hydroelectric project, Project No. 3150 would be located on the Huron River in the City of Ann Arbor, County of Washtenaw, State of Michigan. Correspondence with the Applicant should be directed to: Mr. Dan Hanlon, Engineering Department, City of Ann Arbor, P.O. Box 8647, Ann Arbor, Michigan 48107.

Project Description—The proposed project would consist of: (1) an existing impoundment with a surface area of approximately 106 acres and a gross storage capacity of 1,270 acre-feet; (2) an existing 188-foot long and 17-foot high concrete dam and sluiceway; (3) proposed installation of three modular bulb generation units with a total installed capacity of 315 kW, operating through siphon-type intake penstocks running over the embankment of the headrace channel; (4) a proposed dike in the headrace channel; and (5) appurtenant facilities. The average annual energy production is estimated to be 1.5 GWh.

Purpose of Project—All project energy produced will be sold to the Detroit Edison Power Company by the Applicant.

Agency Comments—The U.S. Fish and Wildlife Service, the National Marine Fisheries Service, and the State of Michigan, Department of Natural Resources, Wildlife Division are requested, for the purposes set forth in Section 408 of the Act, to submit within 60 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or to otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms

and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide any comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 60 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Competing Applications—Any qualified license applicant desiring to file a competing application must submit to the Commission, on or before November 27, 1981, either the competing license application that proposes to develop at least 7.5 megawatts in that project, or a notice of intent to file such a license application. Submission of a timely notice of intent allows an interested person to file the competing license application no later than 120 days from the date that comments, protests, etc. are due. Applications for preliminary permit will not be accepted.

A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c) (1980). A competing license application must conform with the requirements of 18 CFR 4.33 (a) and (b) (1980).

Comments, Protests, or Petitions to Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before November 27, 1981.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's

regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,
Secretary.

[FR Doc. 81-30259 Filed 10-19-81; 8:45 am]

BILLING CODE 6717-02-M

[Project No. 3152-002]

**City of Ann Arbor, Michigan;
Application for Exemption for Small
Hydroelectric Power Project Under 5
MW Capacity**

October 13, 1981.

Take notice that on September 2, 1981, the City of Ann Arbor, Michigan (Applicant) filed an application under Section 408 of the Energy Security Act of 1980 (Act) (16 U.S.C. 2705 and 2708 *as amended*), for exemption of a proposed hydroelectric project from licensing under Part I of the Federal Power Act. The proposed small hydroelectric project (FERC Project No. 3152) would be located on the Huron River in the City of Ann Arbor, County of Washtenaw, State of Michigan. Correspondence with the Applicant should be directed to: Mr. Dan Hanlon, Engineering Department, City of Ann Arbor, P.O. Box 8647, Ann Arbor, Michigan 48107.

Project Description—The proposed project would consist of: (1) an existing impoundment with a surface area of approximately 200 acres and a gross storage capacity of 2,803 acre-feet; (2) an existing dam consisting of a 180-foot long earth embankment on the right side, a 162-foot long and 32-foot high spillway, and a 200-foot long earth embankment on the left side of the spillway; (3) proposed installation in the left embankment of three modular bulb generation units with a total installed capacity of 495 kW and which will operate from a siphon-type intake system; (4) existing transmission lines; and (5) appurtenant facilities. The average annual energy production is estimated to be 2.2 GWh.

Purpose of Project—All project energy produced will be sold to the Detroit Edison Power Company by the Applicant.

Agency Comments—The U.S. Fish and Wildlife Service, The National Marine Fisheries Service, and the State of Michigan, Department of Natural Resources, Wildlife Division are requested for the purposes set forth in Section 408 of the Act, to submit within 60 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or to otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies that receive this notice through direct mailing from the Commission are requested to provide any comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 60 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Competing Application—Any qualified license applicant desiring to file a competing application must submit to the Commission, on or before November 27, 1981 either the competing license application that proposes to develop at least 7.5 megawatts in that project, or notice of intent to file such a license application. Submission of a timely notice of intent allows an interested person to file the competing license application no later than . . . Applications for preliminary permit will not be accepted.

A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c) (1980). A competing license application must conform with the requirements of 18 CFR 4.33 (a) and (d) (1980).

Comments, Protests, or Petitions to Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the

Commission's Rules may become a party to the proceeding. Any comments, protests or petitions to intervene must be received on or before November 27, 1981.

Filing and Service of Responsive Documents—Any filings, must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB, 825 North Capitol Street, N.E., Washington, D.C. 20426. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,
Secretary.

[FR Doc. 81-30250 Filed 10-19-81; 8:45 am]
BILLING CODE 6717-02-M

[Docket No. ER82-6-000]

Commonwealth Edison Co.; Proposed Tariff Change

October 13, 1981.

The filing Company submits the following:

Take notice that Commonwealth Edison Company, (Commonwealth) on October 5, 1981, tendered for filing proposed changes in its FERC Electric Tariff. The proposed changes revise the Electric Service Contract between Commonwealth and the City of St. Charles, Illinois, to provide for the installation and removal of a temporary point of electric supply and the installation of a permanent point of supply to the City by the Company.

Commonwealth requests an effective date of November 1, 1981, and therefore requests waiver of the Commission's notice requirements.

A copy of the filing has been served upon the City of St. Charles, Illinois.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington,

D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 30, 1981. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and area available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 81-30252 Filed 10-19-81; 8:45 am]
BILLING CODE 6717-02-M

[Docket No. ER82-4-000]

Duke Power Co.; Filing

October 13, 1981.

The filing Company submits the following:

Take notice that Duke Power Company (Duke Power) tendered for filing on October 2, 1981 a supplement to the Company's Electric Power Contract with the Town of Bostic. Duke Power states that this contract is on file with the Commission and has been designated Duke Power Company Rate Schedule FERC No. 155.

Duke Power further states that the Company's contract supplement, made at the request of the customer and with agreement obtained from the customer, provides for the installation of a new metering structure and delivery in an area near the existing delivery point. However, there will not be a change in contract demand.

Duke Power indicates that this supplement also includes an estimate of sales and revenue for twelve months immediately preceding and for the twelve month immediately succeeding the effective date. Duke Power proposes an effective date of December 18, 1981.

According to Duke Power copies of this filing were mailed to the Town of Bostic and the North Carolina Utilities Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 30, 1981. Protests will be considered by the Commission in determining the appropriate action to be taken, but will

not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 81-30253 Filed 10-19-81; 8:45 am]
BILLING CODE 6717-02-M

[Docket No. ES82-4-000]

Gulf States Utilities Co.; Application

October 13, 1981.

Take notice that on October 2, 1981, Gulf States Utilities Company (Applicant) filed an application seeking authorization to negotiate the placement of up to 3,000,000 shares of Common Stock, without par value.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 2, 1981, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). The application is on file with the Commission and available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 81-30254 Filed 10-19-81; 8:45 am]
BILLING CODE 6717-02-M

[Project No. 5393-000]

Edwards, Howard, Martens, Inc.; Application for Preliminary Permit

October 13, 1981.

Take notice that Edwards, Howard, Martens, Inc. (Applicant) filed on September 21, 1981, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)-825(r)] for Project No. 5393 to be known as the Rock Creek Hydroelectric Project located on Rock Creek in Twin County, Idaho. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Charles D. Howard, President, Edwards, Howard, Martens, Inc., 1139 Falls Avenue East, Falls Professional Center, Suite B, Twin Falls, Idaho 83301.

Project Description—The proposed project would consist of: (1) a 35-foot high, 500-foot long earth filled dam creating; (2) an impoundment of 300 acre-feet; (3) a .5-mile long, 72-inch diameter steel penstock; (4) a

powerplant which will house one to two generating units having a total combined rated capacity of 2,200 kW; and (5) a .5-mile long transmission line to extend to an existing line.

The estimated average annual energy production is 10 million kWh.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a period of 36 months during which, the applicant would conduct engineering, environmental, and economic feasibility studies as well as prepare an application for an FERC license. No new road construction will be required. The estimated cost for carrying out these feasibility studies and preparing an application for an FERC license is \$42,000.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before December 17, 1981, either the competing application itself (See 18 CFR 4.33(a) and (d)(1980)) or a notice of intent (See 18 CFR 4.33(b) and (c)(1980)) to file a competing application. Submission of a timely notice of intent allows an interested person to file an acceptable competing application no later than the time specified in § 4.33(c).

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant). If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protest, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protest, or petition to intervene must be received on or before December 17, 1981.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those

copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,
Secretary.

[FR Doc. 81-30265 Filed 10-19-81; 8:56 am]

BILLING CODE 6717-02-M

[Project No. 5356-000]

Puget Sound Power & Light Co.; Application for Preliminary Permit

October 13, 1981.

Take notice that Puget Sound Power & Light Company (Applicant) filed on September 14, 1981, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)-825(r)] for Project No. 5356 to be known as the Tye River Project located on Tye River in King County, Washington. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Robert V. Myers, Vice President, Generation Resources, Puget Sound Power and Light Company, Puget Sound Building, Bellevue, Washington 98009.

Project Description—The proposed project would consist of: (1) a concrete gravity dam 10 feet high with 100-foot wide overflow spillway; (2) reservoir with negligible storage; (3) powerhouse containing two turbine-generators with total capacity of 11.0 MW an annual energy output of 43,500 MWh; (4) transmission lines; and (5) appurtenant facilities. Potential customers for the power project include the Applicant's present customers. The project is located partly on privately owned land and partly on land within the Snoqualmie National Forest.

Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a period of 24 months, during which time engineering, economic, and environmental studies would be conducted to support an application for license to construct and

operate the project. The total estimated cost of conducting studies under preliminary permit authorization is \$500,000.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before December 17, 1981, either the competing application itself (See 18 CFR 4.33(a) and (d) (1980)) or a notice of intent (See 18 CFR 4.33(b) and (d) (1980)) to file a competing application. Submission of a timely notice of intent allows an interested person to file an acceptable competing application no later than the time specified in § 4.33(c).

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant). If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions to Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protest, or petition to intervene must be received on or before December 17, 1981.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative

of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,
Secretary.

[FR Doc. 81-30266 Filed 10-19-81; 8:45 am]
BILLING CODE 6717-02-M

[Docket No. ER81-790-000]

Safe Harbor Water Power Corp.; Filing

October 13, 1981.

The filing Company submits the following:

Take notice that Safe Harbor Power Corporation (SHPC) on September 30, 1981, tendered for filing proposed changes in its Rate Schedule FPC No. 6 under which it sells its output to its two customers, Baltimore Gas and Electric Company and Pennsylvania Power & Light Company. The proposed change would increase base rate revenues from jurisdictional sales and service by \$989,612 upon the twelve-month period ending June 30, 1981.

The company states that an increase in its rate of return from its hydroelectric operations is necessitated by increased financing costs.

SHPC requests waiver of the Commission's notice requirements in order to allow for an effective date of November 1, 1981.

Copies of the filing were served upon the public utility's jurisdictional customers named above, and upon the Maryland and Pennsylvania State Public Utility Commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825

North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before October 30, 1981. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 81-30267 Filed 10-19-81; 8:45 am]
BILLING CODE 6717-02-M

[Docket Nos. G-10710-000, et al.]

Shell Oil Co., et al.; Applications for Certificates, Abandonment of Service and Petitions To Amend Certificates¹

October 13, 1981.

Take notice that each of the Applicants listed herein has filed an application or petition pursuant to Section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service as described herein, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before October 27, 1981, file with the Federal Energy Regulatory Commission,

Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates or the authorization for the proposed abandonment is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or to be represented at the hearing.

Kenneth F. Plumb,
Secretary.

Docket No. and date filed	Applicant	Purchaser and location	Price per 1,000 B ³	Pressure base
G-10710-000, D, Sept. 28, 1981	Shell Oil Company, One Shell Plaza, P.O. Box 2463, Houston, Texas 77001.	El Paso Natural Gas Company, Spraberry Trend Field, Reagan County, Texas.	(1)	
G-12854-000, D, Sept. 28, 1981	Mobil Oil Exploration & Producing Southeast Inc., Nine Greenway Plaza Suite 2700, Houston, Texas 77046.	United Gas Pipe Line Company, Pistol Ridge Field, Forrest County, Mississippi.	(2)	
G-17378-001, D, Sept. 25, 1981	Texaco Inc. (Operator), P.O. Box 3109, Midland, Texas 79702.	Transwestern Pipeline Company, Dude Wilson Field, Ochiltree County, Texas.	(2)	
C167-1631-000, F, Oct. 1, 1981 ¹	Tenneco Oil Company, Operator and Agent for Tema Oil Company and (Succ. in interest to Ashland Exploration, Inc.), P.O. Box 2511, Houston, Texas 77001.	Natural Gas Pipeline Company of America, Erick Field, Beckham County, Oklahoma.	(3)	14.65
C176-646-003, C, Sept. 28, 1981	Getty Oil Company, P.O. Box 1404, Houston, Texas 77001.	Tennessee Gas Pipeline Company, West Cameron Blocks 65, 34, and 36, Offshore Louisiana.	(3)	15.025
C178-208-004, C, Sept. 28, 1981	Chevron U.S.A. Inc., P.O. Box 7309, San Francisco, California 94120.	Southern Natural Gas Company, Eugene Island Field, Blocks 52, 64, 65, and 74, Offshore Louisiana.	(1)	15.025
C179-202-001, C, Sept. 30, 1981	Mobil Producing Texas & New Mexico Inc., Nine Greenway Plaza, Suite 2700, Houston, Texas 77046.	El Paso Natural Gas Company, Burton Flats Field, Eddy County, New Mexico.	(4)	14.65
C181-127-001, C, Sept. 28, 1981	Chevron U.S.A., Inc., P.O. Box 7309, San Francisco, California 94120.	Tennessee Gas Pipeline Company and Columbia Gas Transmission Corporation, "D" Platform in OCS-G-2941, South Pass Block 56 and 78, Offshore Louisiana.	(7)	15.025

¹ This notice does not provide for consolidation for hearing of the several matters covered herein.

Docket No. and date filed	Applicant	Purchaser and location	Price per 1,000 ft ³	Pressure base
C81-304-001, D, Sept. 29, 1981	Getty Oil Company, Post Office Box 1464, Houston, Texas 77001. ¹	El Paso Natural Gas Company, Antwell "X-L" No. 1 Well, East Half of Section 20, Township 22 South, Range 27 East, and Belco Martin No. 1 Well located in the West Half of Section 20, Township 22 South Range 27 East, Eddy County, New Mexico.	(*)	
C81-508-000, A, Sept. 28, 1981	Transco Exploration Company, P.O. Box 1396, Houston, Texas 77251.	Transcontinental Gas Pipe Line Corporation, Mustang Island Area, Block A-85, Offshore Texas.	(*)	14.65
C81-509-000, A, Sept. 28, 1981	Conoco Inc., P.O. Box 2197, Houston, Texas 77252	Transcontinental Gas Pipe Line Corporation, Ship Shoal Block 232, Offshore Louisiana.	(1 ¹)	15.025
C81-510-000, E, Sept. 28, 1981 ¹²	Multistate Oil Properties, N.V. (Succ. in Interest to Shenandoah Oil Corporation), P.O. Box 2511, Houston, Texas 77001.	Western Gas Interstate Gas Company, Guymon-Hugoton Field, Texas County, Oklahoma.	(1 ²)	14.65

¹ Shell Oil Company is no longer able to render service from the acreage involved in this application because it has no interest in the acreage.

² Cessation of production.

³ Fuel to Lessor for Agricultural Irrigation.

⁴ Under the terms of the assignment and conveyance dated April 30, 1979, Tema has purchased from Ashland and Ashland has assigned and conveyed to Tema, subject to certain reservations by Ashland all of Ashland's rights title and interest in certain gas-producing properties, equipment, and facilities and all gas sales contracts.

⁵ Applicant is filing under Gas Purchase and Sales Agreement dated March 1, 1967.

⁶ Applicant is filing under Gas Purchase Contract dated June 17, 1976 as amended, amended by Amendment Agreements dated July 7, 1981 and August 31, 1981.

⁷ Applicant agrees to accept a certificate under the Natural Gas Policy Act of 1978.

⁸ Applicant is filing under Gas Sales Contract as amended, dated November 8, 1978, and amended by amendment dated March 5, 1979.

⁹ A Letter Agreement dated August 17, 1981 between Getty Oil Company and El Paso Natural Gas Company deleting acreage from the August 1, 1977 contract, as such acreage was already dedicated to El Paso under a January 3, 1977 contract.

¹⁰ Not used.

¹¹ Applicant is filing under Gas Purchase and Sales Agreement dated September 1, 1981

¹² Multistate is acquiring this property from Shenandoah as of March 28, 1979.

¹³ Applicant is filing under Ratification and Adoption of Natural Gas Purchase Contract dated March 18, 1981.

Filing Code: A—Initial Service; B—Abandonment; C—Amendment to add acreage; D—Amendment to delete acreage; E—Total Succession; F—Partial Succession.

[FR Doc. 81-30288 Filed 10-19-81; 8:45 am]

BILLING CODE 6717-02-M

[Project No. 5374-000]

Tehama County Flood Control & Water Conservation District; Application for Preliminary Permit

October 13, 1981.

Take notice that Tehama County Flood Control & Water Conservation District (Applicant) filed on September 17, 1981, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)-825(r)] for Project No. 5374 to be known as the Willow Creek, Tehama Power Project located on Willow Creek in Tehama County, California. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Lawrence A. Coleman, Director of Water Resources, Route 1, Box 4, Gerber, California 96035.

Project Description—The proposed project would consist of: (1) a 10-foot high, 50-foot long diversion structure; (2) a 19,000-foot long diversion conduit; (3) a 60-inch diameter, 3,800-foot long penstock; (4) a powerhouse to contain a single generating unit with a rated capacity of 8.4 MW; and (5) a 12.5-kV transmission line to connect with an existing line.

The estimated average annual energy production is 29.4 million kWh.

Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. The applicant seeks issuance of a preliminary permit for a period of 36 months during which it would conduct engineering, environmental, and economic feasibility studies as well as

prepare an application for an FERC license. No new roads will be required to conduct these studies. The estimated cost of conducting these studies and preparing an application for an FERC license is \$140,000.

Competing Applications—This application was filed as a competing application to the Willow Creek, Tehama Power Project No. 4329 filed on March 12, 1981, by Consolidated Hydroelectric, Inc. under 18 CFR 4.33 (1980). Public notice of the filing of the initial application has already been given and the due date for filing competing applications or notices of intent has passed. Therefore, no further competing applications or notices of intent to file competing applications will be accepted for filing.

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions to Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protest, or petition to intervene must be

received on or before November 18, 1981.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 81-30289 Filed 10-19-81; 8:45 am]

BILLING CODE 6717-02-M

[Project No. 2978-001]

Traverse City Light & Power Board; Application for Exemption for Small Hydroelectric Power Project Under 5 MW Capacity

October 13, 1981.

Take notice that on May 20, 1981, Traverse City Light & Power Board (Applicant) filed an application under Section 408 of the Energy Security Act of 1980 (Act) (16 U.S.C. 2705 and 2708 as

amended), for exemption of a proposed hydroelectric project from licensing under Part I of the Federal Power Act. The proposed small hydroelectric project, Project No. 2978-001 would be located on the Boardman River near Traverse City, in Grand Traverse County, Michigan. Correspondence with the Applicant should be directed to: W. Peter Doren, General Counsel, Light & Power Board of the City of Traverse City, P.O. Box 592, Governmental Center, 400 Boardman Avenue, Traverse City, Michigan 49684.

Project Description—The proposed project would consist of: (1) an existing earth & concrete dam 2,400 feet in length and 30.2 feet high with two 12-foot wide steel taintor gates; (2) existing reservoir of approximately 191 acres at an elevation of 797.5 feet m.s.l. and a maximum storage capacity of approximately 2,000 acre-feet; (3) an existing powerhouse containing two generating units with a capacity of 830 kW; (4) an existing 13.8-kV transmission line, 13 miles long; and (5) appurtenant facilities. The project is not located on Federal lands. The proposed project would be operated on a run-of-river basis.

Purpose of Project—All energy generated would be used by the Applicant for sale to its customers. The average annual energy generation is estimated to be 2.8 GWh.

Agency Comments—The U.S. Fish and Wildlife Service, The National Marine Fisheries Service, and the State of Michigan, Department of Natural Resources, Fisheries Division, P.O. Box 30028, Lansing, Michigan 48909 are requested, for the purposes set forth in Section 408 of the Act, to submit within 60 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or to otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide any comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 60 days from the date of issuance of this notice,

it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Competing Application—Any qualified license applicant desiring to file a competing application must submit to the Commission, on or before November 27, 1981 either the competing license application that proposes to develop at least 7.5 megawatts in that project, or a notice of intent to file such a license application. Submission of a timely notice of intent allows an interested person to file the competing license application no later than 120 days from the date that comments, protests, etc. are due. Applications for preliminary permit will not be accepted.

A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c) (1980). A competing license application must conform with the requirements of 18 CFR 4.33 (a) and (d) (1980).

Comments, Protest, or Petitions to Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests or petitions to intervene must be received on or before November 27, 1981.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative

of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,
Secretary.

[FR Doc. 81-30270 Filed 10-19-81; 8:45 am]
BILLING CODE 6717-02-M

[Docket No. ER81-791-000]

Utah Power & Light Co.; Proposed Tariff Change

October 13, 1981.

The filing Company submits the following:

Take notice that Utah Power & Light Company (Utah) on September 30, tendered for filing a proposed cancellation of a Service Agreement with CP National Corporation (CP National) dated March 26, 1975, on file with the Federal Energy Regulatory Commission (FERC) as part of Utah's FERC Electric Tariff, Volume No. 1. Utah also tendered for filing an amendment to a Service Agreement dated January 6, 1981 which would terminate resale service for the Kanab, Utah, area; wholesale service to CP National for resale in the Fredonia, Arizona, area would continue.

Utah states that since 1975, CP National has purchased the bulk of its energy from Utah under FERC Rate Schedule RS-3. Under an Agreement of Purchase and Sale between the parties, Utah will purchase the CP National properties and operate them as part of its interconnected system.

Utah proposes an effective date of September 30, 1981, and therefore requests waiver of the Commission's notice requirements.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 30, 1981. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 81-30271 Filed 10-19-81; 8:45 am]
BILLING CODE 6717-02-M

[Docket No. TA82-1-52-000 (PGA82-1)]

Western Gas Interstate Co.; Proposed PGA Rate Adjustment

October 13, 1981.

Take notice that on September 30, 1981, Western Gas Interstate Company ("Western") filed herein Eighteenth Revised Sheet No. 3A and Third Revised Sheet No. 3B to its FERC Gas Tariff, Original Volume No. 1. Said tariff sheets are proposed to become effective on November 1, 1981.

Western states the proposed increase in rates reflected on Eighteenth Revised Sheet No. 3A is being filed in accordance with its Tariff's PGA clause which permits the recovery of increases in the cost of gas and of unrecovered purchased gas cost. Western further states the proposed Purchase Gas Cost Adjustment for the Northern Division is 34.24 cents per Mcf; for the Western Division it is 22.61 cents per Mcf; and for the Southern Division it is 63.56 cents per Mcf. The proposed surcharge adjustment is 22.27 cents per Mcf for the Northern Division; 64.62 cents per Mcf for the Western Division and 2.74 cents per Mcf for the Southern Division. The surcharge adjustments will only be effective over the six-month period November 1, 1981 through April 30, 1982.

Western also states that Third Revised Sheet No. 3B reflects the Projected Incremental Pricing Surcharge Adjustment for the period November, 1981 through April, 1982 as required by § 282.602(a)(ii) of the CFR.

Western states that copies of this filing were served upon Western's transmission system customers and the interested state regulatory commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 21, 1981. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 81-30273 Filed 10-19-81; 8:45 am]

BILLING CODE 6717-02-M

[Docket No. C181-507-000]

Amoco Production Co.; Application

October 13, 1981.

Take notice that on September 24, 1981, Amoco Production Company (Applicant) 200 East Randolph Drive, Chicago, Illinois 60601, filed an application pursuant to Section 7(c) of the Natural Gas Act and the Commission's regulations thereunder, for a certificate of public convenience and necessity authorizing the construction and operation of certain pipeline and compression facilities, and other operational authority all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant seeks authorization for the construction and operation of approximately 30 miles of 6-inch pipeline and compression facilities in Baldwin County, Alabama. The proposed pipeline will begin at a central collection point in Foley Field, Baldwin County, and terminate at a point of intersection with the existing facilities of United Gas Pipeline Company in Baldwin County. It is stated that the facilities will be utilized to deliver gas in satisfaction of applicant's existing warranty type contract with Florida Power and Light Company. The estimated cost of the facilities is \$4,845,000 to be financed from cash on hand. Applicant states it will make no charge to Florida Power and Light Company, Florida Gas Transmission Company or any other company in connection with the proposed construction and operation of subject facilities. It is anticipated that United would apply for authority to redeliver gas to applicant in St. Landry Parish, Louisiana. Applicant states that if United Gas cannot obtain a certificate, it will serve notice of election of an alternate project upon the Commission and any intervenors of record. The alternate project consists of approximately 22 additional miles of pipeline to a point of intersection with facilities of Florida Gas Transmission Company.

Take further notice that Applicant has requested a temporary certificate. In this regard, it is alleged that gas supplies from Foley Field are urgently needed to maintain adequate service to Florida Power and Light Company.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 27, 1981 file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the

requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of a certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed which requires a formal hearing, or if the Commission on its own motion believes a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless Applicant is otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,
Secretary.

[FR Doc. 81-30296 Filed 10-19-81; 8:45 am]

BILLING CODE 6717-02-M

[Project No. 4478-002]

Bell Enterprises; Application for Exemption for Small Hydroelectric Power Project Under 5 MW Capacity

October 14, 1981.

Take notice that on September 14, 1981, Bell Enterprises (Applicant) filed an application, under Section 408 of the Energy Security Act of 1980 (Act) (16 U.S.C. 2705, and 2708 *as amended*), for exemption of a proposed hydroelectric project from licensing under Part I of the Federal Power Act. The proposed small hydroelectric project, Project No. 4478 would be located on Battle Creek in Trinity County, California near the town of Trinity Center. Correspondence with the Applicant should be directed to: Mr. Cecil E. Bell, Bell Enterprises, P.O. Box 628, Clovis, California 93612.

Project Description—The proposed project would consist of: (1) An existing

diversion structure within the western bank of Battle Creek; (2) a 4,860-foot long penstock leading to; (3) a powerhouse containing two generating units with combined rated capacity of 500 kW; (4) a 800-foot long existing pipeline/penstock leading to; (5) an existing powerhouse containing a single generating unit with an installed capacity of 50 kW discharging into Coffee Creek; and (6) appurtenant facilities.

Agency Comments—The U.S. Fish and Wildlife Service, The National Marine Fisheries Service, and the California Department of Fish and Game are requested, for the purposes set forth in Section 408 of the Act, to submit within 60 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or to otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide any comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 60 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Competing Applications—Any qualified license applicant desiring to file a competing application must submit to the Commission, on or before November 28, 1981 either the competing license application that proposes to develop at least 7.5 megawatts in that project, or notice of intent to file such a license application. Submission of a timely notice of intent allows an interested person to file the competing license application no later than 120 days from the date that comments, protests, etc. are due. Applications for preliminary permit will not be accepted.

A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c) (1980). A competing license application must conform with the requirements of 18 CFR 4.33 (a) and (d) (1980).

Comments, Protest, or Petitions To Intervene—Anyone may submit

comments, a protest, or a petition to intervene in accordance with the requirements of the rules of practice and procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests or petitions to intervene must be received on or before November 28, 1981.

Filing and Service of Responsive Documents—Any filings, must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,
Secretary.

[FR Doc. 81-30281 Filed 10-19-81; 8:45 am]
BILLING CODE 6717-02-M

[Project No. 4632]

Clifton Power Corp.; Application for Short-Form License

October 14, 1981

Take notice that Clifton Power Corporation (Applicant) filed on May 7, 1981, and application for a license [pursuant to the Federal Power Act, 16 U.S.C. 791(a)-825(r)] for continued operation of a water power project to be known as Clifton Mills No. 1, Project No. 4632. The project would be located on the Pacolet River near Clifton in Spartanburg County, South Carolina. Correspondence with the Applicant should be directed: Charles B. Mierek, P.E., Cortlan Associates, Inc., 838 Arlington Drive, Tucker, Georgia 30084.

Project Description—The existing project consists of: (1) an existing concrete slab and buttress type dam

approximately 175 feet long and 16 feet high with three tainter gates each 16.5 feet high by 25 feet wide; (2) an existing reservoir with a surface area of 15 acres with a maximum storage capacity of 150 acre-feet at a normal pool elevation of 594 feet msl; (3) an existing headworks structure approximately 100 feet long containing three vertical type wooden gates approximately 12 feet wide by 12 feet high; (4) an existing powerhouse located approximately 25 feet downstream of the dam, containing two generating units with a capacity of 800 kW; (5) an existing 12.47 kV transmission line; and (6) appurtenant facilities. The project would be operated on a run-of-river basis.

Purpose of Project—All project energy produced will be sold to the Duke Power Company for marketing to the residents and establishments of the local area. The average annual generation is expected to be 5,120 MWh.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are requested to provide comments pursuant to the Federal Power Act, the Fish and Wildlife Coordination Act, the Endangered Species Act, the National Historic Preservation Act, the Historical and Archeological Preservation Act, the National Environmental Policy Act, Pub. L. No. 88-29, and other applicable statutes. No other formal requests for comments will be made.

Comments should be confined to substantive issues relevant to the issuance of a license. A copy of the application may be obtained directly from the Applicant. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before November 30, 1981, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than November 30, 1981. A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c), (as amended 44 FR 61328, October 25, 1979). A competing application must conform with the requirements of 18 CFR 4.33 (a) and (d), (as amended, 44 FR 61328, October 25, 1979).

Comments, Protests, or Petitions To Intervene—Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Federal

Energy Regulatory Commission, in accordance with the requirements of the Commission's rules of practice and procedure, 18 CFR 1.8 or 1.10 (1979). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's rules. Any comments, protest, or petition to intervene must be filed on or before November 30, 1981. The Commission's address is: 825 North Capitol Street, N.E., Washington, D.C. 20426. The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 81-30282 Filed 10-19-81; 8:45 am]

BILLING CODE 6717-02-M

[Docket No. RP78-19-013, etc.]

Columbia Gas Transmission Corp.; Revised Service Agreements

October 9, 1981.

Take notice that on October 1, 1981, Columbia Gas Transmission Corporation (Columbia) tendered for filing certain revised Service Agreements between Columbia and 62 of its 70 jurisdictional wholesale customers. Columbia states that these revised Service Agreements are for service under one or more rate schedules of Columbia's FERC Gas Tariff, Original Volume No. 1 and, with the exception of one agreement with a December 1, 1981 effective date, all of the agreements bear an effective date of November 1, 1981.

Columbia makes reference to Article XVI of the Stipulation and Agreement in Docket No. RP78-19, *et al.*, where in it is provided that Columbia shall take action by November 1, 1981 to convert the rates in all of its sales zones to a dekatherm basis. Columbia states that on July 1, 1981, it filed tariff sheets in Docket No. RP81-83 reflecting revisions to its FERC Gas Tariff, Original Volume No. 1 and Rate Schedule X-70 (Original Volume No. 2) to reflect the billing on a dry dekatherm basis. Further, Columbia states that by tariff filing dated September 25, 1981 (subsequently revised on October 1, 1981) it filed revised tariff sheets reflecting the conversion of its then existing rates to a dry dekatherm basis, effective

November 1, 1981. Columbia states that it is now filing revised Service Agreements for the sole purpose of converting the quantities contained therein to a dry dekatherm basis.

Columbia states that the revised Service Agreements contained in the instant filing represent in excess of 99% of Columbia's jurisdictional sales. Columbia further states that several of its wholesale customers have not yet executed and returned their respective revised Service Agreements to Columbia, and, accordingly, revised agreements with those customers were to be included in the filing. Columbia states that upon receipt of executed agreements from such customers, it will promptly file said documents with the Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, Union Center Plaza Building, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.118 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before October 21, 1981. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a petition to intervene. Copies of Columbia's filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 81-30283 Filed 10-19-81; 8:45 am]

BILLING CODE 6717-02-M

[Docket No. GT82-1-000]

Columbia Gas Transmission Corp.; Proposed Changes in FERC Gas Tariff

October 9, 1981.

Take notice that on October 1, 1981, Columbia Gas Transmission Corporation (Columbia) tendered for filing the following proposed changes in its FERC Gas Tariff, Original Volume No. 1, to be effective November 1, 1981:

Eighth Revised Sheet No. 76
Sixth Revised Sheet No. 77
Sixth Revised Sheet No. 78
Eighth Revised Sheet No. 79
Sixth Revised Sheet No. 80
Eighth Revised Sheet No. 81
Sixth Revised Sheet No. 82
Sixth Revised Sheet No. 82A

Columbia states that these revisions are being filed to update the Index of Purchasers of its tariff to include all

current Service Agreements to be effective November 1, 1981, since these agreements refer to all quantities of natural gas on a dry Dekatherm (Dth) basis.

Copies of this filing were served upon each of Columbia's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, Union Center Plaza Building, 825 North Capitol Street, N.E., Washington, D. C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before October 21, 1981. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a petition to intervene. Copies of Columbia's filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 81-30284 Filed 10-19-81; 8:45 am]

BILLING CODE 6717-02-M

[Docket No. G-15243-003]

El Paso Natural Gas Co.; Tariff Filing

October 9, 1981.

Take notice that on September 29, 1981, El Paso Natural Gas Company ("El Paso") filed, pursuant to Part 154 of the Commission's Regulations Under the Natural Gas Act, Fifth Revised Sheet No. 118 and Sixth Revised Sheet No. 119 to its FERC Gas Tariff, Third Revised Volume No. 2, which tariff sheets, when accepted for filing and permitted to become effective, will serve to revise Exhibit B attached to special Rate Schedule X-10 contained in said Tariff.

El Paso states that special Rate Schedule X-10 is comprised of the Vinegarone-Sonora Exchange Agreement ("Exchange Agreement") dated February 11, 1958, as amended, between El Paso and Northern Natural Gas Company ("Northern"), providing for the exchange of natural gas in Val Verde and Sutton Counties, Texas. El Paso further states that the subject tariff filing provides for the revision of Exhibit B to said rate schedule so as to include El Paso's interest in the Cauthorn 2-C and Cauthorn 2-F wells as a part of said Exchange Agreement, pursuant to a revised Exhibit B dated March 17, 1981, between the parties.

El Paso has requested that the tendered tariff sheets be accepted for filing and permitted to become effective thirty (30) days after the date of filing.

Any person desiring to be heard or to make any protest with reference to said tariff filing should, on or before October 21, 1981, file with the Federal Energy Regulatory Commission, Washington, D.C., 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). Protests filed with the Commission will be considered by its in determining the appropriate action to be taken, but will not serve to make any protestants parties to the proceeding. Any person wishing to become a party to a proceeding must file a petition to intervene in accordance with the Commission's rules. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 81-30285 Filed 10-19-81; 8:45 am]
BILLING CODE 6717-02-M

[Docket No. TC82-1-000]

Florida Gas Transmission Co.; Tariff Filing

October 9, 1981.

Take notice that on October 1, 1981, Florida Gas Transmission Company (FGT), P.O. Box 44, Winter Park, Florida 32790, filed in Docket No. TC82-1-000 its "Index of Requirements by Curtailment Priority for the Period Ending June 30, 1980 (Volumes in Therms Per Day)" which is composed of Ninth Revised Sheet No. 1 and Original Sheet Nos. 37 through 43 of its FERC Gas Tariff on file with the Commission pursuant to the Natural Gas Act. FGT states that the instant filing is made pursuant to the requirements of Commission Opinion Nos. 98 and 98-A (13 FERC ¶ 61,041 and 14 FERC ¶ 61,031). The tariff sheets are proposed to become effective November 1, 1981.

Any person desiring to be heard or to make any protest with reference to said filing should on or before October 23, 1981, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8, or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the

protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Kenneth F. Plumb,
Secretary.

[FR Doc. 81-30286 Filed 10-19-81; 8:45 am]
BILLING CODE 6717-02-M

[Docket No. TA82-1-45-000]

Inter-City Minnesota Pipelines Ltd., Inc.; Proposed Rate Change Pursuant To Purchased Gas Cost Adjustment Provisions

October 9, 1981.

Take notice that Inter-City Minnesota Pipelines Ltd., Inc., (Inter-City) on September 30, 1981, tendered for filing Fifteenth Revised Sheet No. 4 to its FERC Gas Tariff, Original Volume No. 1, proposed to be effective November 1, 1981. Inter-City states that the filing reflects a request for a purchased gas adjustment cost pursuant to § 154.38(d)(4) of the Commission's regulations and is the company's regular annual filing under its PGA clause.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 21, 1981. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 81-30287 Filed 10-19-81; 8:45 am]
BILLING CODE 6717-02-M

[Docket No. ES82-1-000]

Iowa Southern Utilities Co.; Application

October 13, 1981.

Take notice that on October 5, 1981, Iowa Southern Utilities Company (Applicant) filed an application seeking an order pursuant to Section 204 of the Federal Power Act authorizing the issuance of \$15,000,000 aggregate principal amount of unsecured short

term promissory notes and commercial paper notes to be issued from time to time prior to January 1, 1984.

Any person desiring to be heard or to make any protest with reference to said Application should on or before November 4, 1981, file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, petitions or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). The Application is on file with the Commission and available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 81-30297 Filed 10-19-81; 8:45 am]
BILLING CODE 6717-02-M

[Docket No. TA82-1-46-000]

Kentucky West Virginia Gas Co.; Proposed Change in Rates

October 9, 1981.

Take notice that Kentucky West Virginia Gas Company (Kentucky West) on October 1, 1981, tendered for filing with the commission its Twenty-Third Revised Sheet No. 27 and Fourth Revised Sheet No. 27A to its FERC Gas Tariff, First Revised Volume No. 1, to become effective November 1, 1981.

Kentucky West states that the change in rates results from the application of the Purchase Gas Cost Adjustment provision in Section 18, General Terms and Conditions of FERC GAS Tariff, First Revised Volume No. 1, approved by the Commission in Docket No. RP78-93 and is in accordance with its Stipulation and Agreement in settlement of all issues in the rate proceeding in Docket No. RP80-7.

Kentucky West states that a copy of its filing has been served upon its purchasers and interested state commissions and upon each party on the service list of Docket No. RP80-7.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before Oct. 21, 1981. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file

with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 81-30289 Filed 10-19-81; 8:45 am]

BILLING CODE 6717-02-M

[Project No. 5360-000]

Mega Hydro, Inc.; Application for Preliminary Permit

October 14, 1981.

Take notice that Mega Hydro, Inc. (Applicant) filed on September 14, 1981, an application for preliminary permit (pursuant to the Federal Power Act, 16 U.S.C. 791(a)-825(r)) for Project No. 5360 to be known as the Soldier Creek Power Project located on Soldier Creek in Trinity Co., California. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Fred Castagna, 1646 East Street, Redding, California 96001.

Project Description—The proposed project would consist of: (1) An existing rock and concrete diversion structure 35 feet long and 4 feet high; (2) reservoir with negligible storage; (3) reconstructed diversion conduits, channels and penstock; (4) powerhouse containing one or a combination of impulse type turbine-generators with 1106kW capacity and 5,800,000 kWh average annual energy production; (5) transmission lines; and (6) appurtenant facilities. Generated power will be distributed through connections with the Pacific Gas & Electric system. The project will be located on privately owned land and on land administered by the U.S. Forest Service.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a period of 36 months, during which time engineering, economic and environmental studies would be conducted to determine project feasibility and to support a license application. The estimated cost of conducting these studies and preparing the application is \$39,000.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before December 18, 1981, either the competing application itself (See 18 CFR 4.33 (a) and (d) (1980)) or a notice of intent (See 18 CFR 4.33 (b) and (c) (1980)) to file a competing application. Submission of a timely notice of intent allows an interested person to file an

acceptable competing application no later than the time specified in § 4.33(c).

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the rules of practice and procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's rules may become a party to the proceeding. Any comments, protest, or petition to intervene must be received on or before December 18, 1981.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS," "NOTICE OF INTENT TO FILE COMPETING APPLICATION," "COMPETING APPLICATION," "PROTEST," or "PETITION TO INTERVENE," as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,
Secretary.

[FR Doc. 81-30291 Filed 10-19-81; 8:45 am]

BILLING CODE 6717-02-M

[Docket No. TA82-1-48-000]

Michigan Wisconsin Pipe Line Co.; Proposed Changes in FERC Gas Tariff

October 9, 1981.

Take notice that on October 1, 1981, Michigan Wisconsin Pipe Line Company (Michigan Wisconsin) tendered for filing Fourteenth Revised Sheet No. 7 and Fifth Revised Sheet No. 7a to its F.E.R.C.

Gas Tariff, Original Volume No. 1, to be effective November 1, 1981.

Michigan Wisconsin states that this filing reflects increases in its one-part rates and the commodity component of its two-part rate of 37.6¢ per dekatherm (dth). These increases are the result of (1) the replacement of older sources of supply with new more expensive sources, (2) independent producer price increases authorized under the NGPA, (3) rate increases by pipeline suppliers, and (4) an increase in the surcharge adjustment of 3.10¢ per dth.

Michigan Wisconsin further states that it requests a waiver of the requirements of Part 154 of the Commission's Regulations under the Natural Gas Act to the extent that such a waiver may be necessary to permit this filing of Fourteenth Revised Sheet No. 7 and Fifth Revised Sheet No. 7a to be made and to become effective November 1, 1981.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules and Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 21, 1981. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this tariff filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 81-30289 Filed 10-19-81; 8:45 am]

BILLING CODE 6717-02-M

[Docket No. RP82-1-000]

Michigan Wisconsin Pipe Line Co.; Tariff Filing

October 9, 1981.

Take notice that on October 1, 1981, Michigan Wisconsin Pipe Line Company tendered for filing Fifth Revised Sheet No. 667 under Rate Schedule X-64 of First Revised Volume No. 2 of its F.E.R.C. Gas Tariff, to become effective November 1, 1981.

Michigan Wisconsin states that this filing has been made to reflect the redetermination of the monthly charge to the High Island Offshore System (HIOS) for services rendered by Michigan Wisconsin in accordance with a service agreement between Michigan

Wisconsin and HIOS dated August 4, 1977, and authorized by Commission Order issued July 6, 1978, at Docket No. CP78-134.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.W., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 21, 1981. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 81-30250 Filed 10-10-81; 8:45 am]
BILLING CODE 6717-02-M

[Project No. 5387-000]

Modesto Irrigation District; Application for Preliminary Permit

October 14, 1981.

Take notice that Modesto Irrigation District (Applicant) filed on September 18, 1981, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)-825(r)] for Project No. 5387 to be known as the Cottonwood #2 Power Project located on Cottonwood Creek in Inyo County, California. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. A. Lee DeLano, Modesto Irrigation District, 1231-11th Street, P.O. Box 4060, Modesto, California 95352.

Project Description—The proposed project would consist of: (1) A 20 to 50-foot high, 700-foot long natural fill and concrete dam creating; (2) 200 to 300 acre-feet of pondage; (3) a 36 to 48-inch diameter, 7,500-foot long conduit and penstock system; (4) a powerhouse which will house a single generating unit with a rated capacity of 4,050 kW; and (5) a 13,000-foot long, 12-kV transmission line to extend from the powerhouse to an existing line. The estimated average annual energy production is 24.5 million kWh.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a

preliminary permit for a period of 36 months, during which it would conduct environmental, engineering and economic feasibility studies as well as prepare an application for an FERC License. No new roads will be needed to conduct these studies. The estimated cost of carrying out these studies and preparing an application for an FERC license is \$45,000.

Competing Applications—This application was filed as a competing application to the Cottonwood Creek #2 Power Project No. 5310 filed on September 2, 1981, by Eastern Sierra Energy Development under 18 CFR 4.33 (1980). Anyone desiring to file a competing application must submit to the Commission, on or before December 4, 1981, either the competing application itself (See 18 CFR 4.33 (a) and (d) (1980)) or a notice of intent (See 18 CFR 4.33 (b) and (c) (1980)) to file a competing application. Submission of a timely notice of intent allows an interested person to file an acceptable competing application no later than the time specified in § 4.33(c).

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the rules of practice and procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's rules may become a party to the proceeding. Any comments, protest, or petition to intervene must be received on or before November 19, 1981.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS," "NOTICE OF INTENT TO FILE COMPETING APPLICATION," "COMPETING APPLICATION," "PROTEST," or "PETITION TO INTERVENE," as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. An additional copy must be sent to: Fred E.

Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,
Secretary.

[FR Doc. 81-30252 Filed 10-10-81; 8:45 am]
BILLING CODE 6717-02-M

[Docket No. TA82-1-49-000]

Montana-Dakota Utilities Co.; Purchased Gas Cost Adjustment Filing

October 9, 1981.

Montana-Dakota Utilities Co. ("MDU"), on October 1, 1981, submitted for filing as part of its FERC Gas Tariff the following tariff sheets:

Original Volume No. 4

Nineteenth Revised Sheet No. 3A

First Revised Volume No. 2

Twelfth Revised Sheet No. 10

The proposed effective date of MDU's PGA filing is November 1, 1981.

MDU states that this tariff filing is being made pursuant to the Purchased Gas Cost Adjustment Provisions of its FERC Gas Tariff. The proposed changes include a gas cost adjustment of 27.605 cents per Mcf applicable to rate schedules G-1, PR-1, I-1, and X-1, a proposed change in the gas cost adjustment of 18.601 cents per Mcf applicable to Rate Schedule X-4, a negative surcharge adjustment of 12.819 cents per Mcf applicable to Rate Schedules G-1, PR-1, and I-1 and a 4.116 cents per Mcf surcharge adjustment applicable to Rate Schedule X-4. The proposed changes are supported by exhibits attached to the filing.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedures (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 21, 1981. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition

to intervene. Copies of the filing are on file with the Commission and available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 81-30293 Filed 10-19-81; 8:45 am]
BILLING CODE 6717-02-M

[Docket Nos. ER77-5, E-8152 and E-7278]

Otter Tail Power Co.; Filing of Refund Compliance Report and Petition for Approval of Offset

October 13, 1981.

The filing company submits the following:

Take notice that on September 4, 1981, Otter Tail Power Company (Otter Tail) filed a refund compliance report and a petition for approval of offset. The refund compliance report is submitted pursuant to Opinion No. 93, issued August 15, 1980, and it reflects refunds made in Docket Nos. ER77-5 and E-8152. The City of Elbow Lake, Minnesota (Elbow Lake), a customer of Otter Tail's, is indebted to Otter Tail for wholesale service, under the rate for wholesale service established in Docket No. E-7278. Otter Tail has offset the refund due to Elbow Lake in Docket Nos. E-8152 and ER77-5 against the amount due to Otter Tail from Elbow Lake in Docket No. E-7278, and has paid the net difference to Elbow Lake. Otter Tail hereby petitions the Commission to approve that offset and the payment to Elbow Lake.

Copies of this filing have been mailed to the City of Elbow Lake, and the state public utilities commissions of Minnesota and South Dakota.

Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before October 30, 1981. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this agreement are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 81-30298 Filed 10-19-81; 8:45 am]
BILLING CODE 6717-02-M

[Docket No. ER81-779-000]

Pennsylvania Power Co.; Proposed Tariff Change

October 13, 1981.

The filing Company submits the following:

Take notice that Pennsylvania Power Company (Penn Power) on September 28, 1981, tendered for filing proposed changes in its FERC Electric Service Tariff Nos. 30.1, 31.1, 32.1, 33.1 and 34.1. The proposed changes are identical under each schedule and would increase revenues from jurisdictional sales and service to its five municipal resale customers by \$2,324,882 based on the 12-month period ending December 31, 1981. In addition, Penn Power proposes to add an off-peak provision to its existing tariffs, to eliminate its ratchet provision, to add other miscellaneous clauses, and to revise its Fuel Adjustment Clause.

Penn Power states that its proposed increase in rates is due primarily to the effects of inflation, plant additions and the high cost of capital since its last filing in 1977. The addition of an off-peak provision in Penn Power's tariff is the result of recognition of the need to provide an incentive for municipal customers to balance their demand on Penn Power's system. The elimination of the ratchet provision applicable to the municipal customers is appropriate since all are full-requirements customers and as such have a consistent load pattern. The miscellaneous other provisions include the addition of (1) a clause whereby the Company will endeavor but does not guarantee to furnish a continuous supply of electrical energy and to maintain (2) a clause prohibiting the municipalities from imposing an unreasonable imbalance between phases or to impair the operation of the Company's system. These miscellaneous provisions had previously been included in contracts with the municipalities. The change in the Fuel Adjustment Clause consists of updating the base amount.

In order to reduce its potential refund obligation, Penn Power proposes that only \$1,671,952 (Rate Level A) of the overall proposed increase (Rate Level B) take effect on January 14, 1982. The Company requests that its proposed increase at Rate Level A shall in no way prejudice the right of the Company to argue its right to proposed Rate Level B. In addition, if after a hearing, it is determined that the Company is entitled to rates higher than those proposed in Rate Level A, then the Company requests that it place into effect such rates to conform with any such Initial Decision. It is proposed that any increases from Rate Level A will be prospective only, from the date of the Initial Decision, and subject to refund pending Commission determination of the just and reasonable rate level.

As indicated above, the Company has proposed an effective date of January 14, 1982 for Rate Level A. The

Commission regulation at 18 CFR 35.13(d)(3)(ii)(A) requires that a proposed effective date be within nine months of the commencement of Period II. Pursuant to 18 CFR 1.7(b), the Company has requested the Commission to waive the requirement of § 35.13(d)(3)(ii)(A) since the proposed effective date is more than nine months from the commencement of Period II (January 1, 1981).

Penn Power states that copies of the proposed rate schedules and comparative billing data have been sent to the Pennsylvania Public Utility Commission and that copies of the entire filing have been sent to each municipal resale customer.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 30, 1981. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to be come a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 81-30294 Filed 10-19-81; 8:45 am]
BILLING CODE 6717-02-M

[Project No. 5391-000]

David A. Young; Application for Preliminary Permit

October 13, 1981.

Take notice that David A. Young (Applicant) filed on September 21, 1981, an application for preliminary permit (pursuant to the Federal Power Act, 16 U.S.C. 791(a)-825(r)) for Project No. 5391 to be known as the Young Ranch Hydroelectric Project located on Rock Creek in Siskiyou County, California. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. David A. Young, 1555 Robinson Drive, Red Bluff, California 96080.

Project Description—The proposed project would consist of: (1) A concrete and natural fill diversion dam 5 feet high and 30 feet long with negligible storage; (2) diversion conduit, or open flume, and penstock; (3) powerhouse housing a

turbine-generator with 400 kW capacity and 3.48 million kWh average annual energy production; and (4) appurtenant facilities. The expected market for the power project is the Pacific Gas and Electric Company. The project will be located entirely on privately owned lands.

Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a Preliminary Permit for a period of 24 months, during which time engineering, economic and environmental studies will be made to ascertain project feasibility and to support an application for a license to construct and operate the project. The estimated cost of carrying out these studies and preparing the license application is \$45,000.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before December 16, 1981, either the competing application itself (See 18 CFR 4.33 (a) and (d) (1980)) or a notice of intent (See 18 CFR 4.33 (b) and (c) (1980)) to file a competing application.

Submission of a timely notice of intent allows an interested person to file an acceptable competing application no later than the time specified in § 4.33(c).

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the rules of practice and procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's rules may become a party to the proceeding. Any comments, protest, or petition to intervene must be received on or before December 16, 1981.

Filing and Service of Responsive Documents—Any filings must bear in all

capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,
Secretary.

[FR Doc. 81-30296 Filed 10-19-81; 8:45 am]
BILLING CODE 6717-02-M

[Volume 518]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued October 9, 1981.

JD NO	JA DKT	API NO	D SEC CAT	WELL NAME	FIELD NAME	PROD	PURCHASER
TEXAS RAILROAD COMMISSION							
-A N MORWOOD INC							
8149583	F-7C-038649	4223531580		RECEIVED: 09/17/81 JA: TX	ROCK PEN (CANYON)	16.3	NORTHERN NATURAL
8149582	F-7C-03864	4223531746	103	LINDLEY #1	ROCK PEN (CANYON)	71.0	NORTHERN NATURAL
8149584	F-7C-038650	4223531669	103	LINDLEY A #1	ROCK PEN (CANYON)	73.0	NORTHERN NATURAL
-ADORE OIL & GAS CORPORATION							
8149725	F-8A-039657	4244530960	103	MOBIL #1	PRETICE (6700)	13.0	AMOCO PRODUCTION
8149496	F-7B-036587	4213332972	102-4	CLARE #7	MANGUM NORTH (3200)	75.0	ODESSA NATURAL CO
-AMERICAN PETROLEUM COMPANY OF TEXAS							
8149408	F-04-029970	4235500000	108	SIKES #1	CALLEN WEST (6600)	16.0	TENNESSEE GAS PIP
8149759	F-08-039764	4210332406	103	RECEIVED: 09/17/81 JA: TX	SAND HILLS (JUDKINS)	5.0	WARREN PETROLEUM
8149758	F-08-039763	4210332407	103	TUBB A NO 20	SAND HILLS (JUDKINS)	50.0	WARREN PETROLEUM
-AMOCO PRODUCTION CO							
8149544	F-08-039480	4200332611	103	TUBB A NO 21	FUHRMAN-MASCHO	9.1	PHILLIPS PETROLEU
8149582	F-06-038479	4220330818	102-4	RECEIVED: 09/17/81 JA: TX	BLOCKER/COTTON VALLEY/	365.0	UNITED GAS PIPE L
8149496	F-06-038479	4220330818	107-TF	COATS GAS UNIT WELL NO 1	BLOCKER/COTTON VALLEY/	365.0	UNITED GAS PIPE L
8149486	F-08-039482	4213533459	103	COATS GAS UNIT WELL NO 1	FASKEN S (ATOKA)	12.4	AMOCO PRODUCTION
8149645	F-08-039481	4200332466	103	FASKEN DAVID EG #A	FULLERTON (SAN ANDRES)	12.4	AMOCO PRODUCTION
8149407	F-08-039484	4237132949	103	G R WHITE #1	WHITE & BAKER/STRAWN/	79.6	NORTHERN NATURAL
8149402	F-03-039478	4216730794	103	GULF INTERSTATE FEE # 6	HIGH ISLAND	62.1	WINNIE PIPELINE C
8149643	F-03-039479	4216730801	103	MARRS McLEAN C #5	HIGH ISLAND	1.0	WINNIE PIPELINE C
-ANDERSON PETROLEUM INC							
8149453	F-7C-033025	4210533210	103	RECEIVED: 09/17/81 JA: TX	OZONA (CANYON SAND)	50.0	ANDERSON PIPELINE
8149453	F-7C-033025	4210533210	107-TF	BILL CLEGG A 14-55	OZONA (CANYON SAND)	50.0	ANDERSON PIPELINE
8149402	F-7C-027475	4210532330	103	BILL CLEGG A 14-55	OZONA (CANYON SAND)	12.0	ANDERSON PIPELINE
8149402	F-7C-027475	4210532330	107-TF	IRA CARSON D 4-46	OZONA (CANYON SAND)	12.0	ANDERSON PIPELINE
-ARCO OIL AND GAS COMPANY							
8149559	F-08-038138	4200332471	103	RECEIVED: 09/17/81 JA: TX	SHAFER LAKE	5.5	PHILLIPS PETROLEU
8149713	F-08-039637	4200332713	103	ELIZABETH ARMSTRONG #6	SHAFER LAKE (SAN ANDRES)	23.8	PHILLIPS PETROLEU
8149714	F-08-039638	4200332714	103	ELIZABETH ARMSTRONG #7	SHAFER LAKE (SAN ANDRES)	6.0	PHILLIPS PETROLEU
8149561	F-10-038189	4229520867	103	ELIZABETH ARMSTRONG #8	BRADFORD (CLEVELAND)	39.0	PHILLIPS PETROLEU
8149715	F-8A-039639	4250132026	103	JACK R KING NO 1	OWNBY (CLEAR FORK UPPER)	9.0	AMOCO PRODUCTION
8149597	F-04-038598	4221531100	103	OWNBY NO 1	TABASCO (U)	900.0	TENNESSEE GAS PIP
-BLOCKER EXPLORATION CO							
8149545	F-05-038097	4229330530	102-4	RECEIVED: 09/17/81 JA: TX	SOUTH THORNTON (COTTON V	365.0	TEXAS UTILITIES F
8149545	F-05-038097	4229330530	107-TF	KAREN LOU SEMPLE NO 2	SOUTH THORNTON (COTTON V	365.0	TEXAS UTILITIES F
-BLUE RIDGE OIL & GAS EXPLOR INC							
8149422	F-7C-031043	4210532424	103	RECEIVED: 09/17/81 JA: TX	ADAMS-BAGGETT RANCH (CAN	3.0	DETROIT-TEXAS GAS
8149423	F-7C-031044	4210532421	102-2	A PHILLIPS #10	ADAMS-BAGGETT RANCH (CAN	3.0	DETROIT-TEXAS GAS
8149423	F-7C-031044	4210532421	107-TF	A PHILLIPS #11	ADAMS-BAGGETT RANCH (CAN	11.3	DETROIT-TEXAS GAS
8149424	F-7C-031045	4210532418	102-2	A PHILLIPS #11	ADAMS-BAGGETT RANCH (CAN	11.3	DETROIT-TEXAS GAS
8149424	F-7C-031045	4210532418	102-2	A PHILLIPS #12	ADAMS-BAGGETT RANCH (CAN	15.6	DETROIT-TEXAS GAS
8149424	F-7C-031045	4210532418	107-TF	A PHILLIPS #12	ADAMS-BAGGETT RANCH (CAN	15.6	DETROIT-TEXAS GAS

JD NO	JR DXT	API NO	C-SEC	CAT	WELL NAME	FIELD NAME	PROD	PURCHASER
8149425	F-7C-031046	4210532423	103	A	PHILLIPS #13	ADAMS-BAGGETT RANCH (CAN	34.1	DETROIT-TEXAS GAS
8149426	F-7C-031047	4210532423	107-TF	A	PHILLIPS #13	ADAMS-BAGGETT RANCH (CAN	34.1	DETROIT-TEXAS GAS
8149427	F-7C-031049	4210532448	103	A	PHILLIPS #14A	ADAMS-BAGGETT RANCH (CAN	27.0	DETROIT-TEXAS GAS
8149428	F-7C-031050	4210532446	103	A	PHILLIPS #16	ADAMS-BAGGETT RANCH (CAN	57.8	DETROIT-TEXAS GAS
8149429	F-7C-031051	4210532447	103	A	PHILLIPS #17	ADAMS-BAGGETT RANCH (CAN	57.8	DETROIT-TEXAS GAS
8149430	F-7C-031052	4210532445	107-TF	A	PHILLIPS #19	ADAMS-BAGGETT RANCH (CAN	45.6	DETROIT-TEXAS GAS
8149431	F-7C-031053	4210532539	102-2	A	PHILLIPS #20	ADAMS-BAGGETT RANCH (CAN	45.6	DETROIT-TEXAS GAS
8149432	F-7C-031054	4210532551	102-2	A	PHILLIPS #21	ADAMS-BAGGETT RANCH (CAN	17.4	DETROIT-TEXAS GAS
8149433	F-7C-031055	4210532552	107-TF	A	PHILLIPS #22	ADAMS-BAGGETT RANCH (CAN	37.5	DETROIT-TEXAS GAS
8149434	F-7C-031072	4210532663	103	A	PHILLIPS #39	ADAMS-BAGGETT RANCH (CAN	22.5	DETROIT-TEXAS GAS
8149435	F-7C-031073	4210532664	102-2	A	PHILLIPS #40	ADAMS-BAGGETT RANCH (CAN	22.5	DETROIT-TEXAS GAS
8149436	F-7C-031074	4210532665	103	A	PHILLIPS #41	ADAMS-BAGGETT RANCH (CAN	6.9	DETROIT-TEXAS GAS
8149437	F-7C-031075	4210532666	107-TF	A	PHILLIPS #42	ADAMS-BAGGETT RANCH (CAN	11.8	DETROIT-TEXAS GAS
8149438	F-7C-031076	4210532667	107-TF	A	PHILLIPS #43	ADAMS-BAGGETT RANCH (CAN	11.8	DETROIT-TEXAS GAS
8149439	F-7C-031077	4210532668	103	A	PHILLIPS #44	ADAMS-BAGGETT RANCH (CAN	24.8	DETROIT-TEXAS GAS
8149440	F-7C-031040	4210532422	103	A	PHILLIPS #7	ADAMS-BAGGETT RANCH (CAN	24.8	DETROIT-TEXAS GAS
8149441	F-7C-031041	4210532419	103	A	PHILLIPS #8	ADAMS-BAGGETT RANCH (CAN	21.6	DETROIT-TEXAS GAS
8149442	F-7C-031042	4210532417	102-2	A	PHILLIPS #9	ADAMS-BAGGETT RANCH (CAN	21.6	DETROIT-TEXAS GAS
8149421	F-7C-031042	4210532417	107-TF	A	PHILLIPS #9	ADAMS-BAGGETT RANCH (CAN	12.5	DETROIT-TEXAS GAS
8149421	F-7C-031042	4210532417	107-TF	A	PHILLIPS #9	ADAMS-BAGGETT RANCH (CAN	12.5	DETROIT-TEXAS GAS
8149554	F-7B-038117	4214330711	103	H J KEMP G U #2		X-RAY (MARBLE FALLS)	162.0	LONE STAR GAS CO
8149553	F-7B-038116	4214330706	103	W T FULFER G U #6		X-RAY (MARBLE FALLS)	98.0	LONE STAR GAS CO
8149655	F-03-039512	4214930992	103	RECEIVED: 09/17/81	JJA: TX	GIDDINGS (AUSTIN CHALK)	0.0	PHILLIPS PETROLEUM
8149538	F-7B-037916	4242900000	103	RECEIVED: 09/17/81	JJA: TX	EUREKA (CADD0)	7.0	LONE STAR GAS CO
8149507	F-8A-037294	4211531395	103	RECEIVED: 09/17/81	JJA: TX	WELCH SE (SPRABERRY)	3.0	PHILLIPS PETROLEUM
8149506	F-8A-037291	4211531475	103	RECEIVED: 09/17/81	JJA: TX	WELCH SE (SPRABERRY)	3.0	PHILLIPS PETROLEUM
8149729	F-10-039664	4223331018	103	RECEIVED: 09/17/81	JJA: TX	PANHANDLE HUTCHINSON COU	10.0	PANHANDLE EASTERN
8149728	F-10-039663	4223330996	103	RECEIVED: 09/17/81	JJA: TX	PANHANDLE HUTCHINSON COU	10.0	PANHANDLE EASTERN
8149456	F-7C-033509	4210531787	103	RECEIVED: 09/17/81	JJA: TX	AMERICAN (CANYON)	65.0	EL PASO NATURAL G
8149392	F-02-020409	4223900000	102-4	RECEIVED: 09/17/81	JJA: TX	MAURITZ WEST (6600) FIEL	0.0	TEXAS EASTERN
8149392	F-02-020409	4223900000	103	RECEIVED: 09/17/81	JJA: TX	MAURITZ WEST (6600) FIEL	0.0	TEXAS EASTERN

JD NO	JA DKT	API NO	D SEC CAT	WELL NAME	RECEIVED:	JA:	TX	FIELD NAME	PRCD	PURCHASER
-CASTLE GAS CORP										
8149510	F-09-037426	4247933816	103	ADAMI NO 1	RECEIVED: 09/17/81	JA:	TX	NEELY (BRUNI LO)	226.0	ESPERANZA TRANSMI
-CHAMPLIN PETROLEUM COMPANY										
8149467	F-03-034244	4205100000	102-2	LYDIA SEBESTA NO 1	RECEIVED: 09/17/81	JA:	TX	GIDDINGS	0.0	FERGUSON CROSSING
8149467	F-03-034244	4205100000	103	LYDIA SEBESTA NO 1				GIDDINGS	0.0	FERGUSON CROSSING
8149513	F-01-037545	4213700000	102-2	M J SMITH 46 NO 1				GIDDINGS	134.0	PRODUCERS GAS CO
8149399	F-03-026759	4205130656	103	MARY ANN 2684BAY NO 1				GIDDINGS	195.0	FERGUSON CROSSING
8149512	F-01-037544	4213700000	103	O S YOUNG 48 NO 1				ROCKSPRINGS WEST	7.6	PRODUCERS GAS CO
8149440	F-03-026760	4205130675	102-2	RAYMOND ZBORIL A NO 1				GIDDINGS	12.3	FERGUSON CROSSING
8149511	F-01-037543	4213700000	103	ROCKSPRINGS 58 NO 1				GIDDINGS	131.4	PRODUCERS GAS CO
8149466	F-03-034340	4205100000	102-2	WILLIE TRALEK NO 1				GIDDINGS	0.0	FERGUSON CROSSING
8149466	F-03-034340	4205100000	103	WILLIE TRALEK NO 1				GIDDINGS	0.0	FERGUSON CROSSING
-CHARLES L WALKER										
8149628	F-08-039104	4200300000	102-4	FISHER 7 #1	RECEIVED: 09/17/81	JA:	TX	BLCK A-34 (SAN ANDRES)	5.0	PHILLIPS PETROLEU
-CHASE OIL & GAS INC										
8149414	F-05-030804	4234900000	108	BAXTER-STANLEY #1 RRC #60559	RECEIVED: 09/17/81	JA:	TX	0 L HILL LOWER PALUXY	18.0	LONE STAR GAS CO
8149415	F-05-030805	4234900000	108	KAREN HUGGINS RRC #60558				0 L HILL LOWER PALUXY	18.0	LONE STAR GAS CO
8149417	F-05-030807	4234900000	108	L M JAMES #1 RRC #78481				0 L HILL LOWER PALUXY	18.0	LONE STAR GAS CO
8149416	F-05-030806	4234900000	108	L M JAMES #2 RRC #77532				0 L HILL LOWER PALUXY	18.0	LONE STAR GAS CO
-CLARK FUEL PRODUCING CO										
8149726	F-04-039658	4221500000	108	CHAPA V G 2A 1D 52810	RECEIVED: 09/17/81	JA:	TX	SULLIVAN CITY (2975)	15.0	TENNESSEE GAS PIP
8149727	F-04-039659	4221500000	108	TAYLOR E C 2-C 1D #31879				SAR FORDYCE (2200)	15.0	VALERO INTERSTATE
-CLAYTON W WILLIAMS JR										
8149491	F-03-036266	4205100000	102-2	DORIS RUST #1	RECEIVED: 09/17/81	JA:	TX	GIDDINGS	0.0	VALERO TRANSMISSI
8149500	F-03-036834	4205100000	102-2	GERTRUDE CHMELAR #2				GIDDINGS	0.0	VALERO TRANSMISSI
8149440	F-03-031228	4205131003	102-2	JOE H BAKER #1				GIDDINGS	0.0	VALERO TRANSMISSI
8149499	F-03-036831	4205100000	102-2	SIMPSON-BENTON UNIT #1				GIDDINGS	0.0	VALERO TRANSMISSI
8149485	F-03-035854	4205130921	102-2	STANLEY BRINKMANN #1	RECEIVED: 09/17/81	JA:	TX	GIDDINGS (AUSTIN CHALK 3	0.0	VALERO TRANSMISSI
-COASTAL OIL & GAS CORP										
8149682	F-10-039682	4237530845	103	MASTERSON C 1109P	RECEIVED: 09/17/81	JA:	TX	PANHANDLE (RED CAVE)	7.0	COLORADO INTERSTA
-COLUMBIA GAS DEVELOPMENT CORP										
8149637	F-03-039181	4228736894	102-2	L C SOMMER NO 1	RECEIVED: 09/17/81	JA:	TX	GIDDINGS (AUSTIN CHALK-3	112.0	PHILLIPS PETROLEU
-COMCO INC										
8149766	F-10-039774	4206500000	108	C E DEARL 3-R	RECEIVED: 09/17/81	JA:	TX	WEST PANHANDLE	13.0	CITIES SERVICE GA
8149451	F-10-032796	4235731058	103	KENT #1-570	RECEIVED: 09/17/81	JA:	TX	DUDE WILSON	270.0	INTERNORTH INC
-CRB OIL & GAS INC										
8149514	F-03-037546	4205131480	102-2	BROWN UNIT NO 1	RECEIVED: 09/17/81	JA:	TX	GIDDINGS (AUSTIN CHALK-3	50.0	CLAJON GAS CO
8149518	F-01-037615	4217736893	102-2	WOOD UNIT NO 1	RECEIVED: 09/17/81	JA:	TX	GIDDINGS (AUSTIN CHALK -	50.0	CLAJON GAS CO
-D B BAXTER										
8149498	F-08-036711	4247538936	108	EDWARDS ESTATE #1	RECEIVED: 09/17/81	JA:	TX	CRAWER (N FUSSELLMAN)	3.6	WARREN PETROLEUM
-D H HUNT										
8149772	F-02-039870	4212331111	102-4	BITTERLY GAS UNIT WELL #1	RECEIVED: 09/17/81	JA:	TX	ARNECKVILLE SE (YESUA 4	86.0	TEXAS EASTERN TRA
-DALECO RESOURCES										
8149484	F-03-035631	4205131247	102-2	ALBERTS MARKS NO 1	RECEIVED: 09/17/81	JA:	TX	GIDDINGS (AUSTIN CHALK)	0.0	CLAJON GAS CO
8149484	P-03-035631	4265131247	103	ALBERTS MARKS NO 1				GIDDINGS (AUSTIN CHALK)	0.0	CLAJON GAS CO
-DANERON PETROLEUM CORP										
8149457	F-7C-033526	4210532500	103	LAURA HOOVER ESTATE #203	RECEIVED: 09/17/81	JA:	TX	AMERICAN (CANYON)	100.0	EL PASO NATURAL G
8149457	F-7C-033526	4210532500	107-TF	LAURA HOOVER ESTATE #203				AMERICAN (CANYON)	100.0	EL PASO NATURAL G
8149458	F-7C-033529	4210532926	103	W P HOOVER-SEC 63 #253A				AMERICAN (CANYON)	100.0	EL PASO NATURAL G
8149458	F-7C-033529	4210532926	107-TF	W P HOOVER-SEC 63 #253A				AMERICAN (CANYON)	100.0	EL PASO NATURAL G
-DANSON OIL CORPORATION										
8149675	F-06-039564	4240130746	103	KANSERA GAS UNIT WELL NO 1	RECEIVED: 09/17/81	JA:	TX	OAK HILL (COTTON VALLEY)	0.0	DELHI GAS PIPELIN

JD NO	JA DKT	API NO	D SEC CAT WELL NAME	RECEIVED:	JA:	TX	FIELD NAME	PROD	PURCHASER
-DELHI OIL CORP & NRM				RECEIVED: 09/17/81	JA:	TX	PEACH CREEK (AUSTIN CHAL	0.0	TIPPERARY GATHERI
8149540	F-01-037931	4217700000	102-3 DRESCH NO 1	RECEIVED: 09/17/81	JA:	TX	CARTHAGE (COTTON VALLEY)	85.0	TENNESSEE GAS PIP
-DELTA DRILLING CO				RECEIVED: 09/17/81	JA:	TX	LEVELLAND	14.9	CITIES SERVICE CO
8149412	F-06-030452	4220300000	107-TF G ROBERTSON #1 87532	RECEIVED: 09/17/81	JA:	TX	HORSE CREEK NW	13.0	SOUTHWESTERN PUBL
-DEPCO INC				RECEIVED: 09/17/81	JA:	TX	PANHANDLE WEST	8.0	NORTHERN NATURAL
8149747	F-08-039715	4207931224	103 WHITEFACE UNIT NO 127	RECEIVED: 09/17/81	JA:	TX	CANADIAN	7.0	NORTHERN NATURAL
-DIAMOND SHARPOCK CORPORATION				RECEIVED: 09/17/81	JA:	TX	WEST PANHANDLE	36.0	SOUTHWESTERN PUBL
8149396	F-10-022597	4229500000	108-ER ANDREW S BROADOUS NO 1	RECEIVED: 09/17/81	JA:	TX	TEXAS HUGOTON	1.0	NORTHERN NATURAL
*8149390	F-10-005223	4234100000	108-ER COFFEE C NO 3	RECEIVED: 09/17/81	JA:	TX	PANHANDLE - HUTCHINSON C	0.0	PHILLIPS PETROLEU
8149389	F-10-005018	4231100000	108-ER E S F BRAINARD N NO 1-1-Y	RECEIVED: 09/17/81	JA:	TX	PANHANDLE EAST BROWN DOL	21.0	EL PASO NATURAL G
8149470	F-10-034454	4234130519	103 MCKEE B NO 2	RECEIVED: 09/17/81	JA:	TX	CALVIN (DEAN)	24.5	UNION TEXAS PETRO
*8149476	F-10-034595	4234130522	103 MCMURRY NO 3	RECEIVED: 09/17/81	JA:	TX	PEACHCREEK (AUSTIN CHALK	90.0	VALERO TRANSMISSI
8149611	F-10-038745	4223300000	108 SALLIE PRITCHARD NO 2	RECEIVED: 09/17/81	JA:	TX	TURKEY	73.0	
-DYNE OIL & GAS INC				RECEIVED: 09/17/81	JA:	TX	BOONSVILLE	90.0	LOME STAR GAS CO
8149656	F-10-039510	4206530872	103 SAMUEL B NO 2 WELL LEASE NO 84664	RECEIVED: 09/17/81	JA:	TX	BOONSVILLE	303.0	LOME STAR GAS CO
-EL PASO NATURAL GAS COMPANY				RECEIVED: 09/17/81	JA:	TX	CARTHAGE (COTTON VALLEY)	365.0	TENNESSEE GAS PIP
8149600	F-10-038618	4248330777	103 NELSON #2	RECEIVED: 09/17/81	JA:	TX	CARTHAGE (COTTON VALLEY)	365.0	TENNESSEE GAS PIP
-ENERGY RESERVES GROUP INC				RECEIVED: 09/17/81	JA:	TX	ROSEWOOD (HOSSSTON-COTTON	547.0	WESTERN GAS CORP
8149533	F-7C-037885	4258331783	103 COY O NALLEY #2	RECEIVED: 09/17/81	JA:	TX	ROSEWOOD (HOSSSTON-COTTON	547.0	WESTERN GAS CORP
-ENERGY RESOURCES OIL & GAS CORP				RECEIVED: 09/17/81	JA:	TX	CORONA LAKE	24.0	OOESSA NATURAL CO
8149539	F-01-037919	4217930820	103 MCMILLAN WELL NO 1	RECEIVED: 09/17/81	JA:	TX	MEANS SOUTH (WOLF CAMP)	15.0	PHILLIPS PETROLEU
-ENSERCH EXPLORATION INC				RECEIVED: 09/17/81	JA:	TX	MARIPOSA (K-2)	1360.0	ARMCO STEEL CORP
8149474	F-09-034957	4219730370	103 EVANS 1-74	RECEIVED: 09/17/81	JA:	TX	MADERO (J-24)	730.0	ARMCO STEEL CORP
8149613	F-09-038779	4249732170	103 W H DAGGETT A NO 2	RECEIVED: 09/17/81	JA:	TX	BORREGOS (ZONE P-1 SW)	300.0	ARMCO STEEL CORP
8149577	F-09-038464	4249732853	103 W H DAGGETT B NO 5	RECEIVED: 09/17/81	JA:	TX	BINA (H-60)	125.0	ARMCO STEEL CORP
-ERSON INC				RECEIVED: 09/17/81	JA:	TX	CALANDRIA (8600 FRIO)	548.0	ARMCO STEEL CORP
8149584	F-06-038482	4236500000	103 CARTRIDGE GAS UNIT #36	RECEIVED: 09/17/81	JA:	TX	SPRABERRY (TREM AREA)	1.0	
8149584	F-06-038482	4236500000	107-TF CARTRIDGE GAS UNIT #36	RECEIVED: 09/17/81	JA:	TX	KELSEY SOUTH (ZONE 20-J)	0.1	TRUNKLINE GAS CO
-EXCELSIOR OIL CORP				RECEIVED: 09/17/81	JA:	TX	KELSEY SOUTH (ZONE 20-F)	2.5	TRUNKLINE GAS CO
8149601	F-06-038635	4245900000	103 O L RUTLEDGE GAS UNIT NO 1 93561	RECEIVED: 09/17/81	JA:	TX	MEANS	15.0	PHILLIPS PETROLEU
8149601	F-06-038635	4245900000	107-IF O L RUTLEDGE GAS UNIT NO 1 93561	RECEIVED: 09/17/81	JA:	TX	KELSEY SOUTH (ZONE 24-A	4.4	TRUNKLINE GAS CO
-EXXON CORPORATION				RECEIVED: 09/17/81	JA:	TX	LUNELL (PETTUS)	127.0	
8149595	F-08-038562	4218332352	103 CORDONA LAKE UNIT #63	RECEIVED: 09/17/81	JA:	TX	VIBCRAS (6-58)	200.0	ARMCO STEEL CORP
8149593	F-08-038559	4200332676	103 J S MEANS A/C 4 #326	RECEIVED: 09/17/81	JA:	TX	GIDDINGS (AUSTIN CHALK)	87.0	CLAJON GAS CO
*8149639	F-04-039386	4264730874	103 JAMES H DAWSON S (534953)	RECEIVED: 09/17/81	JA:	TX	CALDWELL (AUSTIN CHALK)	102.0	CLAJON GAS CO
*8149762	F-04-039767	4227330576	103 K R ALAZAN 306 (93977)	RECEIVED: 09/17/81	JA:	TX	CALDWELL (AUSTIN CHALK)	87.0	CHAMPLIN PETROLEU
*8149760	F-04-039765	4224931251	103 K R BORREGOS 561 (93930)	RECEIVED: 09/17/81	JA:	TX	GIDDINGS (AUSTIN CHALK)	174.0	FERGUSON CROSSING
*8149770	F-04-039796	4227330580	103 K R EAST LAURELES B-11-D (93928)	RECEIVED: 09/17/81	JA:	TX			
*8149763	F-04-039768	4226130617	103 K R SAN JOSE DE LA PARRA 36-F	RECEIVED: 09/17/81	JA:	TX			
8149596	F-7C-038565	4246131721	103 MARY EDITH OWENS #1	RECEIVED: 09/17/81	JA:	TX			
8149649	F-04-039494	4224700000	108 MCGILL BROS 174-T (08659)	RECEIVED: 09/17/81	JA:	TX			
8149651	F-04-039496	4204700000	108 MCGILL BROS 352-C (64337)	RECEIVED: 09/17/81	JA:	TX			
8149594	F-08-038561	4200332658	103 MEANS/SAN ANDRES/UNIT #2570	RECEIVED: 09/17/81	JA:	TX			
8149562	F-04-039497	4242700000	108 MIGUEL JUAREZ 6-F (17851)	RECEIVED: 09/17/81	JA:	TX			
8149461	F-01-033765	4246530325	103 MILLS MINERAL TRUST GAS UNIT NO 1	RECEIVED: 09/17/81	JA:	TX			
8149650	F-04-039495	4213100000	108 P E WHITE B #35 (01700)	RECEIVED: 09/17/81	JA:	TX			
*8149761	F-04-039766	4264730577	102-4 RJK JR TR QUINTERIA PASTURE 76-F	RECEIVED: 09/17/81	JA:	TX			
-GEODYNAMICS OIL & GAS				RECEIVED: 09/17/81	JA:	TX			
8149515	F-03-037556	4205131185	102-2 CHMELAR UNIT #1	RECEIVED: 09/17/81	JA:	TX			
8149625	F-03-038979	4205131249	102-2 KACHTIK UNIT #1-A	RECEIVED: 09/17/81	JA:	TX			
8149520	F-03-037660	4205130766	102-2 LENWOOD B WALLACE UNIT #1	RECEIVED: 09/17/81	JA:	TX			
-GETTY OIL COMPANY				RECEIVED: 09/17/81	JA:	TX			
8149526	F-03-037740	4205100000	102-2 J C SHOENEMANN #1	RECEIVED: 09/17/81	JA:	TX			

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JD NO	JA DKT	API NO	D SEC CAT WELL NAME	FIELD NAME	PROD	PURCHASER
8149504	F-7C-037128	4241331018	103 JOHN H TREADWELL 69 #1	FT MCKAVITT (CANYON)	150.0	ARCO OIL & GAS CO
8149504	F-7C-037128	4241331018	107-TF JOHN H TREADWELL 69 #1	FT MCKAVITT (CANYON)	150.0	ARCO OIL & GAS CO
8149529	F-03-037778	4205100000	102-2 L SYRCK #1	GIDDINGS (AUSTIN CHALK)	49.0	FERGUSON CROSSING
8149572	F-03-038280	4205100000	102-2 NIX UNIT #1	GIDDINGS (AUSTIN CHALK)	164.0	FERGUSON CROSSING
8149528	F-03-037777	4205131349	102-2 O D C #2	GIDDINGS (AUSTIN CHALK)	1.2	FERGUSON CROSSING
8149571	F-06-038279	4236500000	108 WERNER-WOOLWORTH #1L RRC ID #30337	CARTAGE (TRAVIS PEAK)	3.0	TEXAS GAS TRANSMI
8149724	F-8A-039656	4207900000	103 XIT UNIT WELL NO 184	LEVELLAND SAN ANDRES	1.5	CITIES SERVICE CO
8149397	F-10-023860	4240330717	103 C T PALMER A #1	EAST PANHANDLE	29.2	EL PASO NATURAL G
-60 OIL CORP			RECEIVED: 09/17/81 JA: TX			
8149573	F-7B-038288	4251313866	103-4 DANIEL NO 1 WELL	DANIEL (STRAWN)	100.0	NATURAL GAS PIPEL
-SULF OIL CORPORATION			RECEIVED: 09/17/81 JA: TX			
8149672	F-10-039559	4223397460	108 BELL WISDOM #1	PANHANDLE EAST (LAD)	10.0	PHILLIPS PETROLEU
8149767	F-08-039778	4231133424	103 E C MCARTY STATE #1	ROJC CABALLOS (DELAWARE)	273.0	
8149721	F-03-039651	4224531431	103-4 M HALF CIRCLE RANCH NO 2	M HALF CIRCLE	2200.0	
-HARMEN OIL & GAS INCORP			RECEIVED: 09/17/81 JA: TX			
8149627	F-7C-039077	4239931828	103-4 J M JONES #2	COLLON (ELLENSBURGER)	187.0	LONE STAR GAS CO
-HARRISON INTERESTS LTD			RECEIVED: 09/17/81 JA: TX			
8149508	F-7C-037310	4219533272	103-4 NO 20 UNIVERSITY LAND 20-33	HOWARDS CREEK (PENN)	300.0	INTRATEX GAS CO
8149508	F-7C-037310	4219533272	103 NO 20 UNIVERSITY LAND 20-33	HOWARDS CREEK (PENN)	300.0	INTRATEX GAS CO
8149599	F-7C-038614	4219533273	103 NO 21 UNIVERSITY LAND 32-30	HOWARDS CREEK (CANYON)	250.0	INTRATEX GAS COMP
8149599	F-7C-038614	4219533273	103-TF NO 21 UNIVERSITY LAND 32-30	HOWARDS CREEK (CANYON)	250.0	INTRATEX GAS COMP
-MERRY HYDROCARBON INC			RECEIVED: 09/17/81 JA: TX			
8149681	F-09-039600	4207700000	103 A E ROBERTS NO 2	BUFFALO SPRINGS N (CONGL)	36.5	TEXAS UTILITIES F
-HERD PRODUCING COMPANY INC			RECEIVED: 09/17/81 JA: TX			
8149581	F-03-038476	4247730375	102-2 RAYMOND LOEVE NO 1 - RRC #13550	GIDDINGS (AUSTIN CHALK)	730.0	FERGUSON CROSSING
8149580	F-03-038478	4228750734	102-2 TOMMY BREDTHAUER NO 1 - RRC #13437	GIDDINGS (AUSTIN CHALK)	228.0	FERGUSON CROSSING
-WINTON PRODUCTION COMPANY			RECEIVED: 09/17/81 JA: TX			
8149523	F-06-037697	4249131067	102-4 TEMPLE UNIT 1 WELL 2	MT ENTERPRISE (PETIT)	500.0	TEJAS GAS CORP
-MLH PETROLEUM CORP			RECEIVED: 09/17/81 JA: TX			
8149563	F-7B-038199	4208331326	103 ROY CLACK #1 (76847)	COLEMAN COUNTY REGULAR	142.0	LONE STAR GAS CO
-HMH OPERATORS			RECEIVED: 09/17/81 JA: TX			
8149537	F-7C-037903	4219532190	103 UNIVERSITY NO 1	FARMER (SAN ANDRES)	102.6	NORTHERN NATURAL
8149536	F-7C-037902	4219532190	103 UNIVERSITY NO 2	FARMER (SAN ANDRES)	102.6	NORTHERN NATURAL
-HOUSTON OIL & MINERALS CORPORATION			RECEIVED: 09/17/81 JA: TX			
8149612	F-03-038776	4228730915	103 EDWIN W GRIMM NO 3	GIDDINGS (AUSTIN CHALK)	34.3	P6P GAS PRODUCTS
8149623	F-03-038957	4228730911	103 JOHNNIE EATON UNIT NO 1	GIDDINGS (AUSTIN CHALK)	25.0	P6P GAS PRODUCTS
-HUGES INCORPORATED			RECEIVED: 09/17/81 JA: TX			
8149517	F-06-037608	4228330813	103 GRIFFIN UNIT WELL AC 2	BETHANY (TRAVIS PEAK 669)	146.0	UNITED GAS PIPE L
-MURLEY PETROLEUM CORPORATION			RECEIVED: 09/17/81 JA: TX			
8149411	F-06-030440	4235531055	107-TF ALLIE M HOGG UNIT WELL NO 4	BETHANY (COTTON VALLEY)	180.0	TENNESSEE GAS PIP
-NYSO PETROLEUM & EXPLORATION INC			RECEIVED: 09/17/81 JA: TX			
8149608	F-7B-03872	4242932832	103 VAUGHN-HARRIS NO 1	STEPHENS COUNTY REGULAR	101.5	WARREN PETROLEUM
-INTREPID OIL & GAS CO			RECEIVED: 09/17/81 JA: TX			
8149567	F-7B-038241	4241733687	103 JESSIE KLUTTS #1	MORAN S E (DUFFER)	401.0	LONE STAR GAS CO
-J CLEO THOMPSON			RECEIVED: 09/17/81 JA: TX			
8149502	F-7C-037009	4243532352	103 MAYER #4	SAWYER (CANYON)	240.0	NORTHERN NATURAL
8149502	F-7C-037009	4243532352	107-TF MAYER #4	SAWYER (CANYON)	240.0	NORTHERN NATURAL
-J CLEO THOMPSON & JAMES CLEO THOMPS			RECEIVED: 09/17/81 JA: TX			
8149495	F-7C-036541	4210533189	103 P L CHILDRESS A #2	OZONA N E (CANYON 7520)	240.0	PHILLIPS PETROLEU
8149495	F-7C-036541	4210533189	107-TF P L CHILDRESS A #2	OZONA N E (CANYON 7520)	240.0	PHILLIPS PETROLEU
8149585	F-7C-038483	4241350729	103 PAGE POWELL #1	KAMA (CANYON)	240.0	SOUTHWESTERN GAS
-J R HAMILTON			RECEIVED: 09/17/81 JA: TX			

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JD NO	JA DKT	API NO	D SEC CAT	WELL NAME	RECEIVED	FIELD NAME	PRCD	PURCHASER
8149756	F-04-039760	4213100000	102-4	OLVERA NO 2 ID #93166		J R (5618)	100-0	VALERO TRANSMISSI
8149757	F-04-039761	4213100000	102-4	R ORTIZ NO 1		J R (5618)	100-0	VALERO TRANSMISSI
-JACK HUFF				RECEIVED: 09/17/81	JA: TX			
8149562	F-7C-038193	4241331005	103	GREEN UNIT NO 1 (#93007)		ELCGRADO SOUTH (CANYON)	182-5	INTRATEX GAS CO
8149562	F-7C-038193	4241331005	107-TF	GREEN UNIT NO 1 (#93007)		ELCGRADO SOUTH (CANYON)	182-5	INTRATEX GAS CO
-JACKSON EXPLORATION INC				RECEIVED: 09/17/81	JA: TX			
8149445	F-03-031411	4215731156	102-4	COOK #2		KATY S (FIRST WILCOX)	730-0	HOUSTON PIPE LINE
8149445	F-03-031411	4215731156	103	COOK #2		KATY S (FIRST WILCOX)	730-0	HOUSTON PIPE LINE
-JAMES G STEVART				RECEIVED: 09/17/81	JA: TX			
8149534	F-7B-037865	4213332140	103	ROADY HULSE #1 (16640)		EASTLAND COUNTY REGULAR	120-0	SOUTHWESTERN GAS
-JENNINGS EXPLORATION CO				RECEIVED: 09/17/81	JA: TX			
8149638	F-01-039303	4258731477	102-4	NO 3 M&F PROPERTIES A 93062		AIRSTRIP (3690)	146-0	VALERO TRANSMISSI
-JOHN L COX				RECEIVED: 09/17/81	JA: TX			
8149477	F-08-034655	4231732332	103	KENNETH COX #2-X (RRC #21575)		SPRABERRY (TREND AREA)	10-0	ALPINE OIL CO
8149542	F-7C-037999	4246131761	103	MEFF #2		SPRABERRY (TREND AREA)	10-0	PHILLIPS PETROLEU
8149541	F-7C-037994	4238331919	103	WOLTERS #2-X (#85642)		SPRABERRY (TREND AREA)	10-0	EL PASO NATURAL G
-JOHN R THOMPSON OPERATING INC				RECEIVED: 09/17/81	JA: TX			
8149586	F-04-038486	4248900000	103	CITY OF CORPUS CHRISTI WELL NO 1		LOU ELLA (VICKSBURG 4800)	146-0	UNITED GAS PIPE L
-JONES CO				RECEIVED: 09/17/81	JA: TX			
8149615	F-7B-03883	4241733317	103	SAMBERS 586 #1 (16249)		SHACKELFORD COUNTY REGUL	10-0	DELMI GAS PIPELIN
-JOSEPH D KENNEDY				RECEIVED: 09/17/81	JA: TX			
8149447	F-7B-031598	4213332236	103	O B WARREN NO 2		DESEMONA (BRESSLER SAND	10-0	NORTH GORAN GATH
-KEANEY EXPLORATION INC				RECEIVED: 09/17/81	JA: TX			
8149607	F-02-038698	4217531487	102-4	MEYER UNIT #1		GOTTSCHALT	0-0	UNITED PIPELINE C
-KEITH D GRAHAM				RECEIVED: 09/17/81	JA: TX			
8149583	F-03-038480	4205131570	102-2	GALLS UNIT #1		GIDDINGS (AUSTIN CHALK-3	122-6	CLAJON GAS CO
8149555	F-03-038118	4205131474	102-2	LYERLY UNIT NO 1		GIDDINGS (AUSTIN CHALK-3	135-1	CLAJON GAS CO
8149588	F-03-038516	4205131093	102-2	POEHL-TEG UNIT A #1		GIDDINGS (AUSTIN CHALK-3	172-6	CHAMPLIN PETROLEU
-KILROY CO OF TEXAS				RECEIVED: 09/17/81	JA: TX			
8149465	F-04-034315	4250531317	102-4	JUAN G BENAVIDES #2		LCPENC N E (WILCOX 7650)	529-0	TRANSCONTINENTAL
-L W LESIKAR				RECEIVED: 09/17/81	JA: TX			
8149516	F-7B-037604	4236732021	103	LESIKAR WELL NO 1		TOTC (CADDO LINE)	50-0	LONE STAR GAS CO
-LAMBERT HOLLUB DRILLING CO				RECEIVED: 09/17/81	JA: TX			
8149744	F-03-039703	4205131426	103	F M POOLE #9 - RRC 12416		WILLIARD FIELD	0-3	
8149449	F-03-032617	4205130951	103	FRED M POOLE #5-RRC 12416		WILLIARD FIELD	0-3	
8149458	F-03-032618	4205130952	103	FRED M POOLE #6-RRC 12416		WILLIARD FIELD	0-3	
-M D ABEL				RECEIVED: 09/17/81	JA: TX			
8149579	F-02-038474	4217531472	103	RALPH W RAMSEY B		A-S-R (VICKSBURG UPPER S	22-6	UNITED GAS PIPE L
-MARTIN OIL & GAS CO				RECEIVED: 09/17/81	JA: TX			
8149509	F-03-037346	4205100000	102-2	JERKINS #1		CALDWELL (AUSTIN CHALK)	0-0	CLAJON GAS CO
-MCCORMICK OPERATING CO				RECEIVED: 09/17/81	JA: TX			
8149492	F-06-036374	4248131093	103	DELTA GAS UNIT #4		OAK HILL (COTTON VALLEY)	430-0	HYDROCARBON TRANS
8149492	F-06-036374	4248131093	103-TF	DELTA GAS UNIT #4		OAK HILL (COTTON VALLEY)	430-0	HYDROCARBON TRANS
8149750	F-06-039727	4248130718	103	G W BIRD ESTATE GAS UNIT NO 3		OAK HILL (COTTON VALLEY)	231-0	HYDROCARBON TRANS
8149654	F-06-039509	4248130702	103	GRAY ESTATE GAS UNIT NO 2		OAK HILL (COTTON VALLEY)	314-2	HYDROCARBON TRANS
8149674	F-06-039563	4248130725	103	R D BENEIT GAS UNIT NO 2		OAK HILL (COTTON VALLEY)	314-2	HYDROCARBON TRANS
8149616	F-06-038839	4248130367	103	SYBIL TURNER GAS UNIT NO 1		OAK HILL (COTTON VALLEY)	241-4	HYDROCARBON TRANS
-MCGILDRICK OIL COMPANY				RECEIVED: 09/17/81	JA: TX			
8149410	F-06-030335	4236531074	107-TF	MARKEY GAS UNIT WELL NO 1		CARTHAGE (COTTON VALLEY)	400-0	UNITED GAS PIPE L
-MCR OIL CORP OF TEXAS				RECEIVED: 09/17/81	JA: TX			
8149686	F-10-038672	4221130942	108	MATHERS RANCH #31		HUMPHREYS-DOUGLAS	21-0	ARKANSAS LOUISIAN
-MCZ INC				RECEIVED: 09/17/81	JA: TX			
8149527	F-03-03775	4204100000	102-2	GOODSRECK TRAILER #F6 CC UNIT 1 #1		KURTEN	73-0	FERGUSON CROSSING

JD NO	JA DKT	API NO	D SEC CAT	WELL NAME	RECEIVED:	JA:	TX	FIELD NAME	PROD	PURCHASER
-M&F OIL CORP					RECEIVED: 09/17/81	JAS	TX			
8149494	F-08-036526	4231700000	108	A H TATE #1 23027				SPRAYBERRY (TREND AREA)	2.4	PHILLIPS PETROLEUM
8149479	F-08-035431	4231732186	103	MAIL B #2				SPRAYBERRY (TREND AREA)	0.0	NORTHERN NATURAL
-MIDWAY OIL CORP					RECEIVED: 09/17/81	JAS	TX			
8149570	F-03-038272	4205131566	102-4	ALFRED LEWIS NO 1-A				CALDWELL (AUSTIN CHALK)	106.0	CLAJON GAS CO
-MITCHELL ENERGY CORPORATION					RECEIVED: 09/17/81	JAS	TX			
8149664	F-09-039538	4236700000	108	BENNIE PHILLIPS #1 71898				BOONSVILLE (BEND CONGL G)	11.3	NATURAL GAS PIPEL
8149663	F-09-039536	4249700000	108	BILBERRY-MCCLEURE #1 28568				BOONSVILLE (BEND CONGL G)	11.9	NATURAL GAS PIPEL
8149764	F-09-039769	4249700000	108	E R COZART #1 47235				BOONSVILLE (BEND CONGL G)	10.7	NATURAL GAS PIPEL
8149490	F-7C-036136	4243532366	103	GENINI 31 #1				SHURLEY RANCH (CANYON)	55.0	VALERO TRANSMISSI
8149490	F-7C-036136	4243532366	107-TF	GENINI 31 #1				SHURLEY RANCH (CANYON)	55.0	VALERO TRANSMISSI
8149489	F-78-036133	4236732079	103	J C MADDOX NO 1				LAKE MINERAL WELLS (4000)	395.0	NATURAL GAS PIPEL
8149765	F-08-039770	4236700000	108	LITTLE BEAR RANCH #3				ALECO SOUTH (ATOKA)	1.6	SOUTHWESTERN GAS
8149401	F-05-027020	4229330490	107-TF	MABEL CARPENTER #1				POKEY (COTTON VALLEY)	0.0	TEXAS UTILITIES F
8149418	F-09-030853	4223733186	103	OLIVER HAAG #1				GATES (ATOKA CONGLOMERAT	45.0	
8149662	F-78-039535	4205000000	108	R B TAYLOR JR #1 58351				CALLAHAN COUNTY REGULAR	5.3	NATURAL GAS PIPEL
8149455	F-78-033138	4236700000	108	W J FRANKS JR #1				BRAZOS EAST (CADDO)	0.0	SOUTHWESTERN GAS
-MOBIL PRG TEXAS & NEW MEXICO INC					RECEIVED: 09/17/81	JAS	TX			
8149521	F-08-037676	4247532226	103	U-TEX SEC 29 NO 1				WAR-WINK S (WOLF CAMP)	23.4	LONE STAR GAS CO
-MORSANTO COMPANY					RECEIVED: 09/17/81	JAS	TX			
8149393	F-10-020727	4221100000	108-ER	CLEMENT NO 1				HANSFORD (MORROW UPPER)	18.3	NORTHERN NATURAL
8149394	F-10-020816	4219500000	108-ER	CONVERSE NO 1				HANSFORD LOWER MORROW	20.0	NORTHERN NATURAL
-MORRIS STEPHENS					RECEIVED: 09/17/81	JAS	TX			
8149673	F-78-039562	4236300000	108	JOHN RIDER #1 RRC #37498				GRAFORD (BEND CONGLOMERA	8.0	LONE STAR GAS CO
-NATURAL GAS ANADARKO INC					RECEIVED: 09/17/81	JAS	TX			
8149452	F-10-032796	4235730951	103	DIEBALL #1-40				PERRYTON (MORROW UPPER)	6.0	PHILLIPS PETROLEUM
8149745	F-10-039711	4235731081	102-4	PATTON #1-316				TURNER S E MORROW LOWER	200.0	TRANSWESTERN PIPE
-NORTHERN PUMP COMPANY					RECEIVED: 09/17/81	JAS	TX			
8149626	F-02-039070	4239100000	102-4	SHELTON NO 1				MISSION RIVER (SEG A 580	75.0	VALLEY PIPE LINES
-OXCO EXPLORATION CORP					RECEIVED: 09/17/81	JAS	TX			
8149395	F-04-020933	4242731343	102-4	BRAZOS CATTLE CO LTD #1				BOYLE (RINCON 4800)	250.0	VALERO TRANSMISSI
8149395	F-04-020933	4242731343	103	BRAZOS CATTLE CO LTD #1				BOYLE (RINCON 4800)	250.0	VALERO TRANSMISSI
-PANHANDLE PRODUCING COMPANY					RECEIVED: 09/17/81	JAS	TX			
8149448	F-10-032457	4223300000	108	MERCHANT B #8 (42691)				PANHANDLE WEST	30.0	COLORADO INTERSTA
-PARAGON RESOURCES INC					RECEIVED: 09/17/81	JAS	TX			
8149576	F-04-030436	4213135120	102-4	GLASSCOCK #1				EL CRO (7700)	91.0	VALLEY GAS TRANSP
8149576	F-04-030436	4213135120	103	GLASSCOCK #1				EL CRO (7700)	91.0	VALLEY GAS TRANSP
-PARKER & PARSLEY INC					RECEIVED: 09/17/81	JAS	TX			
8149454	F-08-033072	4232930946	103	BUCHANAN G WELL NO 1				SPRABERRY (TEND AREA)	15.0	PHILLIPS PETROLEUM
8149723	F-08-039655	4232930971	103	CITY OF MIDLAND WELL NO 1				SPRABERRY (TEND AREA)	15.0	PHILLIPS PETROLEUM
8149481	F-08-039536	4232930976	103	ESTES A WELL NO 1				SPRABERRY (TEND AREA)	15.0	PHILLIPS PETROLEUM
8149442	F-08-031311	4231732245	103	HALE WELL NO 1				SPRABERRY (TEND AREA)	15.0	ADGEE OIL & GAS C
8149482	F-08-035537	4232930907	103	STRAUD UNIT WELL NO 1				SPRABERRY (TEND AREA)	15.0	PHILLIPS PETROLEUM
8149483	F-08-035538	4232930913	103	TEIMERT WELL NO 1				SPRABERRY (TEND AREA)	15.0	PHILLIPS PETROLEUM
8149722	F-7C-039653	4232930956	103	WINDHAM B WELL NO 1				PEGASUS SPRABERRY	15.0	PHILLIPS PETROLEUM
-PAUL DE CLEVA					RECEIVED: 09/17/81	JAS	TX			
8149543	F-78-038080	4209330758	103	CALHOUN NO 1				BEATTIE N (MARBLE FALLS)	30.0	SOUTHWESTERN GAS
-PENINSULA RESOURCES CORPORATION					RECEIVED: 09/17/81	JAS	TX			
8149598	F-02-038603	4225500000	102-4	WILLARD HUDSON NUMBER 1				SPEARY (ROEDER 8800)	140.0	LONE STAR GAS CO
8149598	F-02-038603	4225500000	103	WILLARD HUDSON NUMBER 1				SPEARY (ROEDER 8800)	140.0	LONE STAR GAS CO
-PENNZOIL PRODUCING COMPANY					RECEIVED: 09/17/81	JAS	TX			
8149605	F-04-038658	4250500000	108	HAYMES NO 3				CONITAS (DEEP)	16.0	TRANSCONTINENTAL
8149569	F-04-038270	4235531456	103	J C INGRAM NO C-4				AGUA DULCE (7800)	475.0	UNITED GAS PIPE L

JD NO	JA DKT	API NO	D SEC CAT WELL NAME	RECEIVED:	FIELD NAME	PROD	PURCHASER
-PENROC ENERGY							
8149660	F-78-03953	424131719	RECEIVED: 09/17/81	J A: TX			
-PETROLEUM CORPORATION OF TEXAS			102-4	V L GRAHAM #1 (91287)	GRAHAM (GRAY)	255.0	FORT CHADBOURNE C
8149557	F-78-038127	4235330894	RECEIVED: 09/17/81	J A: TX			
8149564	F-7C-038203	4210532943		C H BOLIN WELL NC 4	WATTS (GARDNER SAND)	5.5	UNION TEXAS PETRO
-PETROLEUM TECHNICAL SERVICES CO			103	UNIVERSITY-PHILLIPS #18	FARRER (SAN ANDRES)	0.2	PECOS CO
8149755	F-08-039759	4210332565	RECEIVED: 09/17/81	J A: TX			
-PHILLIPS PETROLEUM COMPANY			103	P J LEA NO 5	LEA (SAN ANDRES)	18.3	WARREN PETROLEUM
8149464	F-10-034243	4242100000	RECEIVED: 09/17/81	J A: TX			
8149679	F-08-039585	4203332458		BIVENS O #1	TEXAS HUGOTON	0.0	MICHIGAN WISCONSI
8149665	F-08-039548	4213500150		BOMER A #1 (26618)	FURMAN (GLORICETA)	2.0	NORTHERN NATURAL
8149667	F-08-039552	4213502725		GOLDSMITH ANODECTOR UNIT--B09	GOLDSMITH (CLEARFORK)	0.4	EL PASO NATURAL G
8149669	F-08-039555	4213503476		GOLDSMITH ANODECTOR UNIT--T14	GOLDSMITH (CLEARFORK)	18.5	EL PASO NATURAL G
8149671	F-7C-039557	4246100325		LIMPIA--6 (80222)	ANODECTOR (ELLENBURGER)	9.3	EL PASO NATURAL G
8149668	F-08-039554	4213520791		NORTH PEMROCK SPRABERRY UNIT 3401	SPRABERRY TREND AREA	1.4	NORTHERN NATURAL
8149666	F-08-039551	4213520824		NORTH PENWELL - 59 (21556)	PENWELL	5.6	EL PASO NATURAL G
8149558	F-09-038129	4233728830		NORTH PENWELL UNIT--108 (21556)	PENWELL	5.4	EL PASO NATURAL G
8149731	F-08-039681	4200304749		NORTH PENWELL UNIT--126 (21556)	PENWELL	7.3	EL PASO NATURAL G
8149769	F-08-039784	4200304765		ROSE-A NO 1	ROSE-CADDONG CONGLOMERATE	1.6	
-PIONEER PRODUCTION CORPORATION			108	UNIVERSITY ANDREWS - 3 (01270)	EMBAR (ELLENBURGER)	1.7	EL PASO NATURAL G
8149488	F-10-036117	4235330651	RECEIVED: 09/17/81	J A: TX	EMBAR (PERMIAN)	4.4	EL PASO NATURAL G
-FOCO GAS CO INC			103	FLOWERS A #2-4	MERCOTA NW (LOWER DOUGLA	0.0	PIONEER NATURAL G
8149565	F-04-038206	4240900000	RECEIVED: 09/17/81	J A: TX			
-POLK & PATTON INC			102-4	J F HELDER HEIRS #F-3	ANGELITA NEW (5940)	365.0	UNITED GAS PIPELI
8149621	F-03-038885	4214931077	RECEIVED: 09/17/81	J A: TX			
-POST PETROLEUM COMPANY INC			102-2	VETERANS UNIT #1	GIDDINGS (AUSTIN CHALK-3	90.2	SOUTH CENTEX GAS
8149519	F-10-037637	4221100000	RECEIVED: 09/17/81	J A: TX			
-PRODUCTION MANAGEMENT ASSOC			108	NEEK 1-60-T (TONKAWA)	ACHILLES	15.0	PERRY GAS TRANSMI
8149538	F-10-037830	4206500000	RECEIVED: 09/17/81	J A: TX			
-QUINTANA PETROLEUM CORP			108	E F BRYAN (00148) NC 8	PANHANDLE CARSON COUNTY	5.0	GETTY OIL CO
8149487	F-03-036030	4208931152	RECEIVED: 09/17/81	J A: TX			
8149609	F-02-038734	4239131451		H R CULLEM ET AL #7	COLUMBUS (11800 MIDWAY)	182.5	TENNESSEE GAS PIP
-R W ENERGY CORP			102-4	MARY CLAIRE BAUER ET VIR 13-L	TOM O CONNOR (6650 SAND)	5.0	UNITED TEXAS TRAN
8149532	F-78-037842	4249700000	RECEIVED: 09/17/81	J A: TX			
8149635	F-78-039175	4236732119	RECEIVED: 09/17/81	J A: TX			
-R L BURMS CORP			102-4	PATTERSON 1-C	WILDCAT	400.0	SOUTHWESTERN GAS
8149752	F-01-039729	4217730824	RECEIVED: 09/17/81	J A: TX			
8149753	F-01-039730	4217730905		B BOTTS NO 1	WILDCAT	700.0	SOUTHWESTERN GAS
-RALPH L WAY INC			103	B W ILEY NO 1	CHRISTIAN (6800)	44.9	VALERO TRANSMISSI
8149648	F-7C-039492	4235331888	RECEIVED: 09/17/81	J A: TX	CHRISTIAN (6800) FIELD	29.2	VALERO TRANSMISSI
-REALTOS IV EXPLORATORY PROGRAM			103	UNIVERSITY 8 #9	FARMER (SAN ANDRES)	5.4	NORTHERN NATURAL
8149468	F-02-034359	4246931561	RECEIVED: 09/17/81	J A: TX			
-RIDGE OIL CO			102-4	WELDON L SCHMIOT NO 1	WILDCAT - PROPOSED COLOG	200.0	TENNESSEE GAS PIP
8149592	F-78-038556	4213332070	RECEIVED: 09/17/81	J A: TX			
8149592	F-78-038556	4213332070		J W BARNES #1	RANGER NW (MARBLE FALLS)	3.6	COMPRESSOR RENTAL
8149589	F-78-038537	4213332781		J M BARNES #1	RANGER NW (MARBLE FALLS)	3.6	COMPRESSOR RENTAL
8149589	F-78-038537	4213332781		PRE-EMPTION #1	RANGER NW (MARBLE FALLS)	8.0	COMPRESSOR RENTAL
8149591	F-78-038548	4213332442		PRE-EMPTION #1	RANGER NW (MARBLE FALLS)	8.0	COMPRESSOR RENTAL
8149591	F-78-038548	4213332442		W K GORDON #1	RANGER NW (MARBLE FALLS)	26.0	COMPRESSOR RENTAL
8149590	F-78-038547	4213332443		W K GORDON #1	RANGER NW (MARBLE FALLS)	26.0	COMPRESSOR RENTAL
8149590	F-78-038547	4213332443		W K GORDON #2	RANGER NW (MARBLE FALLS)	26.6	COMPRESSOR RENTAL
-RK PETROLEUM CORP			103	W K GORDON #2	RANGER NW (MARBLE FALLS)	26.6	COMPRESSOR RENTAL

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JD NO	JA DKT	API NO	C SEC CAT	WELL NAME	FIELD NAME	PROD	PURCHASER
8149556	F-8A-038120	4211531492	102-4	RK-NORET NO 1 WELL RECEIVED: 09/17/81 JA: TX	CMI (SPRABERRY)	18-2	PHILLIPS PETROLEUM
8149557	F-03-039151	4203500000	102-4	STATE TRACT 340-L #1	MIDDLE BANK REEF (MIOGECN)	2500.0	DOW CHEMICAL CC
8149558	F-03-039153	4203500000	102-4	STATE TRACT 366-L NW/4 84-L	MIDDLE BANK REEF (MIOGECN)	2000.0	DOW CHEMICAL CC
8149559	F-03-039129	4203500000	102-4	STATE TRACT 366-L SW/4 #1 UPPER RECEIVED: 09/17/81 JA: TX	MIDDLE BANK REEF (MIOGECN)	1000.0	DOW CHEMICAL CC
8149493	F-02-036402	4205731060	102-4	HAVES ESTATE #6 RECEIVED: 09/17/81 JA: TX	SALLURIA	187-2	DOW CHEMICAL USA
8149703	F-8A-039627	4216500000	108	BAUMGART GEORGE -C- NC 23-U RECEIVED: 09/17/81 JA: TX	WASSON 72	2-7	SHELL ET AL
8149702	F-8A-039626	4216500000	108	BAUMGART GEORGE -C- NO 24	WASSON 72	1-4	SHELL ET AL
8149701	F-8A-039625	4216500000	108	BAUMGART GEORGE -C- NO 28	WASSON 72	2-3	SHELL ET AL
8149700	F-8A-039624	4216500000	108	BAUMGART GEORGE -C- NO 30	WASSON 72	1-9	SHELL ET AL
8149699	F-8A-039623	4216500000	108	BAUMGART GEORGE -F- NO 26	WASSON 72	4-5	SHELL ET AL
8149698	F-09-039615	4218100000	108	BIG MINERAL CRK/STRAWN I/UNIT # 401	BIG MINERAL CREEK (STRAW)	1-9	UNION TEXAS PETRO
8149697	F-09-039614	4218100000	108	BIG MINERAL CRK/STRAWN I/UNIT # 406	BIG MINERAL CREEK (STRAW)	1-9	UNION TEXAS PETRO
8149689	F-09-039612	4218100000	108	BIG MINERAL CRK/STRAWN I/UNIT # 434	BIG MINERAL CREEK (STRAW)	1-9	UNION TEXAS PETRO
8149693	F-8A-039617	4250100000	108	DENVER UNIT NO 7628	WASSON	1-1	SHELL OIL CO & CO
8149686	F-08-039609	4213500000	108	E HARPER UNIT NO 136	HARPER	0-8	PHILLIPS PETROLEUM
8149685	F-08-039608	4213500000	108	E HARPER UNIT NO 217	HARPER	0-6	PHILLIPS PETROLEUM
8149684	F-08-039607	4213500000	108	E HARPER UNIT NO 246	HARPER	0-7	PHILLIPS PETROLEUM
8149683	F-08-039606	4213500000	108	E HARPER UNIT NO 393	HARPER	0-7	PHILLIPS PETROLEUM
8149687	F-08-039610	4213500000	108	E HARPER UNIT NO 8	HARPER	2-3	PHILLIPS PETROLEUM
8149522	F-04-037696	4242731534	103	G E NEBLETT ET AL GAS UNIT NO 4	LACOPITA (WICKSBURG W)	350.0	TENNESSEE GAS PIP
8149771	F-04-039852	4250331374	102-4	G E HINOJOSA NO 5	RANQADO RANCH (QUEEN CIT	17.0	
8149698	F-08-039622	4213500000	108	JORDAN UNIVERSITY UNIT NO 214	JORDAN	1-1	PHILLIPS PETROLEUM
8149697	F-08-039621	4213500000	108	JORDAN UNIVERSITY UNIT NO 307	JORDAN	1-2	PHILLIPS PETROLEUM
8149696	F-08-039620	4213500000	108	JORDAN UNIVERSITY UNIT NO 314	JORDAN	0-3	PHILLIPS PETROLEUM
8149695	F-08-039619	4213500000	108	JORDAN UNIVERSITY UNIT NO 429	JORDAN	0-3	PHILLIPS PETROLEUM
8149694	F-08-039618	4213500000	108	JORDAN UNIVERSITY UNIT NO 709	JORDAN	0-7	PHILLIPS PETROLEUM
8149708	F-08-039632	4200300000	108	KING E F NO 11	FURMAN (GLORICITA)	0-1	PHILLIPS PETROLEUM
8149751	F-08-039728	4200332654	103	LOGSDON -C- #17	FULLERTON (SAN ANDRES)	1-5	PHILLIPS PETROLEUM
8149718	F-7C-039642	4210500000	108	MAYBERRY -39- NO 1	TIPPETT (LEONARD LOWER)	5-6	NORTHERN NATURAL
8149719	F-7C-039643	4210500000	108	MAYBERRY -39- NO 3	TIPPETT (LEONARD LOWER)	20-6	NORTHERN NATURAL
8149720	F-7C-039644	4210500000	108	MAYBERRY -39- NO 5	TIPPETT (LEONARD LOWER)	6-7	NORTHERN NATURAL
8149716	F-7C-039640	4210500000	108	MIDWAY LANE 1100 UNIT NO 121	MIDWAY LANE (PERMIAN)	0-8	JAMES C BURNETT
8149717	F-7C-039641	4210500000	108	MIDWAY LANE 1100 UNIT NO 126	MIDWAY LANE (PERMIAN)	0-6	JAMES C BURNETT
8149711	F-8A-039635	4216500000	108	MOORE W R -A- NO 17	WASSON S (WICHITA-ALBANY	4-2	SHELL OIL CO
8149712	F-08-039636	4213500000	108	PARKER NO 2	TXL (SAN ANDRES)	2-5	SHELL ET AL
8149706	F-08-039630	4247500000	108	SEALY SMITH FDN NO 16	MONAHANS (CLEAR FORK)	2-4	EL PASO NATURAL G
8149705	F-08-039629	4247500000	108	SEALY SMITH FDN NO 39	MONAHANS (CLEAR FORK)	0-3	EL PASO NATURAL G
8149704	F-08-039628	4247500000	108	SEALY SMITH FDN NO 71	MONAHANS (CLEAR FORK)	0-8	EL PASO NATURAL G
8149692	F-08-039616	4218100000	108	SOUTH CROSS UNIT NO 161	CROSSETT S (DETRITAL)	9-3	SHELL ET AL
8149688	F-08-039611	4213500000	108	TXL-DEVONIAN RAIN PAY UNIT NO 304	TXL (DEVONIAN-RAIN PAY)	4-0	SHELL ET AL
8149710	F-8A-039634	4216500000	108	WASSON A L -8- NC 10	WASSON S (WICHITA-ALBANY	3-9	SHELL OIL CO
8149707	F-10-039631	4229500000	108	WHEAT NO 1-764	KIOWA CREEK (MORROW UPPE	4-0	TRANSWESTERN PIPE
8149742	F-08-039699	4213533598	103	WITCHER -A- WELL NO 12	FOSTER	15-3	ODESSA NATURAL CO
8149709	F-08-039633	4213500000	108	WITCHER JE -A- NC 4 RECEIVED: 09/17/81 JA: TX	FOSTER	0-9	ODESSA NATURAL CO
8149629	F-7C-039121	4217331140	103	D J CAUBLE NO 9	CALVIN (DEAN)	56-0	EL PASO NATURAL G
8149560	F-08-038164	4217331132	103	SPRABERRY DRIVER UNIT NO 874 RECEIVED: 09/17/81 JA: TX	SPRABERRY (TREND AREA)	12-0	EL PASO NATURAL G
8149659	F-08-039521	4213500000	103	EDWARDS GRAYBURG UNIT #7-31 RECEIVED: 09/17/81 JA: TX	EDWARDS	54-0	PHILLIPS PETROLEUM
8149659	F-08-039521	4213500000	103	EDWARDS GRAYBURG UNIT #7-31 RECEIVED: 09/17/81 JA: TX	EDWARDS	54-0	PHILLIPS PETROLEUM

JD NO	JA DKT	API NO	D SEC CAT	WELL NAME	FIELD NAME	PROD	PURCHASER	VOLUME	PAGE
8149486	F-78-025863	4222130643	102-2	SOUTH FINLEY NO 1	SUN BELT (ATOKA)	18.0	EMPIRE PIPELINE C		
				RECEIVED: 09/17/81 JA: TX					
				108 NEWTON #1 IC NO 26711					
				RECEIVED: 09/17/81 JA: TX					
				103 BENNETT RANCH UNIT NO 143-A	EAST PANHANDLE	0.0	WARREN PETROLEUM		
				103 C V NEWSON NO 4					
				103 CENTRAL LEVELLAND UNIT NO 261	WASSON	13.0	SHELL OIL CO		
				103 CENTRAL LEVELLAND UNIT NO 263	LEVELLAND	29.0	AMOCO PRODUCTION		
				108 D B KIRK NO 1	LEVELLAND	3.0	AMOCO PRODUCTION		
				108 E C LYNN NO 1	LEVELLAND	2.0	AMOCO PRODUCTION		
				108 HITS LAKE UNIT #4-1	HANSFORD	21.0	TRANSMISSION PIPE		
				108 M M GARCIA UNIT 12 #1-U	HANSFORD	20.0	NORTHERN NATURAL		
				103 O A HEATH NO 6	HITS LAKE	1.5	LONE STAR GAS CO		
				103 V T MCCABE #25	GARCIA/MILLER -C-/	3.0			
				RECEIVED: 09/17/81 JA: TX	LEVELLAND	11.0	AMOCO PRODUCTION		
				103 B BERNDT A NO 1	JAMESON M (000M)	73.0	LONE STAR GAS CO		
				103 L J LACINA NO 1					
				103 R W EDWARDS OIL UNIT NO 1	GIDDINGS (AUSTIN CHALK)	0.0			
				RECEIVED: 09/17/81 JA: TX	GIDDINGS (AUSTIN CHALK)	0.0			
				102-4 CLAY WEST BURNS NO 1-A	GIDDINGS (AUSTIN CHALK)	0.0			
				RECEIVED: 09/17/81 JA: TX	CLAY WEST S (QUEEN CITY)	290.0	SEAGULL PIPELINE		
				103 ANDREWS NO 1 (17200)	STEPHENS COUNTY REGULAR	43.8	MEL-GAS INC		
				103 FLANAGAN NO 2 (93751)	BOONSVILLE (BEND CONGL G	292.0	NATURAL GAS PIPEL		
				RECEIVED: 09/17/81 JA: TX					
				102-4 B D PIERPONT #1 (06970)	PEACH CREEK (AUSTIN CHAL	160.0	VALERO TRANSMISSI		
				RECEIVED: 09/17/81 JA: TX					
				103 ROQUEMORE GAS UNIT F NO 1	BETHANY UPPER TRAVIS PEA	550.0	UNITED GAS PIPELI		
				103 W W BOGEL NO 2	AGUA DULCE	383.0			
				RECEIVED: 09/17/81 JA: TX					
				108 A E GUERRA #11	SANTELLANA SO (8000)	11.4	TENNESSEE GAS PIP		
				103 CULBERSON V FEE #5	FORD WEST (#100)	14.2	EL PASO NATURAL G		
				103 CULBERSON Y FEE #1	FORD WEST (#100)	1.0	EL PASO NATURAL G		
				103 SAN C JENKINS #10	JENKINS (SAN ANDRES)	6.2	PHILLIPS PETROLEU		
				103 STATE OF TEXAS FW #3	CAPRIIO (DELAWARE MIDDLE	390.0	WESTAR TRANSMISSI		
				RECEIVED: 09/17/81 JA: TX					
				103 OFCZARZAK ET AL NO 2	GIDDINGS (AUSTIN CHALK)	350.0	CLAJON GAS CO		
				RECEIVED: 09/17/81 JA: TX					
				102-2 EBERHARDT #1	GIDDINGS (AUSTIN CHALK)	38.0	CLAJON GAS CO		
				102-2 STERN #3	GIDDINGS (AUSTIN CHALK)	180.0	CLAJON GAS CO		
				RECEIVED: 09/17/81 JA: TX					
				103 CABEEN #2	PUTNAM (WOLFCAAMP)	365.0	DELHI GAS PIPELIN		
				103 DUNCAN D #2	GIRVINTEX (QUEEN)	55.0	DELHI GAS PIPELIN		
				103 DUNLAP GAS UNIT #1-2	REED (HAYNESVILLE)	8.5	DELHI GAS PIPELIN		
				103 HARPER A #1	MINDEN E (TRAVIS PEAK TR	276.0			
				102-4 IVY A #1	REED (BOSSIER SAND)	0.0			
				107-IF IVY A #1	REED (BOSSIER SAND)	0.0			
				102-4 NEWELL A #1	BEAR GRASS (PETTIT)	185.0	DELHI GAS PIPELIN		
				103 NEWELL A #1	BEAR GRASS (PETTIT)	185.0	DELHI GAS PIPELIN		
				107-IF PARRISH #1	DELROSE (HAYNESVILLE)	750.0	UNITED GAS PIPE L		
				108 RACHAL #6	SEGUNDO (OLROS)	0.0	DELHI GAS PIPELIN		
				107-IF REAGAN #1	CAMP COOLEY (COTTON VALL	274.0	DELHI GAS PIPELIN		
				107-IF TERRY A #1	REED N (COTTON VALLEY LI	700.0	DELHI GAS PIPELIN		
				107-IF WALKER J #1	SAND HILL (COTTON VALLEY	182.0			

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JD NO	J A D K T	API NO	D SEC CAT WELL NAME	FIELD NAME	PROD	PURCHASER
8149391	F-06-017469	4207300000	102-2 WESTBROOK #1	WEST ALTO(JAMES LIME)	0-0	UNITED GAS PIPELI
8149480	F-03-035527	4215700000	102-4 WESTHEIMER	CLODINE SW (FRIO 4700)	0-0	DELHI GAS PIPELIN
8149587	F-7C-038497	4223531692	103 WINTERBOTHAM J #2	DOVE CREEK (CANYON C)	30-0	COLUMBIA GAS TRAN
8149407	F-05-029290	4205138462	107-TF WORTHY A #1	BEAR GRASS (COTTON VALLE	1-0	UNITED GAS PIPELI
			RECEIVED: 09/17/81			
8149535	F-01-037895	4216331577	103 BUKGER A #2	PEARSALL (AUSTIN CHALK)	4-2	TGP INC
8149552	F-01-038113	4216331514	103 DICKSON #1	PEARSALL (AUSTIN CHALK)	0-4	T G P INC
8149551	F-01-038112	4216331519	103 DICKSON #2	PEARSALL (AUSTIN CHALK)	11-3	T G P INC
8149550	F-01-038111	4216331533	103 DICKSON #3	PEARSALL (AUSTIN CHALK)	43-4	T G P INC
8149546	F-01-038107	4216331677	103 HARRIS E #1	PEARSALL (AUSTIN CHALK)	37-0	T G P INC
8149547	F-01-038108	4216331676	103 HARRIS E #2	PEARSALL (AUSTIN CHALK)	1-4	T G P INC
8149548	F-01-038109	4216331666	103 HARRIS E #3	PEARSALL (AUSTIN CHALK)	1-5	T G P INC
8149549	F-01-038110	4216331687	103 HARRIS E #4	PEARSALL (AUSTIN CHALK)	3-2	T G P INC
			RECEIVED: 09/17/81			
-TOMLINSON OIL CO INC						
8149531	F-08-037831	4233531777	102-2 DUNN #1	BULL CREEK (CANYON)	86-0	
8149531	F-08-037831	4233531777	103 DUNN #1	BULL CREEK (CANYON)	86-0	
			RECEIVED: 09/17/81			
-TROJAN OIL PRODUCTION & SERVICES IN						
8149661	F-7C-039334	4239931559	102-4 E H DEAN #5 (88941)	BALLINGER WEST (JENNING6	30-0	LOME STAR GAS CO
			RECEIVED: 09/17/81			
-TUTOR HYDROCARBONS INC						
8149730	F-78-039659	4213352005	103 TUCKER #2 (17363)	EASTLAND COUNTY REGULAR	10-0	ODESSA NATURAL CO
			RECEIVED: 09/17/81			
-UNION OIL COMPANY OF CALIF						
8149614	F-10-038813	4221131026	108 J E MECK #1-45	BUFFALO WALLOW (GRANITE	13-0	EL PASO NATURAL G
8149636	F-08-039178	4213535372	103 MOSS UNIT #6-15	COWDEN SOUTH	3-0	ODESSA NATURAL CO
			RECEIVED: 09/17/81			
-UNIT DRILLING & EXPLORATION CO						
8149680	F-10-039592	4229530957	103 BOOTH #639-5	BRAFORD (TONKAWA)	18-0	PHILLIPS PETROLEU
			RECEIVED: 09/17/81			
-UNITED PETROSEARCH INC						
8149754	F-10-039735	4248330756	103 MORRIS 97-01	EAST PANHANDLE GAS	14-6	TRANSWESTERN PIPE
			RECEIVED: 09/17/81			
-VERNON E FAULCONER						
8149743	F-06-039700	4236500000	108 TRAVIS PEAK ROYALTY CORP RRC #30283	CARTHAGE (PETIT LOWER)	14-1	TEXAS GAS TRANSMI
8149398	F-06-024462	4236500000	108-ER VERNER HUSBANDS RRC ID NO 30015	CARTHAGE (PETIT) LOWER	19-5	TEXAS GAS TRANSMI
			RECEIVED: 09/17/81			
-W A MONCRIEF JR						
8149446	F-78-031416	4236731170	108 MONCRIEF RANCH #5	MONCRIEF RANCH (STRAWN)	14-7	SOUTHWESTERN GAS
			RECEIVED: 09/17/81			
-W C S. PETROLEUM INC						
8149575	F-03-038420	4228730879	103 BARKER NO 1	GIDDINGS (AUSTIN CHALK)	0-0	P6P GAS PRODUCTS
			RECEIVED: 09/17/81			
-W R EDWARDS JR						
8149622	F-10-038949	4223300000	103 SANFORD COON B #1	PANHANDLE HUTCHINSON	95-0	PALADIN PIPELINE
			RECEIVED: 09/17/81			
-WAINOCO OIL & GAS CO						
8149578	F-04-038468	4221531076	103 A M CARDENAS ET AL NO 3	SAN SALVADOR (8600)	1000-0	TENNESSEE GAS PIP
			RECEIVED: 09/17/81			
-WARREN PETR CO A DIV OF GULF OIL CO						
8149678	F-08-039583	4210500000	103 M B MCKNIGHT NO 123	ARMER (SIMPSON)	13-0	EL PASO NATURAL G
8149677	F-08-039582	4210332510	103 P J LEA ET AL NO 117	LEA (ELLENBURGER)	10-0	EL PASO NATURAL G
8149746	F-08-039714	4210332462	103 W M WADDELL TR. 3 NO 1125	UNIVERSITY WADDELL (DEVO	47-0	EL PASO NATURAL G
			RECEIVED: 09/17/81			
-WAYMAN W BUCHANAN						
8149661	F-03-039452	4214900000	103 ALLISON NO 1	GIDDINGS (AUSTIN CHALK)	27-0	PHILLIPS PETROLEU
8149621	F-03-039124	4205131522	102-2 BENNIE LOEHR UNIT NO 1	GIDDINGS (AUSTIN CHALK)	724-0	FERGUSON CROSSING
8149630	F-03-039123	4205131475	102-2 STEFKA-LOEHR UNIT NO 1	GIDDINGS (AUSTIN CHALK)	46-0	FERGUSON CROSSING
			RECEIVED: 09/17/81			
-WELLS-BATTELSTEIN OIL & GAS INC						
8149501	F-04-036974	4240931487	102-4 C A MAEDGEN #1	MAEDGEN (3550)	300-0	UNITED GAS PIPE L
			RECEIVED: 09/17/81			
-WESLEY ENERGY CORPORATION						
8149475	F-05-034586	4239530228	103 MARTIN NO 1	BALO PRAIRIE (COTTON VAL	540-0	TEXAS UTILITIES F
8149475	F-05-034586	4239530228	107-TF MARTIN NO 1	BALO PRAIRIE (COTTON VAL	540-0	TEXAS UTILITIES F
8149505	F-7C-037283	4210532290	103 SHANNON ESTATE A NO 2	ENCINTRADO (PENN DETRITA	30-0	PHILLIPS PETROLEU
			RECEIVED: 09/17/81			
-WILLIAM PERLMAN						

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JD NO	JA DKT	API NO	D SEC CAT	WELL NAME	FIELD NAME	PROD	PURCHASER
8149472	F-7C-034463	4243532453	103	MAYER NO 9	SAYNER (CANYON)		0.0 VALERO GAS TRANSP
8149472	F-7C-034463	4243532453	103-TF	MAYER NO 9	SAYNER (CANYON)		0.0 VALERO GAS TRANSP
8149471	F-7C-034460	4210533172	103	TOM MITCHELL STATE 58-1	OZONA (CANYON)		0.0 EL PASO NATURAL G
8149471	F-7C-034460	4210533172	107-TF	TOM MITCHELL STATE 58-1	OZONA (CANYON)		0.0 EL PASO NATURAL G
8149473	F-7C-034464	4210533174	103	TOM MITCHELL 58-2	OZONA (CANYON)		0.0 EL PASO NATURAL G
8149473	F-7C-034464	4210533174	107-TF	TOM MITCHELL 58-2	OZONA (CANYON)		0.0 EL PASO NATURAL G
	-WILSON ENERGY INC			RECEIVED: 09/17/81			
8149749	F-7C-039726	4210500000	103	UNIVERSITY 9 A #8	FARMER (SAN ANDRES)		25.0 BIG LAKE GASOLINE
8149748	F-7C-039725	4210500000	103	UNIVERSITY 9 A NC 7	FARMER (SAN ANDRES)		25.0 BIG LAKE GASOLINE
	-WINDSOR PRODUCING CO			RECEIVED: 09/17/81			
8149544	F-03-038088	4228730919	103	SCHROEDER UNIT #1	GIDDINGS (AUSTIN CHALK)		109.5 PGP GAS PRODUCTS
8149610	F-03-038740	4228730926	103	TEINERT #1	GIDDINGS (AUSTIN CHALK)		36.5 PGP GAS PRODUCTS
	-WOOD & LOCKER INC			RECEIVED: 09/17/81			
8149620	F-08-038883	4217331076	103	EVANS A NO 1	SPRABERRY (TREND AREA)		25.0 EL PASO NATURAL G
8149618	F-08-038881	4232930924	103	EVANS NO 1	SPRABERRY (TREND AREA)		22.0 EL PASO NATURAL G
8149619	F-08-038882	4232930925	103	EVANS NO 2	SPRABERRY (TREND AREA)		25.0 EL PASO NATURAL G
	-WOOD ENTERPRISES INC			RECEIVED: 09/17/81			
8149653	F-7B-039502	4225331324	103	A D HILL #1 (15658)	NOODLE NW (CANYON SAND 4		69.0 PALO DURO PIPELIN

OTHER PURCHASERS

8149390 PANHANDLE EASTERN PIPE LINE CO
 8149476 DIAMOND SHAMROCK CORP
 8149588 FERGUSON CROSSING P L CC
 8149589 LONE STAR GAS CO
 8149590 LONE STAR GAS CO
 8149591 LONE STAR GAS CO
 8149592 LONE STAR GAS CO
 8149606 NORTHERN NATURAL GAS CO
 8149609 E I DUPONT DE NEMOURS & CO INC
 8149710 COLTEXO CORP
 8149711 COLTEXO CORP
 8149760 E I DUPONT DE NEMOURS & CO INC
 8149761 E I DUPONT DE NEMOURS & CO INC
 8149762 E I DUPONT DE NEMOURS & CO INC
 8149763 E I DUPONT DE NEMOURS & CO INC
 8149770 E I DUPONT DE NEMOURS & CO INC

The above notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production (PROD) is in million cubic feet (MMCF). An (*) before the Control (JD) number denotes additional purchasers listed at the end of the notice.

The applications for determination are available for inspection except to the extent such material is confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol St., Washington, D.C. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission on or before November 4, 1981.

Categories within each NGPA section are indicated by the following codes:

- Section 102-1: New OCS lease
- 102-2: New well (2.5 mile rule)
- 102-3: New well (1000 ft rule)
- 102-4: New onshore reservoir
- 102-5: New reservoir on old OCS lease
- Section 107-DP: 15,000 feet or deeper
- 107-CB: Geopressured brine
- 107-CS: Coal seams
- 107-DV: Devonian shale
- 107-PE: Production enhancement
- 107-TF: New tight formation
- 107-RT: Recompletion tight formation
- Section 108: Stripper well
- 108-SA: Seasonally affected
- 108-ER: Enhanced recovery
- 108-PB: Pressure buildup

Kenneth F. Plumb,

Secretary.

BILLING CODE 6717-02-M

CORRECTIONS TO PREVIOUS NOTICES OF DETERMINATION

JD No.	JA	Applicant	Well Name	Orig. FERC Vol.	Date Pub. in Federal Register	Correction to prior Fed. Register notice
81-45335	WY	Amoco Production Co.	WEISKEY BUTTES UNIT #37	499	09-03-81	C: 102-2 & 107-TF approved
81-45338	WY	Amoco Production Co.	CEAMPLIN 337 AMOOD G #1	499	09-03-81	C: 102-2 & 107-TF approved
81-45437	TX	Texas Oil & Gas	WILLIFORD A-1	500	09-08-81	C: 102-4, 103 & 107-TF approved
81-45438	TX	Delta Drilling Co.	J E. JORDAN #1	500	09-08-81	C: 102-2, 103 & 107-TF approved
81-45555	TX	EOG Oil Co.	LUDEMAN 25 WELL #1	500	09-08-81	C: 107-DF approved, not 107-TF
81-45578	TX	Exxon Corp.	DEULOSE GAS UNIT 8 #1	500	09-08-81	C: 102-4, 103 & 107-TF approved
81-45581	TX	Perryman Operating Co.	KELLEY ESTATE #1	500	09-08-81	C: 102-4 & 103 approved
81-45637	TX	Pennzoil Producing Co.	RAE #1	500	09-08-81	C: 102-4, 103 & 107-TF approved
81-45682	TX	Pennzoil Producing Co.	C P TALBERT #17-F	500	09-08-81	C: 103 approved, not 102
81-45966	OK	Southwestern Explor.	AUREY #2	501	09-01-81	C: 103 denied
81-46285	NN	Yates Petroleum Corp	KLEMAN PB #2	503	09-09-81	C: 103 denied
81-46477	TX	Texas Oil & Gas Corp.	MCMICHAEL B #1	504	09-17-81	C: 102-4, 103 & 107-TF approved
81-46489	TX	Bunt Energy Corp.	G C DAVIS #1-61	504	09-17-81	C: 102-2 & 107-DF approved
81-46504	TX	Perryman Operating Co.	HOWARD #1	504	09-17-81	C: 102-4 & 107-TF approved
81-46505	TX	Perryman Operating Co.	MACATEE #1	504	09-17-81	C: 102-4 & 107-TF approved
81-46506	TX	Perryman Operating Co.	ROCHE #1	504	09-17-81	C: 102-4 & 107-TF approved
81-48719	OH	Irvin Producing Co.	OSBORN #1	515	09-17-81	C: 103 approved, 107-TF denied

[FR Doc. 81-30000 Filed 10-19-81; 8:45 am]

BILLING CODE 6717-02-C

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Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: October 9, 1981.

JD NO	JA DKT	API NO	0 SEC CAT	WELL NAME	FIELD NAME	PROD	PURCHASER
2149214				CALIFORNIA DEPARTMENT OF CONSERVATION			
8149388	81-6-0027	0401120162	102-4	FENDY NO 1-5 RECEIVED: 08/20/81 JA: CA	COMPTON LANDING GAS	100.0	PACIFIC GAS & ELE
				KANSAS CORPORATION COMMISSION			
8149247	K 79-0735	1511900000	108-ER	HARVEY C FELDMAN #1 RECEIVED: 09/11/81 JA: KS	72.0		PANHANDLE EASTERN
				NEW MEXICO DEPARTMENT OF ENERGY & MINERALS			
				ARCO PRODUCTION CO			
8149214		3004507880	108	ABRAMS GAS COM C NO 1 (2ND) RECEIVED: 09/14/81 JA: MN	AZTEC-PICTURED CLIFFS	22.0	EL PASO NATURAL G
8149216		3004524162	103	COOPER GAS COM NO 1E (CHACRA)	BLGOMFIELD CHACRA	24.0	EL PASO NATURAL G
8149192		3004524819	103	ROBERTS GAS COM B NO 1E	BASIN - DAKOTA	182.0	AMOCO GAS CO
8149179		3004524739	103	SULLIVAN GAS COM NO 1A (MESAUERDE) RECEIVED: 09/14/81 JA: MN	BLANCO-MESAUERDE	237.0	EL PASO NATURAL G
8149212		3002521892	108	WINBERLY MN #5 RECEIVED: 09/14/81 JA: MN	JUSTIS BLINBERY	7.3	EL PASO NATURAL G
8149213		3001522360	108	HAGSTROM #1 RECEIVED: 09/14/81 JA: MN	EAST HIGH HOPE (ATOKA)	15.0	TRANSMISSION PIPE
8149210		3000500000	108	SIGNAL STATE NO 1 RECEIVED: 09/14/81 JA: MN	CHAYEROO	3.0	CITIES SERVICE CO
8149209		3004100000	108	STATE 32-7-33 NO 10	CHAYEROO	1.0	CITIES SERVICE CO
8149206		3004100000	108	STATE 32-7-33 NO 8	CHAYEROO	1.0	CITIES SERVICE CO
8149211		3000500000	108	STATE 5-8-33 NO 1 RECEIVED: 09/14/81 JA: MN	CHAYEROO	4.0	CITIES SERVICE CO
8149184		3004501127	108	RIPLEY #2 RECEIVED: 09/14/81 JA: MN	BLANCO - MESAUERDE	13.0	SOUTHERN UNION GA
8149198		3004520656	108	CLINE #1 WELL RECEIVED: 09/14/81 JA: MN	TWIN MOUNDS	15.0	EL PASO NATURAL G
8149234		3004524413	103	ALLISON UNIT #5A RECEIVED: 09/14/81 JA: MN	BLANCO MESAUERDE	250.0	EL PASO NATURAL G
8149235		3004524413	103	ALLISON UNIT #5A	BASIN DAKOTA	45.0	EL PASO NATURAL G
8149232		3004524412	103	ALLISON UNIT #57	BASIN DAKOTA	50.0	EL PASO NATURAL G
8149233		3004524412	103	ALLISON UNIT #57	BLANCO MESAUERDE	250.0	EL PASO NATURAL G
8149236		3004506149	108	BURROUGHS COM #1	BLANCO SOUTH PICTURED CL	18.0	EL PASO NATURAL G
8149238		3003906838	108	RINCOM UNIT #25	BLANCO-SOUTH-PICTURED CL	21.0	EL PASO NATURAL G
8149237		3003906766	108	RINCOM UNIT #31	BLANCO SOUTH - PICTURED	22.0	EL PASO NATURAL G
8149188		3003920477	108	SAN JUAN 28-6 UNIT #169 RECEIVED: 09/14/81 JA: MN	BASIN DAKOTA	24.0	EL PASO NATURAL G
8149200		3002527223	102-3	N E KEMNITZ #6 RECEIVED: 09/14/81 JA: MN	KEMNITZ MORROW	1440.0	TRANSMISSION PIPE
8149191		3004120565	102-2	PEARL JORDAN NO 2	NORTH PETERSON	80.0	TRANSMISSION PIPE

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JD NO	JA DKT	API NO	D SEC CAT	WELL NAME	FIELD NAME	FRCD	PURCHASER
8149219		3004524301	103	CULPEPPER-MARTIN NO 5 RECEIVED: 09/14/81 JJA: NH	BASIN DAKOTA	392.0	SOUTHERN UNION GA
-V H WESTBROOK		3002500000	102-4	STATE OF NEW MEXICO NO 2 RECEIVED: 09/14/81 JJA: NH	WEST ARKANSAS JUNCTION	216.0	WARREN PETROLEUM
8149225		3001523762	103	HAVINS GK #1	UND SAN ANDRES	0.0	TRANSWESTERN PIPE
8149186		3001500000	108	LIZZIE HOWARD HK #1	COTTONWOOD CREEK WOLFCAK	0.0	TRANSWESTERN PIPE
8149224		3000520785	103	PAUL LR #3	TOM TOM SAN ANDRES	0.0	TRANSWESTERN PIPE
8149215		3000561025	107-TF	SKINNY GO STATE #1	UND ABO	0.0	TRANSWESTERN PIPE

OKLAHOMA CORPORATION COMMISSION							

-APACHE CORPORATION		3500926378	107-DP	WEST #1-9 RECEIVED: 09/11/81 JJA: CK	E BERLIN	885.0	EL PASO NATURAL G
8149259	13838		102-4	BEECHER #24-13 RECEIVED: 09/14/81 JJA: CK	NE CKARCHE	0.0	SID RICHARDSON CA
-APOLLO PRODUCTION LTD		3507323173	103	BEECHER #24-13	NE CKARCHE	0.0	SID RICHARDSON CA
8149377	13170		102-4	WITTROCK NO 35-11 RECEIVED: 09/14/81 JJA: CK	SOONER TREND	600.0	SID RICHARDSON CA
8149376	13121		103	WITTROCK NO 35-11	SOONER TREND	600.0	SID RICHARDSON CA
8149376	13121		103	WITTROCK NO 35-11	SOONER TREND	600.0	SID RICHARDSON CA
-ARCO OIL AND GAS COMPANY		3505320304	108	YARNELL GAS UNIT NO 2 RECEIVED: 09/11/81 JJA: CK	CHEROKITA TREND	12.8	SUN GAS CO
8149267	10485		108	YARNELL GAS UNIT NO 4 RECEIVED: 09/14/81 JJA: CK	CHEROKITA TREND	12.8	SUN GAS CO
8149268	10485		103	EYER-CONNOR UNIT NO 1 RECEIVED: 09/14/81 JJA: CK	WEST CLEAR LAKE	15.3	EL PASO NATURAL G
-ARCO OIL AND GAS COMPANY		3500721946	102-4	GEORGIA #1-24 RECEIVED: 09/14/81 JJA: CK	EAST BOYD	258.0	KANSAS NEBRASKA N
8149385	10460		103	GLENN #1 RECEIVED: 09/14/81 JJA: CK	EAST YUKON-SENV S10-TIIN	400.0	MOBIL OIL CORP
-BEREN CORPORATION		3500721815	103	EVANS #1 (MORROW) RECEIVED: 09/14/81 JJA: CK	MOCANE	140.0	COLORADO INTERSTA
8149369	08775		107-DP	FOWLER #1-9 RECEIVED: 09/09/81 JJA: CK	KNOX	540.0	EL PASO NATURAL G
-BLUE QUAIL ENERGY INC		3501721551	103	J J SEVERIN NO 2 RECEIVED: 09/14/81 JJA: CK	E CHANEY DELL	96.0	UNION TEXAS PETRO
8149371	10122		103	MALEN SMITH NO 4 RECEIVED: 09/14/81 JJA: CK	SOUTHWEST MAUKOMIS	116.0	UNION TEXAS PETRO
-BOMANZA PETROLEUM INC		3500721703	103	PEARL MITCHELL NC 2 RECEIVED: 09/11/81 JJA: CK	NORTHEAST ENID	141.0	CHAMPLIN PETROLEU
8149368	08155		103	WILDE # 1 RECEIVED: 09/14/81 JJA: CK	WEST PERRY	7.0	ARCO OIL & GAS CO
-BUNKER EXPLORATION CO		3505120924	103	CPC #78-5 WOODFOLK RECEIVED: 09/14/81 JJA: CK	NE TRIUMPH	65.0	MICHIGAN WISCONSI
8149256	13679		102-4	SLEEPER C #1 RECEIVED: 09/14/81 JJA: CK	SOONER TREND	80.0	PANHANDLE EASTERN
-CHAMPLIN PETROLEUM COMPANY		3508320710	103	VAVERKA 24-1 RECEIVED: 09/14/81 JJA: CK	HINTON NW	750.0	
8149348	09941		102-2	MAJORS NO 1 RECEIVED: 09/14/81 JJA: CK	S W PAOLI A	5.4	CITIES SERVICE GA
8149347	09724		108	JOHNSON #2 RECEIVED: 09/14/81 JJA: CK	BALD HILL	72.0	WARREN PETROLEUM
8149365	09728		108	GREEN NO 2 RECEIVED: 09/14/81 JJA: CK	ELK CITY MORROW UPPER	3.6	PHILLIPS PETROLEU
-CIMARRON DRILLING PROGRAM 80-2		3504722125	103	MANGRUM - CHEZ I-P RECEIVED: 09/11/81 JJA: CK		1559.0	EL PASO NATURAL G
8149275	10433		107-DP	NEWBERRY #1 RECEIVED: 09/11/81 JJA: CK			
-CIMARRON PETROLEUM CORPORATION		3510321255	103				
8149357	10484						
-CITIES SERVICE COMPANY		3505920954	102-4				
8149366	9619						
-CLARK RESOURCES INC		3513921329	103				
8149363	10410						
-COTTON PETROLEUM CORPORATION		3507322856	103				
8149373	12929						
-DEMCO OIL & GAS COMPANY		3501521086	108				
8149387	10161						
-DEMINEK US OIL COMPANY		3507122078	102-4				
8149352							
-E KENNETH G HALSTEAD		3504921368	108				
8149346	09563						
-EL PASO NATURAL GAS COMPANY		3510120578	103				
8149273	13841						

JD NO	JA DKT	API NO	D SEC CAT WELL NAME	RECEIVED:	FIELD NAME	PROD	PURCHASER
-EXXON CORPORATION				RECEIVED: 09/11/81	WEST REYDON	187.0	EL PASO NATURAL G
8149266	13639	3512920516	107-DP SAYRE RANCH B #1	RECEIVED: 09/14/81	SW CURTY	385.0	TRANSOK PIPE LINE
-GEORGE ROOHAM INC				RECEIVED: 09/14/81	WEST RHEA	490.0	PANHANDLE EASTERN
8149384	10452	3508700000	103 DOUGHERTY NO 1	RECEIVED: 09/11/81	WEST CHEYENNE	0.0	EL PASO NATURAL G
-GETTY OIL COMPANY				RECEIVED: 09/14/81	SOUTH OMEGA	140.0	ONG WESTERN INC
8149382	13505	3504321169	107-DP HALL NO 1-19	RECEIVED: 09/11/81	SOUTHWEST HILLTOP	60.0	ARKANSAS LOUISIAN
-GRACE PETROLEUM CORPORATION				RECEIVED: 09/11/81	SOUTHWEST HILLTOP	60.0	ARKANSAS LOUISIAN
8149262	13008	3512920459	102-4 TRACY 2-36	RECEIVED: 09/09/81	EAST OF BIRD CREEK FIELD	50.0	PHILLIPS PETROLEU
-GULF OIL CORPORATION				RECEIVED: 09/11/81	WEST RINGWOOD	45.0	UNION TEXAS PETRO
8149263	12780	3581121569	102-2 ROHLING #1-25	RECEIVED: 09/09/81	M RINGWOOD	65.0	UNION TEXAS PETRO
-HARRY W DIAMOND INC				RECEIVED: 09/09/81	WEST LOVELL	1.0	EASON OIL CO
8149252	09644	3506320824	103 ALTA NO 1	RECEIVED: 09/14/81	NORTH MUSTANG	82.0	PHILLIPS PETROLEU
8149253	09645	3506321131	103 ARTHUR NO 1	RECEIVED: 09/09/81	WEST CARMEN	186.0	OKLAHOMA NATURAL
-JAMES E BARNETT				RECEIVED: 09/09/81	SOONER TREND	511.0	PHILLIPS PETROLEU
8149251	10453	3514300000	103 MCCOY-JULIEN 1A	RECEIVED: 09/11/81	YUKON AREA	0.0	PHILLIPS PETROLEU
-KAISER-FRANCIS OIL COMPANY				RECEIVED: 09/11/81	M REYDON	0.0	EL PASO NATURAL G
8149277	10435	3509321999	103 MAHN #2	RECEIVED: 09/14/81	WATCHNA-CHICKASHA	750.0	CITIES SERVICE GA
8149276	10434	3509322651	103 KCEHN #2	RECEIVED: 09/09/81	SOONER TREND	72.0	PHILLIPS PETROLEU
-L & N EXPLORATION INC				RECEIVED: 09/14/81	WEST MARLOW	273.0	ARKANSAS LOUISIAN
8149349	10226	3508321425	103 YADDER NO 2	RECEIVED: 09/11/81	SOONER TREND	36.0	TRANSOK PIPE LINE
-LAGUMA PETROLEUM CO				RECEIVED: 09/14/81	SOONER TREND	12.0	PHILLIPS PETROLEU
8149257	08206	3581721308	103 HOEBING NO 1	RECEIVED: 09/09/81	SOONER TREND	50.0	TRANSOK PIPE LINE
-LONG ROYALTY CO				RECEIVED: 09/11/81	SOONER TREND	50.0	TRANSOK PIPE LINE
8149278	11356	3501700000	103 PHILLIPS #2-15	RECEIVED: 09/14/81	SOONER TREND	50.0	TRANSOK PIPE LINE
-MAGIC CIRCLE ENERGY CORP				RECEIVED: 09/14/81	SOONER TREND	60.0	TRANSOK PIPE LINE
8149361	10393	3515121111	103 GUINN #1	RECEIVED: 09/11/81	SOONER TREND	60.0	TRANSOK PIPE LINE
-MASSEY & MASSEY				RECEIVED: 09/14/81	SOONER TREND	60.0	TRANSOK PIPE LINE
8149375	13088	3504722620	102-4 LEE #1 OTC #047-ES065	RECEIVED: 09/09/81	SOONER TREND	60.0	TRANSOK PIPE LINE
-MORAN EXPLORATION INC				RECEIVED: 09/09/81	SOONER TREND	60.0	TRANSOK PIPE LINE
8149254	09857	3501721776	103 SBC #1	RECEIVED: 09/11/81	SOONER TREND	60.0	TRANSOK PIPE LINE
-NOVA ENERGY CORPORATION				RECEIVED: 09/14/81	SOONER TREND	60.0	TRANSOK PIPE LINE
8149260	13821	3512920584	107-DP FEDERAL #1-3	RECEIVED: 09/14/81	SOONER TREND	60.0	TRANSOK PIPE LINE
-OKLAHOMA DRILLING CORP				RECEIVED: 09/14/81	SOONER TREND	60.0	TRANSOK PIPE LINE
8149364	09717	3507122141	103 WILDRUBE #1-2	RECEIVED: 09/14/81	SOONER TREND	60.0	TRANSOK PIPE LINE
-OKLAND OIL CO				RECEIVED: 09/14/81	SOONER TREND	60.0	TRANSOK PIPE LINE
8149374	13685	3501721699	102-2 GOODMAN 2-35	RECEIVED: 09/11/81	SOONER TREND	60.0	TRANSOK PIPE LINE
-OLD BLUE OIL & GAS CO				RECEIVED: 09/11/81	SOONER TREND	60.0	TRANSOK PIPE LINE
8149265	11390	3508321536	103 MILLER #3	RECEIVED: 09/09/81	SOONER TREND	60.0	TRANSOK PIPE LINE
-PCX CORP				RECEIVED: 09/14/81	SOONER TREND	60.0	TRANSOK PIPE LINE
8149258	8811	3505120807	102-4 WRIGHT #1	RECEIVED: 09/14/81	SOONER TREND	60.0	TRANSOK PIPE LINE
-PCX CORP				RECEIVED: 09/14/81	SOONER TREND	60.0	TRANSOK PIPE LINE
8149368	10286	3507322690	103 REMPE #1	RECEIVED: 09/14/81	SOONER TREND	60.0	TRANSOK PIPE LINE
-PETRO-LEMIS CORPORATION				RECEIVED: 09/14/81	SOONER TREND	60.0	TRANSOK PIPE LINE
8149367	06216	3503120550	103 STATE A #2	RECEIVED: 09/11/81	SOONER TREND	60.0	TRANSOK PIPE LINE
-PETRO-WESTERN ENERGY CORP				RECEIVED: 09/14/81	SOONER TREND	60.0	TRANSOK PIPE LINE
8149271	10426	3504721622	103 WHEELER U #2	RECEIVED: 09/14/81	SOONER TREND	60.0	TRANSOK PIPE LINE
-PETRO-WESTERN ENERGY CORP				RECEIVED: 09/14/81	SOONER TREND	60.0	TRANSOK PIPE LINE
8149353	09138	3504721553	103 ORYDEN NO 1	RECEIVED: 09/09/81	SOONER TREND	60.0	TRANSOK PIPE LINE
-PHILLIPS PETROLEUM COMPANY				RECEIVED: 09/09/81	SOONER TREND	60.0	TRANSOK PIPE LINE
8149250	10429	3504721611	103 MEYER G #1	RECEIVED: 09/09/81	SOONER TREND	60.0	TRANSOK PIPE LINE
8149249	10428	3504721571	103 SLOUP B #2	RECEIVED: 09/09/81	SOONER TREND	60.0	TRANSOK PIPE LINE
8149248	10427	3504721319	103 WHEELER T #1	RECEIVED: 09/11/81	SOONER TREND	60.0	TRANSOK PIPE LINE
-PIONEER PRODUCTION CORPORATION				RECEIVED: 09/11/81	SOONER TREND	60.0	TRANSOK PIPE LINE

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JD NO	JA DKT	API NO	C SEC CAT WELL NAME	FIELD NAME	PROD	PURCHASER
8149272	12148	3512900000	107-DP HERSBERGER #1-4 RECEIVED: 09/11/81 JA: OK	N EARLEY N/W STAFFORD	0.0	EL PASO NATURAL
8149274	13840	3501500000	107-DP KARDOKUS #10-1 RECEIVED: 09/14/81 JA: OK	FEATHERSTON FEATHERSTON	365.0	SOUTHEAST TRANSMI
8149261	13076	3503900000	102-2 RAY CLARK #26-1 RECEIVED: 09/14/81 JA: OK	S E CRION	0.0	DELHI GAS PIPELIN
8149372	09082	3512121756	103 MCGEORGE #2-31 RECEIVED: 09/14/81 JA: OK	PCLC	0.0	AMINOIL USA INC
8149370	09081	3512120768	103 ROBERTS #2-34 RECEIVED: 09/14/81 JA: OK	SQUAW CREEK	774.0	MICHIGAN WISCONSI
8149381	13181	3509322223	102-2 RICH #1-15	N EARLEY N/W STAFFORD	0.0	EL PASO NATURAL
8149381	13181	3509322223	103 RICH #1-15 RECEIVED: 09/14/81 JA: OK	FEATHERSTON FEATHERSTON	365.0	SOUTHEAST TRANSMI
8149378	13166	3510321390	102-4 KROEKER NO 2 RECEIVED: 09/14/81 JA: OK	S E CRION	0.0	DELHI GAS PIPELIN
8149383	10296	3501121460	103 N D BURNS #2 RECEIVED: 09/14/81 JA: OK	PCLC	0.0	AMINOIL USA INC
8149351	10244	3508722149	103 GEORGE NO 12-1 RECEIVED: 09/14/81 JA: OK	SQUAW CREEK	774.0	MICHIGAN WISCONSI
8149350	10225	3504722147	103 JOHN O'DONNELL NO 19-1 RECEIVED: 09/14/81 JA: OK	N EARLEY N/W STAFFORD	0.0	EL PASO NATURAL
8149255	10414	3513900000	108 HALSELL #1 RECEIVED: 09/11/81 JA: OK	W DOUGLAS	53.0	CHAMPLIN PETROLEU
8149264	12763	3507323167	102-4 MCADOO #1-12 RECEIVED: 09/14/81 JA: OK	GUYMON-HUGOTON	10.5	PANHANDLE EASTERN
8149379	13169	3503920438	102-2 THELMA PHILLIPS 1-5 RECEIVED: 09/14/81 JA: OK	SOONER TREND	350.0	PHILLIPS PETROLEU
8149386	10471	3508121715	103 MILLER #9-1 RECEIVED: 09/11/81 JA: OK	NORTH ELK CITY	657.0	
8149269	10994	3508520403	103 MARGO #1-7 RECEIVED: 09/14/81 JA: OK	CONCHO	90.0	PHILLIPS PETROLEU
8149269	10994	3508520403	102-4 MARGO #1-7 RECEIVED: 09/14/81 JA: OK	N E ORR N E ORR	38.0	LONE STAR GAS CO
8149356	10483	3510522222	103 G STRITZKE #2 RECEIVED: 09/14/81 JA: OK	CONCHO	90.0	PHILLIPS PETROLEU
8149354	10480	3510522703	103 G STRITZKE #3 RECEIVED: 09/14/81 JA: OK	NORTH ELK CITY	657.0	
8149358	10478	3510500000	103 W PORTER NO 2 RECEIVED: 09/14/81 JA: OK	SOONER TREND	72.0	CONOCO INC
8149359	10479	3510521916	103 W PORTER NO 2 RECEIVED: 09/14/81 JA: OK	MILTON	1400.0	ARKANSAS LOUISIAN
8149355	10481	3510500000	103 W PORTER NO 3 RECEIVED: 09/14/81 JA: OK	WILDCAT	182.0	EASON OIL CO
8149362	10400	3507322666	103 ROHR #1 RECEIVED: 09/11/81 JA: OK	SOONER TREND	72.0	CONOCO INC
8149278	11388	3507900366	102-4 REES NO 1-13 LT RECEIVED: 09/14/81 JA: OK	MILTON	1400.0	ARKANSAS LOUISIAN
8149380	13176	3508321765	102-2 EFFIE NO 3 RECEIVED: 09/11/81 JA: OK	WILDCAT	182.0	EASON OIL CO
WEST VIRGINIA DEPARTMENT OF MINES						
-A PURSLEY						
8149311		4710700690	RECEIVED: 09/11/81 JA: WV	CLAY	7.5	CONSOLIDATED GAS
8149293		4709702154	RECEIVED: 09/11/81 JA: WV	UNION DISTRICT	0.0	CONSOLIDATED GAS
8149303		4703500264	RECEIVED: 09/11/81 JA: WV	LENS CREEK	16.0	INDUSTRIAL GAS CC
8149312		4704102544	RECEIVED: 09/11/81 JA: WV	VANDALIA	5.0	CONSOLIDATED GAS
8149313		4701702298	RECEIVED: 09/11/81 JA: WV	SOUTHWEST DISTRICT	15.0	EQUITABLE GAS CO

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JD NO	JA DKT	API NO	D SEC CAT	WELL NAME	RECEIVED	DATE	BUYER	FIELD NAME	PROD	PURCHASER
-CARBONIT EXPLORATION INC		4707500909		107-DV #1 HARRY BRADFIELD	09/14/81	JA: WV	0.0	COLUMBIA GAS TRAN		
-CHISLER BROTHERS		4706100011		108 MARION TENNANT HEIRS #2	09/14/81	JA: WV	1.5	PENNZOIL CO		
-CONSOLIDATED GAS SUPPLY CORPORATION		4706100054		108 THOMAS WILLIAMS PEIRS #1	09/11/81	JA: WV	1.5	PENNZOIL CO		
8149298		4704700801		108 CONSOLIDATED COAL CO 12614			15.3	GENERAL SYSTEM PU		
8149294		4704700679		108 CONSOLIDATION COAL CO 12189			10.4	GENERAL SYSTEM PU		
8149295		4704700680		108 CONSOLIDATION COAL CO 12190			20.3	GENERAL SYSTEM PU		
8149307		4706700323		108 FITZWATER-BARKUS 11846			19.1	GENERAL SYSTEM PU		
8149358		4709701738		108 O C RESSINGER 12269			3.8	GENERAL SYSTEM PU		
8149299		4705300018		108 POCAHONTAS LAND CORP 11395			10.9	GENERAL SYSTEM PU		
8149309		4710900746		108 POCAHONTAS LAND CORP 11773			8.9	GENERAL SYSTEM PU		
8149292		4704700685		108 POCAHONTAS LAND CORP 12157			17.3	GENERAL SYSTEM PU		
8149356		4705500037		108 POCAHONTAS LAND CORP 12158			7.4	GENERAL SYSTEM PU		
8149296		4704700686		108 POCAHONTAS LAND CORP 12204			8.1	GENERAL SYSTEM PU		
8149297		4704700727		108 POCAHONTAS LAND CORPORATION 12363			5.3	GENERAL SYSTEM PU		
-CONSOLIDATED GAS SUPPLY CORPORATION		4703301133		108 RECEIVED: 09/14/81 JA: WV			18.3	GENERAL SYSTEM PU		
-D & D GAS CO		4709901669		108 RECEIVED: 09/11/81 JA: WV			7.2	COLUMBIA GAS TRAN		
8149300		4709901669		108 OLIN W KEARNS #K-1			40.0	CONSOLIDATED GAS		
-EASTERN AMERICAN ENERGY CORPORATION		4702103735		103 MONTGOMERY #2			3.7	CABOT CORP		
8149291		4702103735		103 RECEIVED: 09/14/81 JA: WV			1.5	CABOT CORP		
-EMORY C WAGSONER		4701300933		108 GAINER WELL NO 1			0.7	EQUITABLE GAS CO		
8149317		4701300933		108 R C MARSHALL			1.5	CONSOLIDATED GAS		
8149325		4701303292		108 RECEIVED: 09/14/81 JA: WV			1.5	CONSOLIDATED GAS		
-GULF OIL CORPORATION		4704100031		108 RINEHART HEIRS #1			1.5	CONSOLIDATED GAS		
8149329		4704100031		108 RECEIVED: 09/14/81 JA: WV			1.5	CONSOLIDATED GAS		
-HAMRETT GAS CO		4708503738		108 HAMRETT H-531			1.5	CONSOLIDATED GAS		
8149336		4708503739		108 HAMRETT H-532			1.5	CONSOLIDATED GAS		
8149337		4708502745		108 HAMRETT H-533			1.5	CONSOLIDATED GAS		
8149338		4708502745		108 HAMRETT H-533			1.5	CONSOLIDATED GAS		
8149339		4708503821		108 HAMRETT H-589			2.0	PENNZOIL CO		
-HARRIS GAS CO		4707900131		108 JOHN HEDRICK #1			7.2	COLUMBIA GAS TRAN		
8149302		4707900131		108 RECEIVED: 09/14/81 JA: WV			7.2	COLUMBIA GAS TRAN		
-JAMAR LAND CO INC		4709901612		108 GLENHAYES NO 1			0.0	COLUMBIA GAS TRAN		
8149340		4709901675		108 GLENHAYES NO 2			16.0	CONSOLIDATED GAS		
8149341		4709901675		108 GLENHAYES NO 1			6.8	CABOT CORP		
8149342		4709901684		108 GLENHAYES NO 3			2.3	CABOT CORPORATION		
-JAMES F SCOTT		4703301085		108 B BROWN S-219			6.3	PENNZOIL CO		
8149279		4703301085		108 RECEIVED: 09/11/81 JA: WV			6.3	PENNZOIL CO		
-MUMMA OIL PRODUCTION CO		4710500612		108 A GARRETTSON WELL NO 1-A MIR-612			6.3	PENNZOIL CO		
8149344		4710500612		108 RECEIVED: 09/14/81 JA: WV			6.3	PENNZOIL CO		
8149345		4710500616		108 JULIA BLANKENSHIP WELL #1 MIR-616			0.3	PENNZOIL CO		
-N G & M E BUSCH		4703303251		108 B S RAYBUCK NO 3			0.3	PENNZOIL CO		
8149281		4705605133		108 C LIVINGES NO 1			0.3	PENNZOIL CO		
8149285		4703303289		108 E MCCRAY NO 1			0.3	PENNZOIL CO		
8149283		4701303290		108 E MCCRAY NO 2			0.3	PENNZOIL CO		
8149282		4701303290		108 E P HAUGHT NO 2			0.3	PENNZOIL CO		
8149290		4701303282		108 E P HAUGHT NO 5			0.3	PENNZOIL CO		
8149289		4701303283		108 E P HAUGHT NO 8			0.3	PENNZOIL CO		
8149288		4701303284		108 M J KELLY NO 1			0.3	PENNZOIL CO		
8149287		4701303285		108 M J KELLY NO 2			0.3	PENNZOIL CO		

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JO NO	JA DKT	API NO	C SEC CAT WELL NAME	FIELD NAME	PROD	PURCHASER
8149286		4701303286	108 M J KELLY NO 3	SHERIDAN DISTRICT	0.3	PENNZOIL CO
8149284		4701303287	108 M J KELLY NO 4	SHERIDAN DISTRICT	0.3	PENNZOIL CO
8149316	-W G & K E BUSCH	4701303243	108 B S RAYBUCK NO 8	SHERIDAN DISTRICT	0.3	PENNZOIL CO
8149321		4701302278	108 E P HAUGHT NO 1	SHERIDAN DISTRICT	0.0	PENNZOIL CO
8149322		4701303279	108 E P HAUGHT NO 2	SHERIDAN DISTRICT	0.3	PENNZOIL CO
8149323		4701303280	108 E P HAUGHT NO 3	SHERIDAN DISTRICT	0.3	PENNZOIL CO
8149324		4701303281	108 E P HAUGHT NO 4	SHERIDAN DISTRICT	0.3	PENNZOIL CO
8149318		4701303275	108 WM & Z O COOPER NO 1	SHERIDAN DISTRICT	0.3	PENNZOIL CO
8149319		4701303276	108 Z O COOPER NO 1	SHERIDAN DISTRICT	0.3	PENNZOIL CO
8149328		4701303277	108 Z O COOPER NO 2	SHERIDAN DISTRICT	0.3	PENNZOIL CO
8149327	-NRK PETROLEUM CORPORATION		RECEIVED: 09/14/81 JA: WV			
8149328		4702102432	108 CAMPBELL #2	GLENVILLE	8.4	CONSOLIDATED GAS
8149328		4702102963	108 CAMPBELL #6	GLENVILLE	8.8	CONSOLIDATED GAS
8149301	-PATRICK H CUNNINGHAM		RECEIVED: 09/11/81 JA: WV			
8149301		4703301958	108 HILL #1	SARDIS	0.2	CONSOLIDATED GAS
8149326	-PENNZOIL COMPANY		RECEIVED: 09/14/81 JA: WV			
8149326		4701700976	108 A L PEARCY #9	NEW MILTON	2.3	CONSOLIDATED GAS
8149343		4710300613	108 F W BARTLETT #5	GRANT	12.5	CONSOLIDATED GAS
8149335		4707900901	108 T C TRAIL #1	CURRY	8.5	CONSOLIDATED GAS
8149334		4707900253	108 W T OXLEY #2	CURRY	2.2	CONSOLIDATED GAS
8149330	-RAMCO OIL & GAS CORP		RECEIVED: 09/14/81 JA: WV			
8149330		4705900883	108 U S STEEL WELL #14	U S STEEL	48.0	CONSOLIDATED GAS
8149331		4705900886	108 U S STEEL WELL #17	U S STEEL	24.0	CONSOLIDATED GAS
8149305	-ROY G HILDRETH ET AL		RECEIVED: 09/11/81 JA: WV			
8149305		4701300000	103 LITT LEASE	LEE	328.1	CABOT
8149304	-SENECA-UPSHUR PETROLEUM CO		RECEIVED: 09/11/81 JA: WV			
8149304		4706800329	102-4 J M HUBER #63	MIDDLE FORK	0.0	EQUITABLE GAS CO
8149310	-SOUTHEASTERN GAS COMPANY		RECEIVED: 09/11/81 JA: WV			
8149310		4700501346	108 AMHERST COMPANY #714	CROOK	2.8	INDUSTRIAL GAS CO
8149280	-UACO OIL AND GAS CO INC		RECEIVED: 09/11/81 JA: WV			
8149280		4702102977	108 TIMMA MICK #3	HEATERS FORK	8.9	CONSOLIDATED GAS
8149172	-CHANDLER & ASSOCIATES INC		RECEIVED: 09/08/81 JA: CO 1			
8149172		0510308659	107-TF FORK UNIT 1-23-1-2	DOUGLAS CREEK NORTH	182.0	NORTHWEST PIPELIN
8149177		0510308615	107-TF FORK UNIT 12-2-2-2	DRAGON TRAIL	77.0	NORTHWEST PIPELIN
8149178		0510308615	107-TF FORK UNIT 12-2-2-2	DRAGON TRAIL	77.0	NORTHWEST PIPELIN
8149176		0510308643	107-TF FORK UNIT 15-2-2-2	DRAGON TRAIL	39.0	NORTHWEST PIPELIN
8149174		0510305553	107-TF FORK UNIT 2-1-2-2	DRAGON TRAIL	156.0	NORTHWEST PIPELIN
8149173		0510308656	107-TF FORK UNIT 4-27-1-2	DOUGLAS CREEK NORTH	136.0	NORTHWEST PIPELIN
8149171		0510308658	107-TF FORK UNIT 5-23-1-2	DOUGLAS CREEK NORTH	122.0	NORTHWEST PIPELIN
8149175		0510308642	107-TF FORK UNIT 7-10-2-2	DRAGON TRAIL	45.0	NORTHWEST PIPELIN
8149170	-ARBRA OIL & GAS CO		RECEIVED: 09/08/81 JA: UT 1			
8149170		4301930611	102-4 15-5-80A PETRO	CISCO WASH	30.0	NORTHWEST PIPELIN
8149161	-MAPCO PRODUCTION COMPANY		RECEIVED: 09/09/81 JA: UT 1			
8149161		4304730689	107-TF RBU 11-3F	RIVER BEND	182.5	NATURAL GAS CORP
8149163		4304730761	107-TF RBU 7-10F	RIVER BEND	182.5	NATURAL GAS CORP
8149164		4304730768	107-TF RBU 7-22F	RIVER BEND	182.5	NATURAL GAS CORP
8149162		4304730825	107-TF RBU 8-14F	RIVER BEND	182.5	NATURAL GAS CORP
8149167	-MOUNTAIN FUEL SUPPLY COMPANY		RECEIVED: 09/09/81 JA: UT 1			
8149167		0510308390	103 MFS FEDERAL 11-4	LOWER HORSE DRAW	285.0	MOUNTAIN FUEL RES

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JD NO	JA DKT	API NO	D SEC CAT	WELL NAME	FIELD NAME	PROD	PURCHASER
-TENNECO	OIL COMPANY						
8149169	UD 0079-81	4301930507	RECEIVED: 09/08/81	JA: UT 1	BRYSON CANYON		500.0 MESA PIPELINE CO
8149166	UD 0208-81	4301930733	103 HOGLE USA #14-4		BRYSON CANYON		73.0 SOUTHWEST GAS COR
8149168	UD 0300-81	4301930657	103 REINAUER #1-14		WILCCAT		100.0 SOUTHWEST GAS COR
-TENNECO	OIL COMPANY						
8149165	UD 0218-81	4301930702	RECEIVED: 09/09/81	JA: UT 1	BRYSON CANYON		135.0 SOUTHWEST GAS COR
-WEXPRO	CO						
8149159	UD 0297-81	4303730686	RECEIVED: 09/09/81	JA: UT 1	BRYSON CANYON		250.0 MOUNTAIN FUEL RES
8149160	UD 0298-81	4303730573	102-2 BUG WELL NO 15		BUG		150.0 MOUNTAIN FUEL RES
			102-2 BUG WELL NO 6		BUG		
**	BUREAU OF INDIAN AFFAIRS, OSAGE AGENCY, PAHMUSKA, OK						
-OILWELL	COMPLETION INC						
8149244		3511330000	RECEIVED: 09/08/81	JA: OK 8	WOOLAROC		7.2 NATIONAL ZINC CO
8149245		3511330000	108 GIRL SCOUT LEASE WELL 2-1		WOOLAROC		7.2 NATIONAL ZINC CO
8149246		3511330000	108 GIRL SCOUT LEASE WELL 2-2		WOOLAROC		7.2 NATIONAL ZINC CO
			108 GIRL SCOUT LEASE WELL 2-3				
-OKLAHOMA	DRILLING CORP						
8149242		3511330000	RECEIVED: 09/14/81	JA: OK 8	EAST HAPPY HOLLOW		10.3 PHILLIPS PETROLEUM
8149243		3511330000	103 BILL PRATT #1-8		EAST HAPPY HOLLOW		4.2 PHILLIPS PETROLEUM
8149244		3511330000	103 BILL PRATT #3-8		FREEMAN		0.8 PHILLIPS PETROLEUM
-ROBERT L KELLY							
8149241		3511330000	RECEIVED: 09/14/81	JA: OK 8	FREEMAN		0.8 PHILLIPS PETROLEUM
-TAURUS	OIL CORP						
8149240		3511330000	RECEIVED: 09/14/81	JA: OK 8	HICKORY CREEK LEASE		14.6 AJAX OIL & GAS CO
			103 POTTER #18				

OTHER PURCHASERS

VOLUME NC :517

8149180 TRANSWESTERN PIPELINE
 8149181 TRANSWESTERN PIPELINE
 8149182 TRANSWESTERN PIPELINE
 8149188 NORTHWEST PIPELINE CORPORATION
 8149193 TRANSWESTERN PIPELINE
 8149194 TRANSWESTERN PIPELINE
 8149195 TRANSWESTERN PIPELINE
 8149196 TRANSWESTERN PIPELINE

The above notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production (PROD) is in million cubic feet (MMCF). An (*) before the Control (JD) number denotes additional

purchasers listed at the end of the notice.

The applications for determination are available for inspection except to the extent such material is confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol St., Washington, D.C. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203

and 275.204, file a protest with the Commission on or before November 4, 1981.

Categories within each NGPA section are indicated by the following codes:

Section 102-1: New OCS lease
 102-2: New well (2.5 mile rule)
 102-3: New well (1000 ft rule)
 102-4: New onshore reservoir
 102-5: New reservoir on old OCS lease
 Section 107-DP: 15,000 feet or deeper

107-GB: Geopressed brine
 107-CS: Coal seams
 107-DV: Devonian shale
 107-PE: Production enhancement
 107-TF: New tight formation
 107-RT: Recompletion tight formation
 Section 108: Stripper well
 108-SA: Seasonally affected
 108-ER: Enhanced recovery
 108-PB: Pressure buildup
 Kenneth F. Plumb,
 Secretary.

CORRECTIONS TO PREVIOUS NOTICES OF DETERMINATION

JD No.	JA	Applicant	Well Name	Orig. Pub. In Federal Register	Date	Correction to prior Fed. Register notice
80-38782	TX	Energy Resources O & G	PHILLIPS TUL E	225	07-14-80	C: 108 approved, not denied
80-56238	OK	Champion Petroleum	L L FRENTICE #1	255	09-03-80	C: Well name
81-11037	OK	May Petroleum	LOGOZINSKI #1	383	02-04-81	C: 102-4 & 103 approved
81-30581	TX	Belta Drilling Co	JETTA WILLIS #1	439	06-17-81	C: 102-2, 103 & 107-TF approved
81-30596	TX	Texas Oil & Gas	NANNY #1	439	06-17-81	C: 102-2, 103 & 107-TF approved
81-30673	TX	Sklar & Phillips	BRIGGS GAS UNIT #1	439	06-17-81	C: 102-2, 103 & 107-TF approved
81-37063	TX	Texas Oil & Gas	HEATON #1	468	07-16-81	C: 102-4, 103 & 107-TF approved
81-38540	TX	Texas Oil & Gas	LIVINGSTON #1	472	07-30-81	C: 102-4, 103 & 107-TF approved
81-39728	TX	Sklar & Phillips	T G HEMBY GAS UNIT #1	476	08-07-81	C: 102-3, 103 & 107-TF approved
81-40448	LA	Gulf Oil Corp	16600 TUSC TURNER #5	478	08-07-81	C: 107-DP approved
81-40460	LA	Lock Arbor Production	SMITH ET AL #25	478	08-07-81	C: 103 & 108 approved
81-40480	LA	Shadrack Production	O WAYNE #1	478	08-07-81	C: 103 & 107-TF approved
81-40945	TX	Jack W Grigsby	WHITAKER #1	481	08-19-81	C: 102-3, 103 & 107-TF approved
81-41115	TX	HWC Oil Company	WILCO GAS UNIT 1-2	481	08-19-81	C: 102-4, 103 & 107-TF approved
81-41478	OK	Ergon Energy Corp.	COUCH #1	481	08-19-81	C: 102-3, 103 & 107-TF approved
81-42550	LA	Péter W. Herbat	ZORBA E-1 WELL	483	08-19-81	C: Applicant name
81-43804	KS	Ajax Oil & Gas Corp.	FEE 80 #5	488	08-19-81	C: 103 & 108 approved
81-43825	KS	Hasada Industries	MCKEE #5	493	08-24-81	C: Well name
81-43844	KS	Hasada Industries	WARDEN #1-LT	493	08-24-81	C: Well name
81-43970	LA	Alert Oil & Gas Co.	HEVEN #74-4	493	06-24-81	C: Well name
81-44041	TX	Sundance Oil Co.	EP CALL #1	493	08-24-81	C: Well name
81-44484	TX	Champion Petroleum Co.	P.E. HILL III #1	494	08-27-81	C: 102-4 approved, not 102-2
81-44493	OK	Trans Canada Enterp.	RALPH ROSS #1	495	08-27-81	C: 102-3, 103 & 107-TF approved
81-44521	TX	Texas Oil & Gas	LOUELLA PROCTOR HAUSER #1-A	495	08-27-81	C: Well name
81-44552	TX	Amoco Production Co.	SHORT No. 1	495	08-27-81	C: 102-4, 103 & 107-TF approved
81-44553	TX	Texas Oil & Gas	DOROTHY CLARK TRUSTEE #1	495	08-27-81	C: 107-TF approved, not 107-DP
81-44590	TX	Amoco Production Co.	JEMKINS A #2	495	08-27-81	C: 102-4, 103 & 107-TF approved
81-44594	TX	Texas Oil & Gas Corp.	SAM H GADDY SR #1	495	08-27-81	C: 107-TF approved, not 107-DP
81-44617	TX	Sklar & Phillips	KELLER N #1	495	08-27-81	C: 107-TF approved, not 107-DP
81-44836	TX	Oil Life Inc	WOOLWORTH B-2	495	08-27-81	C: 102-3, 103 & 107-TF approved
81-44847	OK	Kaiser-Francis Oil Co.	OESTMANN #1	496	08-27-81	C: 102-2 & 103 approved
81-44865	OK	Phillips Petroleum Co.	EVA FRAIRIE #1	496	08-27-81	C: Well name
81-44897B	OH	Doran & Associates, Inc.	OKLAHOMA "F" #1	496	08-27-81	C: 107-TF denied
81-44912	OH	Homco Partners	SNOOK-KING #1	496	08-27-81	C: 103 approved, 107-TF denied
81-45124	WY	Amoco Production Co.	K SPURGEON #1	499	09-03-81	C: 102-2 & 107 TF approved
81-45329	WY	Amoco Production Co.	WHISKEY BUTTES UNIT #39	499	09-03-81	C: 103 & 107-TF approved
			WILSON RANCH UNIT #19	499	09-03-81	C: 103 & 107-TF approved

[FR Doc. 81-30209 Filed 10-19-81; 8:45 am]

BILLING CODE 6717-02-M

ENVIRONMENTAL PROTECTION AGENCY

[OPP-50536A; PH-FRL-1963-8]

Abbott Laboratories; Amendment of Experimental Use Permit**AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Notice.

SUMMARY: EPA has amended an experimental use permit, No. 275-EUP-20, issued to Abbott Laboratories for use of 2674.25 pounds of the fungicide *Hirsutella thompsonii* Fisher on blueberries, citrus, and turf to evaluate the control of Bermuda turf mite, blueberry bud mite, and citrus rust mite. The amendment allows the use of the fungicide also on field corn, pasture grasses, and sorghum.

FOR FURTHER INFORMATION CONTACT: Franklin D. R. Gee, Product Manager (PM) 17, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 207, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-2690).

SUPPLEMENTARY INFORMATION: EPA issued a notice that published in the Federal Register of May 5, 1981 (45 FR 25139) pertaining to the renewal of an experimental use permit, No. 275-EUP-20, to Abbott Laboratories. Since then, Abbott Laboratories has requested that the permit be amended to allow use of the fungicide *Hirsutella thompsonii* Fisher on the raw agricultural commodities field corn, pasture grasses, and sorghum. EPA has granted the request. All other conditions of the experimental use program remain the same.

(Sec. 5, Stat. 819, as amended (7 U.S.C. 136))

Dated: October 13, 1981.

Douglas D. Camp,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 81-30316 Filed 10-19-81; 8:45 am]

BILLING CODE 6560-32-M

[EN-FRL-1963-7]

Receipt of Application Pursuant to the Steel Industry Compliance Extension Act of 1981: Shenango Incorporated**AGENCY:** Environmental Protection Agency.**ACTION:** Notice of receipt.

SUMMARY: On October 9, 1981 EPA received an application from Shenango Incorporated pursuant to the Steel Industry Compliance Extension Act of 1981 (Pub. L. 97-23). The application requests that EPA extend certain deadlines for achieving compliance with Clean Air Act requirements. The Administrator will be making her interim findings with regard to the company's eligibility for an extension within a few weeks. Persons desiring to make public comment are encouraged to do so without delay.

DATES: Effective on October 20, 1981.

ADDRESS: Section 113(e)(3) of the Clean Air Act, as amended, provides that any records, reports or information obtained by the Administrator pursuant to this subsection shall be available to the public unless the Administrator determines, pursuant to a request by the applicant company, that such information is confidential within the meaning of 18 U.S.C. 1905. Documents received by the Administrator that are not confidential in nature have been placed in Public Docket Number EN 81-16-F: Shenango Incorporated, and are available for public inspection between 8 a.m. and 4 p.m., Monday through Friday at: Central Docket Section, Gallery One, West Tower Lobby, U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460. A reasonable fee may be charged for photocopying.

FOR FURTHER INFORMATION CONTACT: Michael Alushin (EN-329), Office of Legal Counsel and Enforcement, Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460 (202) 755-0658.

Dated: October 14, 1981.

William A. Sullivan, Jr.
Enforcement Counsel.

[FR Doc. 81-30315 Filed 10-19-81; 8:45 am]

BILLING CODE 6560-41-M

[PH-FRL 1964-1; PP 1G2517/T326]

(Z)-11-Hexadecenal; Establishment of an Exemption From Requirement of a Tolerance**AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Notice.

SUMMARY: EPA has established an exemption from the requirement of a tolerance for residues of the pheromone (Z)-11-hexadecenal in or on the raw agricultural commodity artichokes.

DATE: This temporary exemption from the requirement of a tolerance expires July 14, 1982.

FOR FURTHER INFORMATION CONTACT: Franklin D. R. Gee, Product Manager (PM) 17, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 207, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-2690).

SUPPLEMENTARY INFORMATION: Health-Chem Corp., Hercon Div., 1107 Broadway, New York, NY 10010, has requested the establishment of an exemption from the requirement of a tolerance for residues of the pheromone (Z)-11-hexadecenal in or on artichokes.

This exemption from the requirement of a tolerance will permit the continued marketing of the above raw agricultural commodity when treated in accordance with the provisions of experimental use permit 8730-EUP-11 which is being issued under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended (92 Stat. 819; 7 U.S.C. 136).

The scientific data reported and all other relevant material were evaluated, and it was determined that the exemption from the requirement of a tolerance will protect the public health. Therefore, the temporary exemption from the requirement of a tolerance has been established on the condition that the pheromone be used in accordance with the experimental use permit and with the following provisions:

1. The total amount of the pheromone to be used must not exceed the quantity authorized by the experimental use permit.

2. Health-Chem Corp. must immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The company must also keep records of production, distribution, and performance and on request make the records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

This temporary exemption from the requirement of a tolerance expires July 14, 1982. Residues remaining in or on the raw agricultural commodity after this expiration date will not be considered actionable if the pheromone is legally applied during the term of, and in accordance with, the provisions of the experimental use permit and temporary exemption from the requirement of a tolerance. This temporary exemption from the requirement of a tolerance may be revoked if the experimental use permit is revoked or if any experience or scientific data with this pheromone indicate that such revocation is necessary to protect the public health.

As required by Executive Order 12291, EPA has determined that this temporary exemption from the requirement of a tolerance 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 temporary exemption from the requirement of a tolerance from the OMB review requirements 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. 610-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a 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).

(Sec. 408(j), 68 Stat. 516, (21 U.S.C. 364a(j)))
Dated: October 14, 1981.

Douglas D. Campit,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 81-30317 Filed 10-19-81; 8:45 am]

BILLING CODE 6560-32-M

[ER-FRL-1963-4]

Intent To Prepare an Environmental Impact Statement (EIS) and Conduct a Public Scoping Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of intent to prepare a Draft Environmental Impact Statement

and conduct a public scoping meeting for the Cumberland I Generating Station in Millville, New Jersey.

PURPOSE: In accordance with section 102(2)(C) of the National Environmental Policy Act, the EPA has identified a need to prepare an EIS and therefore publishes this Notice of Intent pursuant to 40 CFR 1501.7.

FOR FURTHER INFORMATION CONTACT: Mr. Edward Als, EIS Project Officer, Environmental Impacts Branch, U.S. Environmental Protection Agency—Region II, 26 Federal Plaza, Room 400, New York, New York 10278. Telephone No.—Commerical (212) 264-1375 FTS 8-264-1375.

SUMMARY: The USEPA—Region II, has distributed to the public a detailed Notice of Intent of EPA's intention to prepare an Environmental Impact Statement on the issuance of a National Pollutant Discharge Elimination System (NPDES) permit to Atlantic City Electric Company for their proposed 290 megawatt coal-fired power plant in Millville, New Jersey. Copies of the detailed Notice are available from the Project Officer identified above.

Scoping

EPA desires to know what the public considers to be the major environmental issues associated with the proposed Cumberland I Generating Station. EPA will hold a meeting to determine the scope of the draft EIS on November 18, 1981 at 1:30 PM at the Millville City Hall in Millville, New Jersey. EPA invites full participation by individuals, private organizations, local, state, and federal agencies. The public will be involved to the maximum extent possible and is encouraged to participate in the planning process.

EPA estimates the draft EIS will be available for public review in approximately nine (9) months. All interested parties are encourage to submit their name and address to the person indicated above for inclusion on the list to receive the draft EIS and related public notices.

Dated: October 8, 1981.

Thomas R. Sheckells,

Acting Director, Office of Federal Activities (A-104).

[FR Doc. 81-30334 Filed 10-19-81; 8:45 am]

BILLING CODE 6560-38-M

FEDERAL COMMUNICATIONS COMMISSION

[CC Docket No. 81-711, File No. 20304-CD-P-79; CC Docket No. 81-712, File No. 20777-CD-P-79]

Ram Broadcasting of Colorado, Inc. and Digital Paging Systems of Colorado, Inc.; Designating Applications for Consolidated Hearing on Stated Issues

In re applications of Ram Broadcasting of Colorado, Inc., for a Construction Permit to establish an additional location for Station KUC881 to operate in the Domestic Public Land Mobile Radio Service on frequency 43.58 MHz at Lookout Mountain, Colorado, CC Docket No. 81-711, File No. 20304-CD-P-79; and Digital Paging Systems of Colorado, Inc., for a Construction Permit to establish a new one-way station to operate in the Domestic Public Land Mobile Radio Service on frequency 43.58 MHz near Lookout Mountain, Colorado, CC Docket No. 81.712, File No. 20777-CD-P-79.

Memorandum Opinion and Order

Adopted: October 2, 1981

Released October 8, 1981.

1. Presently before the Chief, Mobile Services Division, pursuant to delegated authority, are the captioned applications. These applications are electrically mutually exclusive;¹ therefore, a comparative hearing will be held to determine which applicant would better serve the public interest. We find the applicants to be otherwise qualified.

2. Accordingly, it is ordered, pursuant to Section 309 of the Communications Act of 1934, as amended, that the applications of RAM Broadcasting of Colorado, Inc., File No. 20304-CD-P-79, and Digital Paging Systems of Colorado, Inc., File No. 20777-CD-P-79, are designated for hearing in a consolidated preceeding upon the following issues:

¹ We note that while RAM is applying to add an additional location for Station KUC881, Digital is seeking a new station. A grant of either application would preclude a grant of the other.

(a) To determine on a comparative basis, the nature and extent of service proposed by each applicant, including the rates, charges, maintenance, personnel, practices, classifications, regulations, and facilities pertaining thereto;

(b) To determine on a comparative basis, the areas and populations that each applicant will serve within the prospective interference-free area within 43 dBu contours,² based upon the standards set forth in § 22.504(a) of the Commission's Rules,³ and to determine and compare the need for the proposed services in said area; and

(c) to determine, in light of the evidence adduced pursuant to the foregoing issues, what disposition of the referenced applications would best serve the public interest, convenience and necessity.

3. We note that these applications request authority to construct a one-way paging facility on frequency 43.58 MHz. The Commission has received a large number of complaints from the public across the country due to interference to television reception from stations operating on 43.22 MHz. Therefore, pursuant to § 22.401(a) of our Rules (47 CFR 22.401(a)), it is further ordered, That any authorization granted as a result of the comparative hearing discussed above will be on a developmental basis for one year. Thus, we find that the public interest, convenience, and necessity will best be served by a grant subject to the conditions set out below:

(a) Pursuant to Rules § 22.406, quarterly surveys of possible interference with television reception in the geographic area within a two-mile radius of the base station(s) authorized herein shall be made during the first year of operation. The local representative of the Field Operations Bureau, Federal Communications Commission, shall receive prior notice of the commencement date of service to the public, on which date the first survey will start.

(b) Each quarter, a different sample of at least 25 television viewers distributed approximately evenly throughout the

geographic area described above shall be contacted to determine whether they have experienced TV interference. If interference complaints are received either as a result of the interviews or in the normal course of business, the licensee shall determine the source and extent of such interference.

(c) The licensee shall promptly report all interference complaints to the Mobile Services Division (MSD) and act to correct any problems. In any event, the licensee shall submit to the MSD a written report, soon after the completion of each quarter, fully evaluating the continued existence of interference. A copy of any report submitted to the Mobile Services Division must be submitted at the same time to the local field office. Quarterly reports shall include but shall not be limited to, the following information:

- (1) Survey date(s).
- (2) Method (telephone/on-site/other).
- (3) Names, addresses and telephone numbers of persons contacted.
- (4) Time of day survey conducted (morning/afternoon/night).
- (5) Technical solutions tested and results.
- (6) Names and telephone numbers of technical representatives consulted and/or employed.

(d) The local representative of the Field Operations Bureau may notify the grantee that its station is causing interference. The grantee must follow all instructions in such notices.

(e) Any grant made in this proceeding is subject to the provision of Rules § 22.404(c) that no interference may be caused to the regular services of stations operating in accordance with the Commission's Table of Allocations. If interference from the operation of the authorized base stations is brought to our attention, the Commission has the authority to order the station to cease operations immediately.

(f) Pursuant to § 22.404(a) of the Rules, any developmental authority granted in this proceeding is subject to cancellation without a hearing by the Commission at any time upon notice to the licensee. Although we are waiving § 22.404(d) of the Rules to permit the licensee to offer the service for hire, the licensee is directed to inform its customers that service on these channels is developmental and therefore subject to cancellation at any time.

(g) Pursuant to § 22.32(d) of the Rules, any conditional developmental grant made in this proceeding shall be considered final unless the Commission should revise its action in response to a petition for reconsideration which: (1) Is filed by the applicant within 30 days

from the date of the grant; (2) rejects the grant as made and explains the reason why the application should be granted as originally requested; and (3) returns the instrument of authorization. In the event that the Commission releases an order making a developmental grant in this proceeding, that order will serve as an interim authorization until such time as the grantee receives final developmental authorization, and it must be posted at the authorized control point of the station. Prior to the expiration of the developmental authorization, the grantee must submit an application (FCC Form 403) for permanent authorization under Subpart G of Part 22, otherwise the developmental authorization will automatically expire. This authorization is subject to the provisions of the Communications Act of 1934, as amended, subsequent acts, treaties, and all regulations made by this Commission, and is further subject to the conditions and requirements set forth in this authorization.

4. It is further ordered, That the hearing shall be held at a time and place and before an Administrative Law Judge to be specified in a subsequent order.

5. It is further ordered, That the Chief, Common Carrier Bureau, is made a party to the proceeding.

6. It is further ordered, That the applicants 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.

7. It is further ordered, That any authorization granted to RAM Broadcasting of Colorado, 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 subsidiary.

8. It is further ordered, That any authorization granted to Digital Paging Systems of Colorado, 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 Digital Paging Systems, Inc. and Graphic Scanning Corporation.

² For the purpose of this proceeding, the interference-free area is defined as the area within the 43 dBu contour as calculated from § 22.504 in which the ratio of desired-to-undesired signal is equal to or greater than R in FCC Report No. R-6406, equation 8.

³ Section 22.504(a) of the Commission's Rules and Regulations describes a field strength contour of 43 decibels above one microvolt per meter as the limits of the reliable service area for base stations engaged in one-way signaling service. Propagation data set forth in § 22.504(b) are the proper bases for establishing the location of service contours F(50,50) for the facilities involved in this proceeding. (The applicants should consult with the Bureau counsel in an effort to submit joint technical exhibits).

9. The Secretary shall cause a copy of this Order to be published in the **Federal Register**.

Sheldon M. Guttman,

Chief, Mobile Services Division, Common Carrier Bureau.

[FR Doc. 81-30325 Filed 10-19-81; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL MARITIME COMMISSION

Agreements Filed

The Federal Maritime Commission hereby gives notice that the following agreements have been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of each of the agreements and the justifications offered therefor at the Washington Office of the Federal Maritime Commission, 1100 L Street, N.W., Room 10327; or may inspect the agreements at the Field Offices located at New York, N.Y.; New Orleans, Louisiana; San Francisco, California; Chicago, Illinois; and San Juan, Puerto Rico. Interested parties may submit comments on each agreement, including requests for hearing, to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before November 9, 1981. Comments should include facts and arguments concerning the approval, modification, or disapproval of the proposed agreement. Comments shall discuss with particularity allegations that the agreement is unjustly discriminatory or unfair as between carriers, shippers, exporters, importers, or ports, or between exporters from the United States and their foreign competitors, or operates to the detriment of the commerce of the United States, or is contrary to the public interest, or is in violation of the Act.

A copy of any comments should also be forwarded to the party filing the agreements and the statement should indicate that this has been done.

Agreement No.: T-3527-4.

Filing party: Mr. J. L. Haskell, Deputy Port Director, Port of Milwaukee, 500 N. Harbor Drive, Milwaukee, Wisconsin 53202.

Summary: Agreement No. T-3527-4, between the City of Milwaukee and Meehan Seaway Service, Ltd. (Meehan), amends the basic agreement which provides for the lease of certain premises containing 3.623 acres on the South Harbor tract known as 829 East Jones Street, to be used for the receiving,

shipping, storing and handling of all general commodities.

The purpose of the modification is to redesignate the demised premises to a 4.7 acre parcel of land located at 1226 South Carferry Drive, which is also on the South Harbor tract. The parties further agree that there will not be an increase of rent on the new premises inasmuch as Meehan expended substantial sums for improvements on the old leased area and on relocation costs. Meehan agrees to waive all claims for additional relocation benefits under Federal or state laws.

Agreement No.: T-3992.

Filing Party: E. F. Brimo, Treasurer, Global Terminal and Container Services, Inc., P.O. Box 273, Jersey City, New Jersey 07303.

Summary: Agreement No. T-3992, between Global Terminal and Container Services, Inc. (Global) and Dart Containerline Company, Limited (Dart), provides that Global will furnish the necessary equipment and labor for the performance of comprehensive container terminal and stevedoring services for Dart at Global's marine terminal facility in the Port of New York. Dart will compensate Global for its services at rates set forth in schedules attached to the agreement. The agreement's term commences upon Commission approval and remains in effect until May 31, 1992. When and if approved, Agreement No. T-3992 will cancel and supersede Agreement No. T-2623, between these same parties.

Agreement No.: T-3993

Filing party: E. F. Brimo, Treasurer, Global Terminal and Container Services, Inc., P.O. Box 273, Jersey City, New Jersey 07303.

Summary: Agreement No. T-3993, between Global Terminal and Container Services, Inc. (Global) and Columbus Line (Columbus), provides that Global will furnish the necessary equipment and labor for the performance of comprehensive container terminal and stevedoring services for Columbus at Global's marine terminal facility in the Port of New York. Columbus will compensate Global for its services at rates set forth in schedules attached to the agreement. The agreement's term commences upon Commission approval and remains in effect until May 31, 1992. When and if approved, Agreement No. T-3993 will cancel and supersede Agreement No. T-2625, between these same parties.

Agreement No.: T-3994.

Filing party: E. F. Brimo, Treasurer, Global Terminal and Container Services, Inc., P.O. Box 273, Jersey City, New Jersey 07303.

Summary: Agreement No. T-3994, between Global Terminal and Container Services, Inc. (Global) and Universal Express Container Services, Inc. (Universal), provides that Global will furnish the necessary equipment and labor for the performance of comprehensive container terminal and stevedoring services for Universal at Global's marine terminal facility in the Port of New York. Universal will compensate Global for its services at rates set forth in schedules attached to the agreement. The agreement's term commences upon Commission approval and remains in effect until January 19, 2001.

Agreements Nos.: 8760-11 and 9247-8.

Filing party: Bruce Love, Esquire, Lillick McHose & Charles, Two Embarcadero Center, San Francisco, California 94111.

Summary: Agreements Nos. 8760-11 and 9247-8 would amend, respectively, Article 2 of the West Coast United States & Canada/India, Pakistan, Ceylon and Burma Rate Agreement and the India, Pakistan, Ceylon, Burma/West Coast United States Rate Agreement in order to set forth procedures regarding the time and opportunity allowed for consideration of an independent action proposal. The present forty-eight (48) hour advance notice period for exercising the right of independent action will remain in effect.

Dated: October 14, 1981.

By Order of the Federal Maritime Commission.

Francis C. Hurney,
Secretary.

[FR Doc. 81-30330 Filed 10-19-81; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Bank Holding Companies; Proposed De Novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater

convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and, except as noted, received by the appropriate Federal Reserve Bank not later than November 7, 1981.

A. Federal Reserve Bank of Boston (Richard E. Randall, Vice President), 600 Atlantic Avenue, Boston, Massachusetts 021106:

Industrial National Corporation, Providence, Rhode Island (mortgage banking and insurance activities; Missouri): to engage *de novo*, through its indirect subsidiary, Mortgage Associates, Inc., in the origination, sale and servicing of residential mortgage loans; and the sale of credit life and credit accident and health insurance directly related to its extensions of credit. These activities would be conducted from a new office to be located in St. Charles, Missouri, serving the Missouri counties of Lincoln, St. Charles, and Warren.

B. Federal Reserve Bank of New York (A. Marshall Puckett, Vice President), 33 Liberty Street, New York, New York 10045:

Lincoln First Banks Inc., Rochester, New York (trust company activities, Florida): to engage *de novo* through its subsidiary, Lincoln First Trust Company of Florida, N.A., in activities that may be carried on by a trust company, including activities of a fiduciary, investment advisory, agency or custodian nature. These activities will be conducted from an office to be located in Boca Raton, Florida and the geographic area to be served will be Palm Beach, Broward, and Dade Counties, Florida. Comments on this application must be received not later than November 4, 1981.

C. Federal Reserve Bank of St. Louis (Delmer P. Weisz, Vice President), 411 Locust Street, St. Louis, Missouri 63166:

Tradewater Bancharas, Inc., Providence, Kentucky (credit-related insurance activities; Kentucky): a bank holding company, proposes to engage, through a subsidiary known as Union National Insurance Agency, Inc., in the activities of acting as an agent or broker with respect to the sale of credit life insurance, credit accident and health insurance and insurance of the interest of a real property mortgagee in mortgaged property (other than title insurance), all of which will directly relate to an extension of credit by applicant and any affiliate of it, including its banking subsidiary. Such activities will be conducted at the main office of applicant's banking subsidiary in Providence, Kentucky, serving Webster and Hopkins Counties in Kentucky.

D. Federal Reserve Bank of Kansas City (Thomas M. Hoenig, Assistant Vice President), 925 Grand Avenue, Kansas City, Missouri 64198:

Liberty National Corporation, Oklahoma City, Oklahoma (commercial financing activities; Oklahoma, Texas, Arkansas, Missouri, Kansas, Colorado, New Mexico, California, New Jersey, New York): to engage in the making and acquiring of direct commercial loans for its own account. These activities will be conducted from an office in Oklahoma City, Oklahoma, serving the States listed above.

E. Other Federal Reserve Banks: None.

Board of Governors of the Federal Reserve System, October 13, 1981.

Theodore E. Downing, Jr.,
Assistant Secretary of the Board.

[FR Doc. 81-3687 Filed 10-19-81; 8:45 am]
BILLING CODE 6210-01-M

The Bank of San Francisco Holding Co.; Formation of Bank Holding Company

The Bank of San Francisco Holding Company, San Francisco, California, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 100 per cent of the voting shares of The Bank of San Francisco, San Francisco, California. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of San Francisco. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than

November 10, 1981. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, October 13, 1981.

Theodore E. Downing, Jr.,
Assistant Secretary of the Board.

[FR Doc. 81-30254 Filed 10-19-81; 8:46 am]
BILLING CODE 6210-01-M

Capistrano Bancorp; Formation of Bank Holding Company

Capistrano Bancorp, San Juan Capistrano, California, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 100 per cent of the voting shares of the successor by merger to Capistrano National Bank, San Juan Capistrano, California. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of San Francisco. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than November 6, 1981. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, October 13, 1981.

Theodore E. Downing, Jr.,
Assistant Secretary of the Board.

[FR Doc. 81-30245 Filed 10-19-81; 8:45 am]
BILLING CODE 6210-01-M

CNCC Partners; Formation of Bank Holding Company

CNCC Partners, Chicago, Illinois, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 63 percent or more of the voting shares of Central National Chicago Corporation, Chicago, Illinois which owns 100 percent of Central National Bank in Chicago, Chicago.

Illinois. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than November 12, 1981. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any question of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, October 13, 1981.

Theodore E. Downing, Jr.,
Assistant Secretary of the Board.

[FR Doc. 81-30246 Filed 10-19-81; 8:45 am]

BILLING CODE 6210-01-M

Elco Bancshares, Inc.; Formation of Bank Holding Company

Elco Bancshares, Inc., Lorraine, Kansas, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 81 percent or more of the voting shares of Lorraine State Bank, Lorraine, Kansas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Elco Bancshares, Inc., Lorraine, Kansas, has also applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to acquire voting shares of Lorraine Insurance Company, Lorraine, Kansas.

Applicant states that the proposed subsidiary would engage in the activities of a general insurance agency located in a town with population of less than 5,000. These activities would be performed from offices of Applicant's subsidiary in Lorraine, Kansas, and the geographic area to be served is Lorraine, Kansas. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can

"reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than November 12, 1981.

Board of Governors of the Federal Reserve System, October 13, 1981.

Theodore E. Downing, Jr.,
Assistant Secretary of the Board.

[FR Doc. 81-30247 Filed 10-19-81; 8:45 am]

BILLING CODE 6210-01-M

First Bankers Corporation of Florida; Acquisition of Bank

First Bankers Corporation of Florida, Pompano Beach, Florida, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 80 per cent of more of the voting shares of Century National Bank of Brevard, Melbourne, Florida. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than November 12, 1981. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, October 13, 1981.

Theodore E. Downing, Jr.,
Assistant Secretary of the Board.

[FR Doc. 81-30248 Filed 10-19-81; 8:45 am]

BILLING CODE 6210-01-M

First Fordyce Bancshares, Inc.; Formation of Bank Holding Company

First Fordyce Bancshares, Inc., Fordyce, Arkansas, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 per cent or more of the voting shares of The First National Bank of Fordyce, Fordyce, Arkansas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of St. Louis. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than November 12, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, October 13, 1981.

Theodore E. Downing, Jr.,
Assistant Secretary of the Board.

[FR Doc. 81-30249 Filed 10-19-81; 8:45 am]

BILLING CODE 6210-01-M

Kasco Financial Corp.; Formation of Bank Holding Company

Kasco Financial Corporation, Warren, Michigan, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 100 per cent of the voting shares of the successor by merger to Warren Bank, Warren, Michigan. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than November 3, 1981. Any comment on an application

that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, October 13, 1981.

Theodore E. Downing, Jr.,
Assistant Secretary of the Board.
[FR Doc. 81-30250 Filed 10-19-81; 8:45 am]
BILLING CODE 6210-01-M

Landmark Bancshares Corp.; Acquisition of Bank

Landmark Bancshares Corporation, St. Louis, Missouri, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 90 percent or more of the voting shares of Battlefield National Bank, Springfield, Missouri. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of St. Louis. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than November 10, 1981. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, October 13, 1981.

Theodore E. Downing, Jr.,
Assistant Secretary of the Board.
[FR Doc. 81-30251 Filed 10-19-81; 8:45 am]
BILLING CODE 6210-01-M

Manufacturers Hanover International Banking Corp.; Establishment of U.S. Branch of a Corporation Organized Under Section 25(a) of the Federal Reserve Act

Manufacturers Hanover International Banking Corporation, a corporation organized under section 25(a) of the Federal Reserve Act, has applied for the Board's approval under § 211.4(c)(1) of the Board's Regulation K (12 CFR 211.4(c)(1)), to establish a branch in

Atlanta, Georgia. Manufacturers Hanover International Banking Corporation operates as a subsidiary of Manufacturers Hanover Trust Company, New York, New York.

The factors that are to be considered in acting on this application are set forth in § 211.4(a) of the Board's Regulation K (12 CFR 211.4(a)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of New York. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than November 12, 1981. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, and summarize the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, October 13, 1981.

Theodore E. Downing, Jr.,
Assistant Secretary of the Board.
[FR Doc. 81-30252 Filed 10-19-81; 8:45 am]
BILLING CODE 6210-01-M

New Lenox Holding Co.; Formation of Bank Holding Company

New Lenox Holding Company, New Lenox, Illinois, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 per cent or more of the voting shares of New Lenox State Bank, New Lenox, Illinois. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than November 6, 1981. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve

System, October 13, 1981.

Theodore E. Downing, Jr.,
Assistant Secretary of the Board.
[FR Doc. 81-30253 Filed 10-19-81; 8:45 am]
BILLING CODE 6210-01-M

United Bank Corp.; Formation of Bank Holding Company

United Bank Corporation, Barnesville, Georgia, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 100 per cent of the voting shares of Lamar State Bank, Barnesville, Georgia, Bank of Zebulon, Zebulon, Georgia; and Crawford County Bank, Roberta, Georgia. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than November 12, 1981. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, October 13, 1981.

Theodore E. Downing, Jr.,
Assistant Secretary of the Board.
[FR Doc. 81-30255 Filed 10-19-81; 8:45 am]
BILLING CODE 6210-01-M

Wolf Point Bancorporation, Inc.; Formation of Bank Holding Company

Wolf Point Bancorporation, Inc., Wolf Point, Montana, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 94.31 per cent of the voting shares of Citizens First National Bank of Wolf Point, Wolf Point, Montana. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Minneapolis. Any person wishing to comment on the application should

submit views in writing to the Reserve Bank, to be received not later than November 12, 1981. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, October 13, 1981.

Theodore E. Downing, Jr.,
Assistant Secretary of the Board.

[FR Doc. 81-30256 Filed 10-19-81; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 81N-0088]

Chest X-ray Referral Criteria Panel; Meetings

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing forthcoming meetings of the Chest X-Ray Referral Criteria Panel. The University of California at San Francisco has convened this panel, to which FDA provides logistical support. This notice gives methods for interested persons to participate in open sessions of the meetings.

DATES: Open sessions: November 3, 1981, 8:30 a.m. to 10 a.m.; November 4, 1981, 8:30 a.m. to 10 a.m.; closed sessions: November 3, 1981, 10:30 a.m. to 6 p.m.; November 4, 1981, 10:30 a.m. to 12 m.

ADDRESS: The meetings will be held at the Holiday Inn, 5520 Wisconsin Ave., Chevy Chase, MD 20015.

FOR FURTHER INFORMATION CONTACT: Jay A. Rachlin, Bureau of Radiological Health (HFV-76), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4600.

SUPPLEMENTARY INFORMATION: Through the Bureau of Radiological Health, FDA conducts and supports research, training, and other activities to minimize unproductive radiation exposure from diagnostic radiological examinations. One possible source of unproductive radiation exposure is radiological examinations that are not likely to affect patient management. To minimize requests for ineffective examinations, it is important that the referring physician have up-to-date information about when a given radiological study is likely to

provide needed diagnostic information. This information, which can take the form of decision guides based on patient signs, symptoms, or history, is termed here "referral criteria."

Under one part of a program designed to facilitate the development and testing by the medical profession of referral criteria for diagnostic radiological examinations, FDA provides logistical support through a contractor for the convening of small panels of clinical and scientific experts to formulate draft referral criteria or statements of use. A detailed description of the X-ray referral criteria development process was published in the *Federal Register* of June 9, 1981 (46 FR 30568).

The panel meetings are being called to discuss several draft chest X-ray referral criteria and comments on chest X-ray referral criteria received to date from medical professional society and public reviews. The draft criteria that will be discussed address the following: prenatal chest X-ray screening examinations, mandated chest X-ray screening examinations, and routine hospital admission chest X-ray examinations. Also, the panel meetings are called to discuss the present status of a number of other chest X-ray use topics which have not yet been developed to the same stage in the deliberation process. Persons interested in specific agenda items to be discussed in open sessions may determine from the contact person the approximate time of discussion.

Interested persons may submit written data and views to the panel during open sessions of the meetings or through the contact person listed above. Any interested person who wishes to request time for oral presentations during the open sessions should inform the contact person, either orally or in writing, before the meetings. Any person attending the meetings who does not in advance of the meetings request time will, at the chairperson's discretion, be permitted to make an oral presentation at the conclusion of the open sessions if time permits.

A list of committee members, a summary of previous panel deliberations, a copy of the draft chest X-ray referral criteria, and the meetings agenda or the report of the panel meetings may be reviewed at 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 report of the panel meetings will contain minutes of the open sessions, copies of written data and views submitted to the panel

in the open sessions, and summaries of the closed session.

Dated: October 13, 1981.

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

[FR Doc. 81-30226 Filed 10-15-81; 2:16 pm]

BILLING CODE 4110-03-M

United Co-Operative Farmers, Inc.; UCF Enheptin Mixture; Withdrawal of Approval of NADA

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is withdrawing approval of a new animal drug application (NADA) providing for the use of UCF Enheptin Mixture (premix) for treatment of histomoniasis (blackhead) in turkeys. The sponsor, United Co-operative Farmers, Inc., has requested the withdrawal.

EFFECTIVE DATE: October 30, 1981.

FOR FURTHER INFORMATION CONTACT:

Howard Meyers, Bureau of Veterinary Medicine (HFV-218), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4093.

SUPPLEMENTARY INFORMATION: United Co-operative Farmers, Inc., 339 Broad St., Fitchburg, MA 01420, is the sponsor of NADA 8-194 which provides for the use of UCF Enheptin Mixture (premix) for treatment of histomoniasis (blackhead) in turkeys. The application was originally approved on September 20, 1951. In a letter dated August 6, 1981, the sponsor requested that approval of the NADA be withdrawn because the product is no longer being marketed.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(e), 82 Stat. 345-347 (21 U.S.C. 360b(e))) 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 5.84) and in accordance with § 514.115 *Withdrawal of approval of applications* (21 CFR 514.115), notice is given that approval of NADA 8-194 and all supplements thereto for UCF Enheptin Mixture is hereby withdrawn, effective October 30, 1981.

Dated: October 9, 1981.

Gerald B. Guest,
Acting Director, Bureau of Veterinary
Medicine.

[FR Doc. 81-30095 Filed 10-19-81; 8:45 am]

BILLING CODE 4110-03-M

**DEPARTMENT OF HOUSING AND
URBAN DEVELOPMENT**

Office of the Assistant Secretary for
Housing-Federal Housing
Commissioner

[Docket No. N-81-1094]

**Low-Income Public Housing—
Certification of Housing Managers; List
of Approved Certifying Organizations**

AGENCY: Department of Housing and
Urban Development (HUD).

ACTION: Notice.

SUMMARY: This Notice lists those
organizations which have been
accredited by HUD as Approved
Certifying Organizations for the purpose
of providing certification to Housing
Managers and Assistant Housing
Managers of low-income public housing.

FOR FURTHER INFORMATION CONTACT:
Wayne Hunter, Office of Public
Housing, Department of Housing and
Urban Development, 451 Seventh Street,
S.W., Washington, D.C. 20410, telephone
number (202) 755-6460. (This is not a toll
free number).

SUPPLEMENTARY INFORMATION: Notice is
hereby given that the following
organizations have been accredited by
HUD as Approved Certifying
Organizations for the purpose of
providing certification to Housing
Managers and Assistant Housing
Managers of low-income public housing
in accordance with 24 CFR Part 867:
National Apartment Association, 1825 K
Street, N.W., Suite 604, Washington,
D.C. 20006;

Real Estate Management Brokers
Institute, 2307 Seventh Avenue, New
York, New York 10030.

Other Approved Certifying
Organizations, which were previously
accredited by HUD and listed in a
Federal Register Notice are:
Institute of Real Estate Management, 430
North Michigan Avenue, Chicago,
Illinois 60611;

National Association of Housing and
Redevelopment Officials, 2600
Virginia Avenue, N.W., Washington,
D.C. 20037;

National Center for Housing
Management 1228 M Street, N.W.,
Washington, D.C. 20005;

National Association of Home Builders,
Fifteenth and M Streets, N.W.,
Washington, D.C. 20005.

Further information about each of
these organizations' certification
requirements, procedures and fees may
be obtained by writing *directly* to the
organization. Requirements, procedures
and fees vary among the six

organizations, so that a full comparison
will require information from all six.
These inquiries should not be addressed
to HUD.

AUTHORITY: Section 7(d) of the
Department of HUD Act (42 U.S.C.
3535(d)); Section 6(c)(4) of the United
States Housing Act of 1937, as amended
(42 U.S.C. 1437d).

Issued at Washington, D.C., October 9,
1981.

Philip D. Winn,

Assistant Secretary for Housing-Federal
Housing Commissioner.

[FR Doc. 81-30233 Filed 10-19-81; 8:45 am]

BILLING CODE 4210-01-M

Office of Environmental Quality

[Docket No. NI-76]

**Intended Supplemental Environmental
Impact Statement**

The Department of Housing and
Urban Development gives notice that a
Supplement to an Environmental Impact
Statement (EIS) is intended to be
prepared by the New Community
Development Corporation of HUD for
the following project under HUD
programs as described in the appendix
to this Notice: St. Charles New
Community, Charles County, Maryland.

Interested parties, individuals,
governmental agencies, and private
organizations are invited to submit
information and comments concerning
the project to the specific person or
address indicated in the appropriate
part of the appendix.

Particularly solicited is information on
reports or other environmental studies
planned or completed in the project
area, issues and data which the
Supplemental Environmental Impact
Statement (SEIS) should consider,
recommended mitigating measures and
alternatives, and major issues
associated with the proposed project.
Federal agencies having jurisdiction by
law, special expertise or other special
interests should report their interests
and indicate their readiness to aid the
SEIS effort as a "cooperating agency."

This Notice shall be effective for one
year. If one year after the publication of
the Notice in the Federal Register a SEIS
has not been filed on the Project, then
the Notice for the Project shall be
cancelled. If the SEIS is expected more
than one year after the publication of
the Notice in the Federal Register, then a
new and updated Notice of Intent will
be published.

Issued at Washington, D.C. October 14,
1981.

Francis G. Haas,
Deputy Director, Office of Environmental
Quality.

Appendix

*SEIS on St. Charles New Community,
Charles County, Md.*

The New Community Development
Corporation of the U.S. Department of
Housing and Urban Development
intends to prepare a Supplement to the
Environmental Impact Statement on the
project described below and solicits
information and comments for
consideration in the SEIS.

Description. St. Charles New
Community was originally planned as a
6,980 acre new town located
approximately 25 miles southeast of
Washington, D.C. in northern Charles
County, Maryland. It is assisted under
Title VII of the Housing and Urban
Development Act of 1970. The new
community project was originally
planned to consist of 24,730 dwelling
units and have a population of about
79,145 people after a 20 year
development period. Current
development consists of about 3,000
residential units with a population of
approximately 9,600 people, several
neighborhood community centers with
various recreational facilities and a
sizeable amount of office, commercial,
and industrial development. The SEIS
will evaluate the impacts of actions
HUD is contemplating with respect to
proposed new private financing for St.
Charles, possible termination of Title
VII assistance, and HUD withdrawal.

Need. The reasons why it was
decided to prepare a Supplement to the
Final Environmental Impact Statement
dated December, 1976, is compliance
with HUD regulations (24 CFR 50.21(m))
requiring an updating of the EIS to
consider major implications not
previously considered, in this case new
private financing for St. Charles,
terminate Title VII assistance, and
HUD's withdrawal from further
involvement with the Project.

Alternatives. The perceived
alternatives include: (1) Disapproval of
the new financing with continued
involvement of HUD, and; (2) Approval
of the new private financing with some
continuing involvement of HUD.

Scoping. Responses to this Notice will
assist in identifying data sources and
significant environmental issues which
the SEIS should address, and will help
to identify cooperating agencies.

Comments: Comments, information,
and inquiries should be directed to

Daryl Ray, Environmental Clearance Officer (alternate), New Community Development Corporation, Room 5188, Department of Housing and Urban Development 451 Seventh Street, S.W., Washington, D.C. 20410 or by telephone at (202) 755-6170. Comments should be received no later than November 10, 1981.

[FR Doc. 81-30232 Filed 10-19-81; 8:45 am]

BILLING CODE 4210-01-M

DEPARTMENT OF THE INTERIOR

Geological Survey

Availability of Draft Study Report Assessing United States Arctic Research Policy and the Possible Roles of the Naval Arctic Research Laboratory (NARL) at Barrow, Alaska.

Pursuant to section 1007 of the Alaska National Interest Lands Conservation Act (Pub. L. 96-487) the Secretary of the Interior is directed, in concert with the Secretaries of Defense and Energy, to conduct a study of the mission, facilities, and administration of the Naval Arctic Research Laboratory (NARL) at Barrow, Alaska. The Act further directs the Secretary to specifically address and make recommendations on the need for reduction of the U.S. Arctic Research Policy and the role of the NARL facilities in developing and implementing that policy. The act requires that an approved study and recommendations be submitted to Congress.

The U.S. Geological Survey (USGS) has been designated as lead agency for preparing this study and for coordinating the effort with the Departments of Defense and Energy, and with other agencies and organizations.

In addition, the Alaska delegation has requested that the National Oceanic and Atmospheric Administration (NOAA) consider its needs with respect to Arctic research policy and assist in gathering information from affected Federal agencies concerning their present Arctic research projects, possible future Arctic research projects, the extent to which the NARL facilities are essential to the conduct of these projects, and the expected costs of operating NARL in the foreseeable future.

The USGS and NOAA have combined efforts to obtain information concerning the present and projected needs of the affected Federal agencies for Arctic research. Specific questions were asked of various agencies and organizations to aid in the evaluation of the future role of NARL; specifically these questions were:

(a) What should the main elements be of a National Arctic Research Policy and to what extent should the Federal Government be involved in Arctic research?

(b) What projects is your agency presently conducting that involve Arctic research? Briefly describe each project, the research it involves, the scheduling or time frame, and use of NARL facilities.

(c) What projects involving Arctic research is your agency planning with current or budgeted fiscal resources? Give project priorities, describe the preferred strategies for meeting each research need, and note those in which NARL could play a role.

(d) How would the closure of NARL affect the conduct of your Arctic research?

(e) If a multiagency funding arrangement could be developed to operate NARL as a research facility, would your agency be willing to participate by providing partial funding, for example, in proportion to your use of the facility?

The response to these questions is being integrated with information from published documents and personal interviews to prepare a draft report, along with alternative options. The report is being prepared with the Departments of Defense and Energy, and with assistance from NOAA, and will be available for public review on or about November 2, 1981, at the following locations: The U.S. Geological Survey Library, Room 4A100, National Center, Reston, Virginia; the U.S. Geological Survey, Room 216, Skyline Building, Anchorage, Alaska; the University of Alaska, Fairbanks Campus, Room 10, Arctic Health Building, Fairbanks, Alaska; Borough Clerk's Office, North Slope Borough Administration Building, Barrow, Alaska; Office of the Governor, Room 209, Assembly Building, Juneau, Alaska.

A limited number of copies will be available on request from each of the above locations.

Notice is also given that oral and/or written comments will be received at public meetings to be held in November at the following locations:

High School Gymnasium, Barrow High School, Barrow, Alaska, on November 16, 1981, at 1:30 p.m.

Lecture Auditorium, Geophysical Institute, University of Alaska, Fairbanks Campus, Fairbanks, Alaska, on November 18, 1981, at 9 a.m.

Room 2 International Banquet House, 549 West International Airport Road, Anchorage, Alaska, on November 19, 1981, at 9 a.m.

Auditorium, Department of the Interior, 18th and C Streets, Washington, D.C., on November 24, 1981, at 9 a.m.

Written comments on the draft report will be accepted through November 24, 1981. Written comments or questions concerning the study should be addressed to: David A. Rickert, U.S. Geological Survey, 409 National Center, Reston, Virginia 22092.

Anyone wishing to make oral presentations at the hearings should submit their requests in writing to the Meeting Chairman prior to the start of the meeting in order to facilitate the proceedings. Persons wishing to give oral comments are requested to limit their statements to 10 minutes.

Doyle G. Frederick,

Director, Geological Survey.

[FR Doc. 81-30222 Filed 10-19-81; 8:45 am]

BILLING CODE 4310-31-M

Environmental Documents Prepared for Proposed Oil and Gas Operations on the Atlantic Outer Continental Shelf (OCS)

AGENCY: Geological Survey, Interior.

ACTION: Notice of availability of environmental documents prepared for OCS mineral exploration proposals on the Atlantic OCS.

SUMMARY: The USGS, in accordance with Federal regulations (40 CFR §§ 1501.4 and 1506.6) that implement the National Environmental Policy Act (NEPA), announces the availability of NEPA-related environmental assessments (EA's) and findings of no significant impact (FONSI's), prepared by the USGS for the following oil and gas exploration activities proposed on the Atlantic OCS. This listing includes all proposals for which environmental documents were prepared by the Atlantic OCS Region in the 3-month period preceding this Notice.

Operator/Activity	Location	FONSI date
Tenneco/Exploration Plan.	OCS Block 927 (113 miles E.S.E. of Nantucket Island, North Atlantic).	7-22-81.
Chevron/Exploration Plan.	OCS Block 57 (145 miles E.S.E. of Nantucket Island, North Atlantic).	8-12-81.
Exxon/Exploration Plan.	OCS Block 931, 974 & 975 (126 miles E.S.E. of Nantucket Island, North Atlantic).	8-12-81.
ARCO/Exploration Plan.	OCS Block 258, 259 & 138 (103-125 miles E.S.E. of Nantucket Island, North Atlantic).	8-26-81.
Shell/Exploration Plan.	OCS Block 357 (127 miles E.S.E. of Nantucket Island, North Atlantic).	8-26-81.

Operator/Activity	Location	FONSI date
Union/Exploration Plan	OCS Block 7 (126 miles E.S.E. of Nantucket Island, North Atlantic).	10-08-81.

Persons interested in reviewing environmental documents for the proposals listed above or obtaining information about EA's and FONSI's prepared for activities on the Atlantic OCS are encouraged to contact the appropriate offices in the Atlantic OCS Region.

FOR FURTHER INFORMATION CONTACT:

Deputy Conservation Manager, Offshore Field Operations, Atlantic OCS Region, U.S. Geological Survey, 1725 K Street, N.W., Suite 213, Washington, D.C. 20006, (202) 254-7870, FTS 8-254-7870.

District Supervisor, North Atlantic District, Atlantic OCS Region, U.S. Geological Survey, Mary Dunn Road, Barnstable Municipal Airport/East Ramp, Hyannis, Massachusetts 02601, (617) 771-8506.

District Supervisor, Mid-Atlantic District, Atlantic OCS Region, U.S. Geological Survey, Mainland Professional Plaza, 515 Tilton Road, Northfield, New Jersey 08225, (609) 641-7966, FTS 8-483-4311.

FOR COPIES CONTACT: Records

Management Section, U.S. Geological Survey, 1725 K Street, N.W., Suite 213, Washington, D.C. 20006, (202) 634-6615, FTS 8-634-6615.

SUPPLEMENTARY INFORMATION: The Conservation Division of the USGS prepares EA's and FONSI's for proposals which relate to exploration for oil and gas resources on the Atlantic OCS. The EA's examine the potential environmental effects of activities described in the proposals and present USGS conclusions regarding the significance of those effects. EA's are used as a basis for determining whether or not approval of the proposals constitutes major Federal actions that significantly affect the quality of the human environment in the sense of NEPA 102(2)(C). A FONSI is prepared in those instances where the USGS finds that approval will not result in significant effects on the quality of the human environment. The FONSI briefly presents the basis for that finding and includes a summary or copy of the EA.

This notice constitutes the public notice of availability of environmental documents required under the NEPA regulations.

George F. Brown,

Regional Conservation Manager, Atlantic OCS Region.

[FR Doc. 81-30447 Filed 10-19-81; 8:45 am]

BILLING CODE 4310-31-M

National Park Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before October 9, 1981. Pursuant to § 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, U.S. Department of the Interior, Washington, D.C. 20243. Written comments should be submitted by November 4, 1981.

Carol D. Shull,

Acting Keeper of the National Register.

INDIANA

DeKalb County

Auburn, *Eckhart Public Library and Park*, 603 S. Jackson St.

Lawrence County

Williams vicinity, *Williams Bridge*, SW of Williams on Lawrence County Rd.

PENNSYLVANIA

Lehigh County

Slatington, *Fireman's Drinking Fountain*, Main St.

[FR Doc. 81-30225 Filed 10-19-81; 8:45 am]

BILLING CODE 4310-70-M

Properties Determined Eligible for Inclusion in the National Register of Historic Places; Additions, Deletions, and Corrections

Determinations of eligibility are made in accordance with the provisions of 36 CFR 63 procedures for requesting determinations of eligibility, under the authorities in section 2 (b) and 1 (3) of Executive Order 11593 and section 106 of the National Historic Preservation Act of 1966, as amended, as implemented by the Advisory Council on Historic Preservation's procedures, 36 CFR Part 800. Properties determined to be eligible under § 63.3 of the procedures for requesting determinations of eligibility are designated by § 63.3.

Properties which are determined to be eligible for inclusion in the National Register of Historic Places are entitled to protection pursuant to section 106 of the National Historic Preservation Act of 1966, as amended, and the procedures of the Advisory Council on Historic Preservation, 36 CFR Part 800. Agencies are advised that in accord with the procedures of the Advisory Council on Historic Preservation, before an agency of the Federal Government may

undertake any project which may have an effect on an eligible property, the Advisory Council on Historic Preservation shall be given an opportunity to comment on the proposal.

The following list of additions, deletions, and corrections to the list of properties determined eligible for inclusion in the National Register is intended to supplement the cumulative version of that list published February 3, 1981.

Carol Shull,

Acting Keeper of the National Register.

ALABAMA

Mobile County

Cochrane Bridge over the Mobile River

Montgomery County

Veterans Administration Medical Center

Tuscaloosa County

Tuscaloosa, Veterans Administration Medical Center

ALASKA

Ketchikan Division

Coffman Cove Site (49 PET 067) Prince of Wales Island

Kodiak Division

Archeological Site 49-KOD-190

North Slope Borough

Barrow, Utkiavik (Old Barrow)

ARIZONA

Maricopa County

Phoenix, Original Phoenix Townsite, Blocks 1 and 2

Mohave County

Mohave Hope Cabin

Mohave Hope Mine and Mining Camp

Navajo County

Archeological Site NA 14,485 (63.3)

Archeological Site NA 14,605 (63.3)

Archeological Site NA 14,614 (63.3)

Archeological Site NA 14,615 (63.3)

Archeological Site NA 14,617 (63.3)

Black Mesa Multiple Resource Area

Pima County

Barrel Canyon Archeological District

Upper Davidson Canyon Archeological District

Tucson, Drexel Village Site AA:16:49

Tucson, Irvington Village Site AA:16:46

Tucson, Midvale Historic Site A AA:16:61

Tucson, Midvale Historic Site B AA:16:62

Tucson, Southern Pacific Railroad Oil House No. 3

Yavapai County

Prescott, Veterans Administration Medical Center

Yuma County

Palo Verde-Devers Multiple Resource Area

Palo Verde Transmission Line Corridor-
Segment 8 (also in Maricopa County)

ARKANSAS

Chicot County

Powell Canal Site

Garland County

Lake Ouachita, Avery Site (3GA113)

Pulaski County

Little Rock, U.S. Post Office and Courthouse,
600 W. Capitol Ave.

Washington County

Veterans Administration Medical Center

California

Alameda County

Castro Valley, Archeological Site CA-A1a-60

Contra Costa County

Hercules, CCo-248

Richmond, Ellis Landing Shellmound

Richmond, Richmond Shipyard No. 3

Richmond, Stege Mounds Archeological
District (63.3)

Del Norte County

Hlouchi, Myrtle Creek Ditch

Glenn County

Archeological Site CA LAK 1112, Mendocino
National Forest

Archeological Site CA MEN 1612,
Mendocino National Forest

Lake County

Archeological Site CA-LAK-1133, Mendocino
National Forest

Lake County

Archeological Site CA-LAK-1133, Mendocino
National Forest

Los Angeles County

Propulsion System for the Ferryboat Sierra
Nevada, Terminal Island

Los Angeles, Goodyear Tire and Rubber
Plant, 6701 S. Central Ave.

Pasadena, Bungalow Courts

Pasadena, Dowling-Rodriguez House, 570 N.
Raymond Ave.

Pasadena, Evanston Inn, 385-395 Marengo

Pasadena, Merrill-Grider House 1285 N.
Summit Ave.

Pasadena, Prospect Boulevard Bridge

Pasadena, Prospect Park Historic District,
Prospect Blvd.

Pasadena, South Marengo Historic District

Pasadena, Tract 1032 Historic District

Madera County

Buchanan Dam Archeological District (also
in Mariposa County)

Navada County

Excelsior Ditch Ca. Nev. 207

Grass Valley vicinity, Archeological Site CA-
NEV-407

Orange County

Building at 114 Pacific Coast Highway (63.3)

Downtown Santa Ana Historic District

San Bernardino County

Archeological Site CA-SBr-189

Archeological Site SBr-112

Archeological Site SBr-4285

Fort Irwin, Archeological Site SBr-4170 (63.3)

Fort Irwin, Archeological Site SBr-4213 (63.3)

Fort Irwin, Archeological Site SBr-4214 (63.3)

Fort Irwin, Archeological Site SBr-4215

San Diego County

Archeological Site CA-SDi-799

Archeological Site SDi-5133

Archeological Site SDi-5130

Archeological Site W-1837

Archeological Site W-1838

Archeological Site W-1839

San Francisco County

San Francisco, Oriental Warehouse

San Joaquin County

Stockton, California Water Services
Company Station No. 1 Complex

San Mateo County

Daly City, Schoolhouse Station (Colma
Railroad Station), 11 Washington St.

Santa Barbara County

Arroyo Hondo Bridge

Arroyo Quemado Bridge

Vandenberg Air Force Base, Archeological
Site CA-SBa-534

Vandenberg Air Force Base, Archeological
Site CA-SBa-662

Vandenberg Air Force Base, Archeological
Site CA-SBa-678

Vandenberg Air Force Base, Archeological
Site CA-SBa-680

Shasta County

Archeological Site 05-14-56-284, Shasta-
Trinity National Forest

Anderson vicinity, Battle Creek Bridge,
Grover Rd.

Siskiyou County

Archeological Site CA-Sis-361

Shelley Bridge

Tehama County

Archeological Site CA-TEH-062

Trinity County

Archeological Site CA-Tri-438

Eagle Ranch 05-14-54-43, Shasta-Trinity
National Forest

COLORADO

Adams County

Larson Property 5AM77, 7381 Washington St.,
North

Bent County

Fort Lyon, Veterans Administration Medical
Center

Denver County

Denver City Park, (63.3)

Denver, Building at 23 Acoma Street

Denver, Building at 100 Broadway

Denver, Buildings at 2-10 Broadway

Denver, Building at 69-74 Broadway

Denver, Buildings at 76-96 Broadway

Denver, Buildings at 101-111 Broadway

Denver, Buildings at 108-114 Broadway

Denver, Buildings at 21-39 South Broadway

Denver, Buildings at 38-42 South Broadway

Denver, Buildings at 76-86 South Broadway

Denver, Buildings at 94-98 South Broadway

Denver, Building at 2526 Welton

Denver, Building at 2745 Welton

Denver, Building at 2812 Welton

Denver, Building at 2824 Welton

Denver, Building at 2831 Welton

Denver, Building at 32 West Ellsworth
Avenue

Denver, Building at 48 West Ellsworth
Avenue

Denver, Building at 50 West Ellsworth
Avenue

Denver, Building at 58 West Ellsworth
Avenue

Denver, Building at 62 West Ellsworth
Avenue

Denver, Building at 68 West Ellsworth
Avenue

Denver, Building at 105 West Ellsworth
Avenue

Denver, Building at 106 West Ellsworth
Avenue

Denver, Buildings at 36-42 West Ellsworth
Avenue

Denver, Building at 35 West Irvington Place

Denver, Building at 39 West Irvington Place

Denver, Building at 43 West Irvington Place

Denver, Building at 51 West Irvington Place

Denver, Building at 59 West Irvington Place

Denver, Building at 101 West Irvington Place

Denver, Building at 102 West Irvington Place

Denver, Elyria Elementary School

Denver, Fort Logan National Cemetery, 3698
Sheridan Blvd.

El Paso County

Colorado Springs, Myron Stratton House
(63.3)

Garfield County

Archeological Site 5GF519

Lake County

Archeological Site 5LK385

Archeological Site 5LK386

Las Animas County

Trinidad Foundry 5LA2160

Mineral County

Creede vicinity, Sevenmile Bridge (5ML27)
SW of Creede

Otero County

La Junta, Building at 15 Wickham

La Junta, Sciumbato, George, Grocery, 706 W.
2nd St.

CONNECTICUT

Fairfield County

Bridgeport, St. John's Nepomucene School

Danbury, Old Danbury Jail, 80 Main St. (63.3)

Stamford, Railroad Company Trolley Barn

Stamford, Stamford Railroad Station

Stamford, Trolley Office Building

Hartford County

Harwinton, Valley View Farms Incorporated

Cook Farm and Wind Mill, South Rd.

Harwinton, Valley View Farms Incorporated

Red Salt Box House

Harwinton, Valley View Farms Incorporated

Shanley House, Plymouth Rd.

New Haven County

Southwest Ledge Lighthouse, New Haven
Habor

New Haven, *Schubert Theater*

New London County

New London Ledge Lighthouse

East Lyme, *Niantic River Highway Bridge*Mystic, *Mystic Bridge Union Swith and Signal Company "Style B" Electric Interlocking Machine and Model Board, Mystic Bridge*Waterford, *Niantic River Highway Bridge*

Windham County

Williamantic, *Building at 877 Main Street*

FLORIDA

Duval County

Jacksonville, *Cogswell, A. R., Building, 433 W. Bay St.*Jacksonville, *First Baptist Church, W. Church St.*Jacksonville, *Seminole Club, N. Hogan St.*Jacksonville, *U.S. Fidelity and Guaranty Company, 424 N. Hogan St.*Jacksonville, *Wolf, Levy, Building, N. Hogan St.*

Escambia County

Pensacola, *Barrancas National Cemetery*

Hardee County

Aboriginal Site No. 1

Manatee County

Bradenton, *Carruthers Mound (8-Ma-119), (63.3)*

Monroe County

Key West, *Key West Naval Station Historic District*

Pinellas County

Veterans Administration Medical Center-Bay Pines

GEORGIA

Atkinson County

Willacoochee, *Gaskins, Dr. J. A., House, GA 82 (63.3)*Willacoochee, *West Willacoochee Historic District (63.3)*Willacoochee, *Willacoochee Masonic Lodge (63.3)*

Baldwin County

Milledgeville vicinity, *Vinson-Ashfield House, E. of Milledgeville*

Berrien County

Alapaha, *Kendrick-Gaskins House, GA 82 (63.3)*Alapaha, *Paulk House, George St. (63.3)*

Chatham County

Savannah, *C.S.S. Georgia*Tybee Island, *Fort Screven Historic District*

Clarke County

Athens, *Miller Hall, Oglethorpe Ave. and Buck Rd.*

Cobb County

Marietta, *Brumby-Arnoldus House, 472 Powder Springs St.*Smyrna, *Carmichael, J. H., House, 501 Log Cabin Rd. (63.3)*

Dade County

Trenton, *Archeological Site ES-1611-1 (63.3)*

De Kalb County

Fort Creek Mountain Site (9DA18) Soapstone Ridge

Atlanta, *Southern G. F. Building, 263 Decatur St., SE.*Decatur, *U.S. Honor Farm Complex, 3074 Panthersville Rd. (63.3)*

Dougherty County

Albany, *South Central Albany Multiple Resource Area*

Elbert County

Archeological Site EB 418

Fulton County

Pallas Apartments, 1559 Peachtree St.

Atlanta, *Academy of Medicine, 825 W. Peachtree St.*Atlanta, *Biltmore Hotel, 817 W. Peachtree St.*Atlanta, *Knox Apartments No. 1, 1543 W. Peachtree St.*Atlanta, *Knox Apartments No. 2, 1578 W. Peachtree St.*Atlanta, *Knox Apartments No. 3, 1586 W. Peachtree St.*Roswell, *Smith House, 935 Alpharetta St.*

Glynn County

Gascoigne Bluff Site (63.3)

Gordon County

Calhoun vicinity, *Haynes, Cleo, House and Frame Structure*

Grady County

Pine Park Community Center, GA 38 (63.3)

Henry County

Stockbridge, *Turner House, SR 42 (63.3)*

Lincoln County

Lincolnton, *Rees Building (63.3)*

Madison County

State Route 72 Highway Bridge, SR 72 over Broad River

McIntosh County

Archeological Site 9Mc141, Harris Neck National Wildlife Refuge (63.3)

Monroe County

Forsyth, *Old Main Post Office*

New County

Newton Factory Community Archeological District

Oconee County

Watkinsville, *Archeological Sites 90c20 and 90c23*Watkinsville, *Archeological Sites 90c21 and 90c22*

Richmond County

Augusta, *Bulter Creek Archeological District*Augusta, *Veterans Administration Medical Center*

Tift County

Tifton, *Tifton Bridge*Tifton, *Tifton Cotton Mill Complex, SR 82*

Toombs County

Lyons, *Twenty Columns, Liberty and Johnson Sts. (63.3)*Vidalia vicinity, *Moses-Coleman House, E. of Vidalia (63.3)*

Townsend County

Kelly Bridge, SR 87 over Hiwassee River

Troup County

La Grange, *Broad Street Historic District*

Ware County

Waycross, *Moody-Adams House, 843 Reynolds St. (63.3)*Waycross, *New Waycross Historic District (63.3)*Waycross, *Saint Ambrose Mission, 1013 Reynolds St. (63.3)*

White County

Cleveland, *Mauney Homestead*

Whitfield County

Dalton, *Dug Gap Breastworks UGS 9-WD-8*

IDAHO

Ada County

Lee Street Historic District

Benewah County

St. Maries vicinity, *Saint Joe Baldy Site (10 BW 2)*

Shoshone County

Wallace, *Albi's Bar and Hotel (Camia Building) 6th and Pine Sts.*Wallace, *Arnold, Deloros, Building*Wallace, *d'Alene, Coeur, Hardware Company*Wallace, *d'Alene, Coeur, Iron Works*Wallace, *Hale Building, 7th and Bank Sts.*Wallace, *Hecla Mining Company, Cedar and 7th Sts.*Wallace, *Martin, P. L., Building*Wallace, *Runge Furniture Company Building, 7th and Bank Sts.*Wallace, *Union Pacific Depot*Wallace, *Wallace City Hall*Wallace, *Wallace Public Library, River and 5th St.*

ILLINOIS

Cook County

Berwyn, *Berwyn Train Depot, Oak Park and Windsor Aves.*Chicago, *Chicago Art Institute, Michigan Ave.*Chicago, *Humboldt Park Fieldhouse*Chicago, *Pulaski Park Fieldhouse*Oak Park, *Cicero Gas Company Building, 111 N. Oak Park Ave.*

Winnebago County

Rockford, *Haight Village Historic District*

INDIANA

Grant County

Marion, *Veterans Administration Medical Center*

Jefferson County

Deputy, *McNeil Stone Fort Archeological Site (12 Je 4) Dixenford Rd.*

Marion County

Indianapolis, *Garfield, James A., School*, 209 E. Raymond St.
 Indianapolis, *Garfield Park*
 Indianapolis, *Raymond Street Houses*, 37, 39, 47, 53, 55 and 59 Raymond St.
 Indianapolis, *Veterans Administration Medical Center*, Cold Spring Rd.

Vanderburgh County

Skora Building, 2nd and Sycamore Sts.
 Evansville, *Evansville Municipal Market*

IOWA**Dubuque County**

Dubuque, *Eagle Point Bridge*

Polk County

Des Moines, *Veterans Administration Medical Center* (63.3)

Scott County

Davenport, *Central Fire Station*, 331 Scott St.
 Davenport, *City Hall*, 226 W. 4th St.
 Davenport, *Iowa Soldiers' Orphans' Home*, 2800 Eastern Ave.
 Davenport, *Lend-A-Hand Club Building*, 105 S. Main St.

KANSAS**Jefferson County**

Half Mound, *Truss Bridge*
 Meriden, *Meriden Rock Creek Bridge*

Johnson County

Archeological Site 14J0505
 Archeological Site 14J0507
 Archeological Site 14J0514
 Archeological Site 14J0515
 Archeological Site 14J0521

Leavenworth County

Leavenworth, *Veterans Administration Medical Center* (63.3)

Sedgwick County

Wichita, *Veterans Administration Medical Center* (63.3)

KENTUCKY**Clark County**

Carnegie Library (Olinstead Memorial Library)
 Kentucky Wesleyan Administration Building

Poyette County

Lexington, *Veterans Administration Medical Center* (63.3)

Grant County

Starnes Bridge Over Eagle Creek (63.3)

Greenup County

Archeological Site 15 GP 14

McCreary County

Archeological Site B081
 Archeological Site B105
 Archeological Site 0N06B
 Archeological Site (Pete King House), Shoopman

LOUISIANA**DeSoto Parish**

Gloster, *Craven, Glen, House*

Jefferson Parish

Bayou des Coquilles Site, Jean Lafitte National Historical Park

Rapides Parish

Alexandria, *Veterans Administration Medical Center*

MARYLAND**Baltimore (independent city)**

Baltimore Music Hall (Lyric Theater), 124 W. Mount Royal Ave.
Baltimore Retail District Multiple Resource Area, roughly bounded by Franklin, Cathedral, Liberty, Greene and Baltimore Sts.

Baltimore County

Mt. Royal Terrace Historic District (63.3)
Mt. Vernon Historic District (63.3)
Seton Hill Historic District (63.3)
Union Square Historic District (63.3)
 Baltimore, *Bartlett-Hayward Plant (Roundhouse Square)*, 200 Scott St. (63.3)
 Baltimore, *Brown's Arcade*, 322-328 N. Charles St. (63.3)
 Baltimore, *Butchers Hill-East Baltimore Historic District* (63.3)
 Baltimore, *Clifton School*
 Baltimore, *Rieman's Block (Lexington Green)*, 617-631 W. Lexington St. (63.3)
 Baltimore, *St. John's School (Martin DePorres Center)*, 908-914 Valley St. (63.3)

Dorchester County

Horn Point Archeological Site

Frederick County

Hagerstown, *Linden Grove*

Montgomery County

Takoma Park Historic District Boundary Extension (63.3)
 Germantown, *Waters, Horace, House*

Prince Georges County

Hyattsville, *Alexandria Junction Tower*

Washington County

Sharpsburg, *Grove, Jacob, House*, 100 W. Main St.

Wicomico County

Main Street Commercial District, Main, Little Water and Water Sts.
Main Street Residential District, Main St.
 Sharptown, *Bridge*
 Sharptown, *Fletcher, Harry G., House*, 402 School St.
 Sharptown, *Mt. Vernon Methodist Protestant Church*, Railway and Church Sts.
 Sharptown, *Robinson House*, 301 Water St.
 Sharptown, *Twilley, G. C., House*, Water St.
 Sharptown, *Walker House*, Water St.
 Sharptown, *Watson House*, Railway and Vine Sts.

MASSACHUSETTS**Berkshire County**

Washington Mountain Brook Historic Archeological District
 Adams, *Berkshire Mill No. 1*

Bristol County

Fall River, *Borden, A. J., Building*, 91-111 S. Main St.

New Bedford, *Dawson Block (Eagles Home)*, 1851 Purchase St.

Essex County

Danvers, *Danvers Town Hall*
 East Lynn, *East Lynn Oddfellow's Hall*, 289 Essex St.
 Salem, *Power Block*, 134-146 Washington St.
 Salem, *Y.M.C.A.*

Franklin County

Northfield, *Schell Bridge*

Hampden County

Springfield, *Federal Square Armory Complex*

Hampshire County

Northampton, *Veterans Administration Medical Center*

Middlesex County

Framingham, *Building at 46 Park Street*
 Framingham, *Buildings at 1-5 Central Street*
 Framingham, *Hollis Street Fire Station*
 Framingham, *Saxonville Firehouse*, Watson Pl.

Plymouth County

Hull, *Graves Light*
 Scituate, *Minots Ledge Light (Lovers Light)*

Suffolk County

Boston, *Englewood Diner*, 1883 Dorchester Ave.
 Chelsea, *Panonia Building*
 Roxbury, *Baker, Sarah J., School*, 33 Perrin St.

Worcester County

Oxford, *Building at 5 Charlton Street*
 Oxford, *Building at 7 Charlton Street*

MICHIGAN**Berrien County**

Archeological Sites 20BE132 and 20BE306 (*Wymer Site and the Rock Hearth Site*) (63.3)

Edison Site 20BE122 (63.3)

King Site 20BE354

Calhoun County

Battle Creek, *Veteran's Administration Medical Center*

Dickinson County

Sturgeon Falls, *Hydro Generation Plant*

Eaton County

Eaton Rapids, *West Knight Street Bridge* (63.3)

Isabella County

Mount Pleasant, *Creamery, The*, 320 W. Broadway (63.3)

Jackson County

Ament Mills (*Norvell Mill*) 305 Mill Rd.
 Norvell Dam and Bridge, Mill Rd.

St. Joseph County

Stover Site 30BE307 (63.3)

US-12 Mottville Bridge over the St. Joseph River (63.3)

Saginaw County

Dehmel Road Bridge, Spans Cass River

Saginaw, *Bancroft Hotel*, 107 S. Washington St.

Saginaw, *Eddy Building*, Genessee and Washington Sts.

Wayne County

Allen Park, *Allen Park Veterans Administration Hospital*

Wayne County

Detroit, *Bohn Aluminum*, E. Grand Blvd.

Detroit, *Chene Street Commercial District* Roughly bounded by Chene St., Canfield Ave. and Grand Blvd.

Detroit, *Detroit Steel Products Company*, E. Grand Blvd.

Detroit, *Dom Polski Hall*, 2279 Forest Ave.

Detroit, *Guarantee Trust and Loan Company (Dennison Bookkeeping)*, 2126 E. Grand Blvd.

Detroit, *Hupp Motor Car Company*, Milwaukee and Mt. Elliott Aves.

Detroit, *Immaculate Conception Church*, 3414 Trombly Ave.

Detroit, *Majeske School*, 2139 Trombly Ave.

Detroit, *Malawa Funeral Home (Brown Brothers Funeral Home)* 4110 St. Rubin Ave.

Detroit, *Maxwell Motor Company (Fisher Body Company)*, E. Grand Blvd. and Milwaukee Ave.

Detroit, *Parke School*, 3010 E. Milwaukee

Detroit, *St. Elizabeth's Church and Schools*, 3138 E. Canfield Ave.

Detroit, *St. Hyacinth Roman Catholic Church and School*, 3151 Farnsworth

Detroit, *St. Michael's Greek Catholic Church (Temple of Faith Missionary Baptist Church)*, 2384 E. Grand Blvd.

Detroit, *St. Stanislaus Church and Parish House*, 2818 Dubois Ave.

MINNESOTA

Goodhue County

Red Wing, *Archeological Site 21GD148*

Stearns County

Cold Spring vicinity, *Wocken Archeological Site*

St. Cloud, *Veterans Medical Center*

MISSISSIPPI

Tishomingo County

Iuka, *Brinkley House*, Eastport St.

Yalobusha County

Coffeeville, *Coffeeville Hotel*

Yazoo County

Yazoo City, *Hancock Site 22-Yz-509*

Yazoo City, *Line, P., House (Kinkead Site) (22-Yz-592)*

Yazoo City, *Milner Site 22-Yz-515*

Yazoo City, *O'Neil Creek 22-Yz-624*

Yazoo City, *Rugby Site 22-Yz-513*

MISSOURI

Barry County

Archeological Site 23BY540 (63.3)

Boone County

Archeological Site 23B0950

Carroll County

Carrollton, *One West Washington Avenue*

Cole County

Jefferson City, *Hagen House*

Dunklin County

Archeological Site 23DU227

Archeological Site 23DU232

Archeological Site 23DU234

Archeological Site 23DU241

Greene County

Springfield, *Pythian Home*, 451 Pythian St.

Jackson County

Archeological Site 23JA243, Blue River Pkwy. (63.3)

Jefferson County

DeSoto, *United States Post Office*, 17 Boyd St.

Lincoln County

Elsberry, *Archeological Site 23LN97*

Elsberry, *Archeological Site 23LN103*

Marion County

Hannibal, *Robinson Funeral Home*

Montgomery County

Archeological Site 23MT290

St. Louis County

Wainwright-Real Estate Row *Historic District*

St. Louis, *Arcade Building and Wright Buildings*, 804-814 Olive St. and 803-815 Pine St.

St. Louis, *De Baliviere Bus Garage Complex*, 97 De Baliviere

St. Louis, *North Broadway Bus Garage*, 812 E. Taylor St.

St. Louis, *Railway exchange Building*, 6th and Olive Sts.

St. Louis, *South Broadway Bus Garage*, 4041 S. Broadway

St. Louis, *Stix, Beer, and Fuller Building*, 6th and Washington Sts.

St. Louis, *Western Union Building*, 900-910 Chestnut

Scott County

Morley vicinity, *Archeological Site 23ST174*

Warren County

Archeological Site 23WN63

Big Horn County

Lodge Grass vicinity, *Owl Creek Site*

Cascade County

Great Falls, *Liberty Theater Building*, 301 Central Ave. (63.3)

Gallatin County

Bozeman, *Huffine House*, Bozeman West Project F 50-2(4)79

Bozeman, *Rea School*, Bozeman West Project F 50-2(4)79

Garfield County

Archeological Site 24GF248

Archeological Site 24GF250

Jefferson County

Boulder, *Hubbard Bridge (Boulder River Bridge)*

Lewis and Clark County

Ft. Harrison, *Veterans Administration Medical Center*

Helena, *Montana National Guard*

Headquarters, 1100 Last Chance Gulch

Helena, *Montana Powder and Equipment Company*, 12 E. Lawrence St. (63.3)

Helena, *St. Helena School*, 529 N. Warren St.

Lincoln, *Lincoln Gulch Townsite (24LC467)*

Missoula County

Palace Hotel, 123-141 W. Broadway

Huson, *White Tail Archeological Site (23MO48)*

Missoula, *Missoula Hotel*, 141-147 W. Main St.

Powder River County

Ashland, *41 Archeological Sites*

Prairie County

Fallon, *Archeological Site 24PE153*

Ravalli County

Victor, *Bitterroot River Bridge*

Rosebud County

Three Strike Site 24RB373

Treasure County

McKean Spirit Site 24TE37

Wibaux County

Wibaux, *Chappel Block*, 105, 109 Wibaux St.

Clark County

Overton Beach *Archeological District*

Mineral County

Borealis Archeological District

NEW HAMPSHIRE

Hillsborough County

Manchester, *Bridge Street Corporation Housing*

Manchester, *Commercial Building District*, Bridge and Elm Sts.

Sullivan County

Claremont, *Hubbard House*

Claremont, *Washington-Winter Street Historic District*

Claremont, *Webster House*

Concord, *French-Thompson House*

Concord, *Industrial District*

NEW JERSEY

Atlantic County

Atlantic City, *Fire Station No. 8*

Atlantic City, *Fire Station No. 9*

Bergen County

Edgewater, *Building at 309 River Road*

Burlington County

Archeological Site 28-Bu-121

Archeological Site 28-Bu-123

Archeological Site 28-Bu-124

Bridgeboro Historical District

Fortnum Motors

Sabino Site

Essex County

Caldwell, *Old Caldwell Firehouse*

Newark, *Lefcourt Building*, 744 Broad St.

Newark, *Lincoln Park Historic District Addendum*, 1076½, 1080½ Broad St.

Hudson County

Southern Hoboken Historic District
Jersey City, *Bergen Station Post Office*, 750-766 Grand St.

Jersey City, *Buildings at 273-273½ Tenth Street*

Hunterdon County

Dart Mill Historic District, Lambertville, *Lilley Mansion*

Monmouth County

Asbury Park, *Steinbach Building Long Branch, Congregation Brothers of Israel Synagogue*

Long Branch, *Doll House at 87 Second Avenue*

Long Branch, *Summer House at 87 Second Avenue*

Morris County

Upper Longwood Forge Historic District

Passaic County

Dundee Canal

Somerset County

Lyons, *Veterans Administration Medical Center* (63.3)

NEW MEXICO

Fort Bliss Multiple Resource Area

Bernalillo County

Archeological Site NM:0:3:1:11

Archeological Site NM:1:15:3:6

Dona Ana County

Archeological Site OCA:FA1

Archeological Site OCA:FA:2

Archeological Site OCA:FA5

Archeological Site OCA:FA8

Archeological Site OCA:FA9

Archeological Site OCA:FA:11

Archeological Site OCA:FA:12

Archeological Site OCA:FA:13

Archeological Site OCA:FA:15

Archeological Site OCA:FA:16

Archeological Site OCA:FA:20

Archeological Site OCA:FA:21

Archeological Site OCA:FA:22

Archeological Site OCA:FA:23

Archeological Site OCA:FA:24

Otero County

Fairchild Site, Dog Canyon White Sands National Monument

San Juan County

Archeological Site LA 20239

NEW YORK

Portchester, *Putnam-Mellor Engine and Hose Company*

Albany County

Albany, *South End Historic District-Plum Street Extension*

Bronx County

New York, *P.S. 15 Little Red Schoolhouse*, 4010 Dyre Ave.

New York, *P.S. 17 City Island Community Center*, 190 Fordham

South Bronx, *Morris High School Historic District*

Broome County

Binghamton, *Parlor City Historic District* (63.3)

Columbia County

Hudson, *Hudson Historic District* (63.3)

Erie County

Buffalo, *Buffalo Plank Road (UB 1682)*

Kings County

Brooklyn, *Brooklyn Army Terminal*

New York County

New York, *City Center Dance Theater*, W. 55th St.

Onondaga County

Syracuse, *Main Post Office*, 101 N. Clinton St.

Monroe County

Rochester, *Commercial Historic District*, South Ave.

Rockland County

Clarkstown, *Upper Nyack Firehouse*, 330 N. Broadway

Grand View on Hudson, *Grand View Village Hall*, 118 River Rd.

Haverstraw, *Haverstraw King's Daughters Public Library* (63.3)

Suffolk County

Northport, *Veteran's Administration Medical Center*, Middleville Rd.

Southold, *Southold Library*, Main Rd. (63.3)

Tompkins County

Ithaca, *St. James AME Zion Church*

Westchester County

Tarrytown, *Pierson School*

NORTH CAROLINA

Caswell County

Womack's Mill (County Line Creek Watershed) (also in Rockingham County)

Cumberland County

Shaw-Gillis House

Fayetteville, *Poe, Edgar Allen, House*, 206 Bradford Ave.

Durham County

Durham, *Old North Durham Historic District*

Gaston County

Mount Holly, *Davenport House*, 1505 N. Main St.

Mount Holly, *Nantz House*, 714 N. Main St.

Guilford County

Old Greensborough Historic District

Boundary Extension, Elm, S. Davie, E. Washington, W. Washington and S. Green Sts.

Hoke County

McNeill House

Madison County

California Creek Missionary Baptist Church

Martin County

Smithwick-Green-Clark House, U.S. 17

Woolard-Perry House

Pitt County

Bethel vicinity, *Brown, Henry Williamston, House*

Bethel vicinity, *Brown, Herbert P., House*

Bethel vicinity, *Moore House*

NORTH DAKOTA

McKenzie County

Arnegard, *Cinnamon Creek Ridge Archeological District*

Mercer County

Zap, *Archeological Site 32ME218* (63.3)

OHIO

Allen County

Lima, *Holland Block Annex*, 112-116 E. High St.

Athens County

Athens, *West Hills Historic District*

Glouster, *Hsylvania No. 2 Mine Entrances and Tipple*

Cuyahoga County

Strongsville, *Strongsville Activity Center*

Hamilton County

Cincinnati, *Block 23 (Ben's Department Store)* Bounded by Central Ave., 7th, 8th, and former John Sts.

Cincinnati, *Building at 1032 Foracker Avenue*

Cincinnati, *Buildings at 1307-1309 Pendleton Street*

Cincinnati, *Building at 1422 Apjones Street*

Cincinnati, *Building at 2843 Melrose Avenue*

Cincinnati, *Building at 3022 Park*

Cincinnati, *Buildings at 4008, 4010 and 4012 Gulow Street*

Cincinnati, *Building at 4217 Mad Anthony Street*

Cincinnati, *Building at 4224 Williams Place*

Cincinnati, *Building at 4267 Williams Place*

Cincinnati, *Carmel United Presbyterian Church*, 3549 Reading Rd.

Cincinnati, *St. Leo's Church Complex*, Baltimore St. and St. Leo Pl.

Hocking County

Logan, *Hocking County Courthouse*, E. Main St. (63.3)

Knox County

Lehmon Road Bridge, SR 259 (63.3)

Scioto County

Portsmouth, *Fowler Building*, 700 Second St. (63.3)

Portsmouth, *Fowler Property #1*, 716 Second St. (63.3)

Portsmouth, *Fowler Property #2*, 712 Second St. (63.3)

Summit County

Akron, *Mustill, Frederick, House*, 234 Ferndale St.

Akron, *Mustill Store*, 248 Ferndale St.

Akron, *Ohio Canal Lock No. 15*

Akron, *Ohio Canal Locks No. 10-14 (Staircase of Locks)*

OKLAHOMA

Creek County
Sapulpa, Main Post Office

OREGON

Baker County
Court House Ranch Rock Cairn Site 35 WA
109, Wallowa-Whitman National Forest

Benton County
Corvallis, Arnold Family House, 806 SW. 5th
St.

Curry County
Gold Beach Ranger Station

Deschutes County
Bend, Old Main Post Office, 745 N. Wall St.

Douglas County
Mott Bridge, Umpqua National Forest
Mule Shank II Prehistoric Site, Umpqua
National Forest (63.3)

Jackson County
Ashland, Lithia Park Historic District

Lane County
Eugene, East Blair Historic District
Veneta, Sailor Barn, 22968 OR 126 (63.3)
Veneta vicinity, Country Fair Site 35 LA 440
Veneta vicinity, Long Tom Site 35 LA 439

Marion County
Salem Pioneer Cemetery

Multnomah County
Portland, Portland Fire Station No. 24, 5340
N. Interstate Ave.

Pennsylvania

Allegheny County
Monroeville, McGinley House, McGinley Rd.
Pittsburgh, Immaculate Heart of Mary
Church

Bedford County
Bedford Historic District

Center County
Houserville Quarry Site (Louserville
Archeological District)

Chester County
Coatsville, Veterans Administration Medical
Center

Lebanon County
Lebanon, Veterans Administration Medical
Center

Philadelphia County
Philadelphia, Benjamin Franklin Hotel, 822-
840 Chestnut St.
Philadelphia, Philadelphia National
Cemetery

Tioga County
Nelson, Beechers Island United Presbyterian
Church

Washington County
The LeMoyné Crematory (63.3)

PUERTO RICO

Humacao, Los Corrales 1 (12 VPr2-46)
Vieques

Humacao, Veridales 1 (12VPr2-33) Vieques
Ponce, El Bronce (PO-13-1)
Ponce, Hacienda Tribes Mechanical Water-
Wheel

RHODE ISLAND

Newport County
Jamestown, Former Harbor Entrance Control
Post, Beavertail Point
Jamestown, Jamestown Bridge Site (RI 711)
Seaside Dr.

Providence County
North Smithfield, Mowry, William, House,
Farnum Pike
North Smithfield, Todd Farm, 670 Farnum
Pike

Washington County
Narragansett, Kinney-Anthony Farm
North Kingstown, Scrambletown Historical
and Archeological District

SOUTH CAROLINA

Berkeley County
Archeological Site 36BK202 (also in
Charleston County)

Oconee County
Russell House, Sumter National Forest

Richland County
Columbia, Veterans Administration Medical
Center

SOUTH DAKOTA

Hughes County
Archeological Site 39HU173

Tripp County
Winner, Main Post Office, 402 Monroe St.

TENNESSEE

Anderson County
Clinton, Clinton Railroad Depot, Market St.

Cannon County
Woodbury, Brevard House

Fentress County
Leatherwood, Archeological Site H002

Hamilton County
Chattanooga, Union Station Rail Yard
Archeological Site (63.3)

Jefferson County
Chestnut Hill vicinity, Hill-Hance House, U.S.
411

Knox County
Knoxville, Millers Warehouse, 913 Clinch
Ave.

Scott County
Archeological Site 40St6, Big South Fork
National River and Recreation Area
Archeological Site BS15, No Business Creek
Archeological Site BS26, Parch Corn Creek
Archeological Site BS40, Station Camp Creek
Archeological Site BS40e (Corn Crib), Station
Camp Creek
Archeological Site BS401 (Blacksmith Shop),
Station Camp Creek

Archeological Site BS41 (Main Lodge, Parch
Corn Creek Hunting Reserve), Station
Camp Creek
Archeological Site BS50
Archeological Site BS50A
Archeological Site BS51 (Old John Litton
Place)

Archeological Site H007, Bandy Creek
Archeological Site H007A (Corn Crib) Bandy
Creek
Archeological Site H008 (George Blevins
Cabin)

Archeological Site H018 (Al Blevins House
Site)
Leatherwood, H033 Barn

Trousdale County
Hartsville vicinity, Duncan Archeological
Site 40 TR 27

Washington County
Johnson City, Hammer-Taylor House, U.S.
19W

Williamson County
Brentwood, WSM Radio Transmission
Complex, Rt. 7 Concord Rd.

TEXAS

Fort Bliss Multiple Resource Area

Bell County
Sarah's Site 41BL240 (63.3)

Culberson County
Van Horn, Three-Mile-Sulfur Archeological
District

Dallas County
Dallas, Main Post Office, 400 N. Ervay

Dewitt County
Guadalupe River Bridge

Potter County
Amarillo, Amarillo Medical Complex

TRUST TERRITORY OF THE PACIFIC ISLANDS

Balabat Village Pebaey and Malal Site
Wiya Bird Cave

UTAH

San Juan County
Blanding vicinity, Recapture Dam
Archeological District, 3 mi. N of Blanding

Utah County
Payson, Nebo Stake Tabernacle, 182 N. Main
St.

Provo, Building at 209 North 400 West Street
Provo, Building at 466 West Center
Provo, Roberts, William D., House, 212 N. 500
West St.

Provo, St. Francis of Assisi Church, 172 N. 5th
West St.

Provo, Taylor Brothers Warehouse, 60 N. 300
West St.

Provo, Taylor, George, Jr., House, 187 N. 400
West St.

Washington County
Zion Lodge Historic District

VERMONT*Caledonia County**Hardwick, Bridgman-Monticello House**Washington County**Waterbury vicinity, Bolton Falls Dam,
Winooski River**Windsor County**White River Junction, Veterans
Administration Medical Center***VIRGINIA***Danville County**Danville, Danville National Cemetery
Hampton (independent city)
Veterans Administration Medical Center**Henrico County**Sandston, Seven Pines National Cemetery**Roanoke County**Salem, Veteran's Administration Medical
Center**Staunton County**Staunton National Cemetery**Winchester County**Winchester National Cemetery***WASHINGTON***Benton County**Prosser Steel Bridge (63.3)
Day, John, Lock and Dam Project Area Port
of Benton**Chelan County**West Monitor Bridge (63.3)**Clark County**Vancouver, Fort Vancouver-Kanaka Village**Spokane County**Washington Street Bridge (63.3)**Stevens County**Orient Bridge (63.3)**Whitman County**F Street Bridge (63.3)***WEST VIRGINIA***Jefferson County**Charles Town, Belvedere (Belvedere Farms)
Charles Town, Beverly
Charles Town, Jones House
Charles Town, Little Elmington (Hillside)
Charles Town, Old Cave Farm (Beyeler
House)**Charles Town, Springland (63.3)**Charles Town, Vinton (Vinton Farms)**Lewis County**Bruffey Farm, Skin Creek
Butcher-Bush Farm, Little Skin Creek
Crawford, Crawford Historic District, SR 48
Crawford, Davison-Blair Mansion, Crane
Camp Run**Roanoke, Bond Barn, U.S. 19**Roanoke, Bush, Michael, House Site, SR 23/3**Roanoke, Conrad, Mary, Park, WV 19 and
WV 23**Roanoke, Rhodes Farm, West Fork River**Roanoke, Roanoke Historic District, SR 19
and SR 23**Roanoke, Rohrbough House, Crooked Run**Roanoke, Smith House, SR 23/3**Roanoke, Whitesel-Kerns Farm, Dunkin Run**Vandalla, Peterson Farm, Skin Creek**Vandalla, Ramsey-West Farm, Pen Run**Walkersville, Davison Summer House,**Blackwater Run and West Fork River**Walkersville, Walkersville Historic District,
SR 44 and SR 19**Weston, Cutright Farmsteads, West Fork
River**Weston, Stalnaker Farm, Gladly Fork of Skin
Creek**Lincoln County**Waldport, Alesa Bay Bridge**Mingo County**Williamson vicinity, Cotiga Mound, 6 mi. NW
of Williamson**Monongalia County**Belldina's Bottom Archeological Site**Fort Martin School**Gingrich House**Van Voorhis Farm Archeological Site**Morgantown vicinity, Fort Martin
Archeological Site**Upshur County**Post Mill Bridge No. 1**Post Mill Bridge No. 2***WISCONSIN***Chippewa County**Chippewa Falls, Main Post Office, 315 N.
Bridge St.**Forest County**Butternut Lake Site (47-Fr-122) Nicolet**National Forest**Flanner-Steger Camp No. 5, Nicolet National
Forest**Grant County**Patch Grove, Paul, Alexander, Store**La Crosse County**La Crosse, 26 Properties**Monroe County**Tomah, Veterans Administration Medical
Center**Trempealeau County**Independence, City Hall**Waupaca County**Waupaca House (Readfield County Store)**Winnebago County**Oshkosh, North Main Street Historic District,
15, 21, 23, 25, and 27 N. Main St.**Oshkosh, Sawyer, Edgar P., House, 1331**Algoma Blvd. (63.3)***WYOMING***Converse County**Antelope Creek Archeological District**Red Butte Stone Circle Site 48C028**Niobrara County**Spanish Diggings (also in Platte County)**Sweetwater County**Archeological Site 48SW1455**Bairroll, Bairroll "Tipi Ring" Site (48SW2369)
(63.3)*

The following properties were omitted from
the listing in the "Federal Register," Part II,
February 3, 1981.

ARKANSAS*Washington County**Veterans Administration Medical Center***CALIFORNIA***San Diego County**San Diego, Armed Forces Y.M.C.A. Building,
Centre City**San Diego, Frost Lumber Corner Building,
Centre City**San Diego, Golden West Hotel, Centre City**San Diego, Hotel San Diego, Centre City**San Diego, Plaza de Pantoja, Centre City**San Diego, Police Headquarters Complex,
Centre City**San Diego, San Diego Gas and Electric
Substation B, Centre City**San Diego, Senator Hotel, Centre City**San Diego, Soap Factory Complex, Centre
City**San Diego, Tower Bowling Alley, Centre City***TEXAS***Potter County**Amarillo, Amarillo Medical Complex,
Veterans Administration Medical Center*

* * *

The following is a list of corrections to the
list of properties determined eligible in the
"Federal Register," Part II, February 3, 1981.
Additional corrections may appear in
subsequent updates.

IOWA*Scott County**Davenport, Bergfeld, Fritz, Block, 321-323 W.
2nd St. (previously listed in IDAHO)**Davenport, Buildings at 305-307 West Second
Street (previously listed in IDAHO)**Davenport, Buildings at 325-327 West Second
Street (previously listed in IDAHO)**Davenport, Schmidt, George M., Block, 301-
303 W. 2nd St. (previously listed in IDAHO)*

* * *

[FR Doc. 81-30066 Filed 10-19-81; 8:45 am]

BILLING CODE 4310-70-M

Bureau of Reclamation**Newlands Project; Intent To Prepare
an Environmental Statement on a
Proposed Change in Land Use for the
64-Acre Tract at Tahoe City, Calif.**

In accordance with Section 102(2)(C)
of the National Environmental Policy
Act of 1969, the Bureau of Reclamation,
Department of the Interior, will prepare
an environmental statement assessing
impacts of a proposed change in land
use for 64 acres of land at Tahoe City,
California.

Initially purchased in 1904 for the
Newlands Project, the 64-acre tract was
placed in the custody of the Truckee-

Carson Irrigation District (TCID) in 1926 by contract between the Bureau of Reclamation and TCID. The land has never been used for project purposes and is surplus to Department of the Interior needs. By letter dated September 1, 1977, the Secretary of the Interior notified the TCID of the decision to revoke the district's custody over the tract. In accordance with Bureau policy and based upon the provisions of the Federal Property and Administrative Services Act of 1949 (41 CFR 101-47), property disposal procedures have been initiated.

The proposed action that will be considered in the environmental statement is the transfer of the entire 64-acre tract to the United States Forest Service pursuant to Public Law 89-72. The "No Action" alternative would permit continued use by the irrigation district. Another alternative which will be discussed in the statement is the disposal of the 64 acres by the Federal General Services Administration (GSA) in accordance with their normal procedures. Other alternatives which could be discussed involve a combination of land transfer to the Forest Service and disposal by GSA.

The decision to prepare an environmental statement for this Federal action was made after an environmental assessment was completed in August 1981. In the preparation of the assessment, a public meeting was held and numerous agencies and individuals were consulted. We do not anticipate that there will be any additional scoping meetings; however, additional comments on the proposed action, alternatives, and impacts to be considered can be sent to the Project Manager, Harvey R. Nelson, Lahontan Basin Projects Office, Bureau of Reclamation, P.O. Box 640, Carson City, Nevada 89701. Such comments will be considered if received prior to November 1, 1981.

Dated: October 14, 1981.

Aldon D. Nielsen,
Acting Assistant Commissioner, Bureau of Reclamation.

[FR Doc. 81-30302 Filed 10-19-81; 8:45 am]
BILLING CODE 4310-09-M

Yellowstone Diversion Project, Montana; Intent To Prepare an Environmental Impact Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior proposes to prepare an environmental

impact statement (EIS) on the Yellowstone Diversion Project (YDP) located in southeastern Montana.

The proposed Federal action would be granting permission to Intake Water Company to use approximately 10 acres of Federal land for a pumping plant and water pipeline and an additional 160 acres or less which might be affected by construction of a dam and reservoir on Box Elder Creek, Dawson County, Montana. The YDP is a water storage and supply project by the Intake Water Company, which will pump water from the lower Yellowstone River in Montana, for storage in an offstream reservoir to be constructed nearby on Box Elder Creek, to provide water on a firm annual yield basis for potential industrial, agricultural and municipal use. The diversion project is not tied to any specific project or uses at this time. Extensive lignite deposits have been identified nearby, and the Tenneco Corporation has announced long term plans to construct a coal gasification plant. Federal alternatives under consideration are granting permission to use the land, granting permission with various stipulations and denying permission to use Federal land (the no action alternative).

Intake Water Company has a right to appropriate 80,650 acre-feet of water per year from the Yellowstone River. The reservoir would have a surface area of approximately 750 acres and a capacity of approximately 25,500 acre-feet.

A scoping meeting to identify significant issues for the EIS will be conducted in Room 3043 of the Federal Building/Court House, Billings, Montana, beginning at 10 a.m. November 17, 1981. If there is sufficient interest, an additional meeting will be scheduled in Glendive, Montana.

Any questions or suggestions regarding the proposed EIS and expressions of interest in an additional scoping session in Glendive, should be addressed to Rick Blaskovich, Bureau of Reclamation, P.O. Box 2553, Billings, MT 59103, telephone (406) 657-6605; FTS 585-6605.

Dated: October 14, 1981.

Aldon D. Nielsen,
Acting Assistant Commissioner, Bureau of Reclamation.

[FR Doc. 81-30303 Filed 10-19-81; 8:45 am]
BILLING CODE 4310-09-M

INTERSTATE COMMERCE COMMISSION

[No. 38659]

Armored Motor Service of America, Inc.; Petition for Relief From Certain Filing Requirements

AGENCY: Interstate Commerce Commission.

ACTION: Notice of petition for relief from filing requirements.

SUMMARY: Petitioner, Armored Motor Service of America, Inc., a motor contract carrier, has requested relief from the requirements in 49 U.S.C. 10702 that it file with the Commission schedules of actual rates and charges. Petitioner would continue to file schedules of minimum rates and charges. The sought relief is provisionally granted.

DATES: Comments are due within 20 days from date of publication of this notice in the *Federal Register*. The sought relief will become effective 30 days from the date of publication of this notice in the *Federal Register*, unless, in response to comments filed, the Commission issues a further decision withdrawing this relief.

ADDRESS: An original and six copies of comments should be sent to: Interstate Commerce Commission, Room 5356, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT: Jane F. Mackall (202) 275-7656.

SUPPLEMENTARY INFORMATION: The relief sought by petitioner is in connection with its authority to transport articles of unusual value between points in the United States for Burroughs Corp. of Rochester, NY, and Sabin Metal Corp. of Scottsville, NY. The Commission granted this authority in No. MC-151601, *Armored Motor Service of America, Inc.*, (not printed) served June 10, 1981.

Title 49 U.S.C. 10702(b) requires contract carriers to file with the Commission actual and minimum rates for the transportation they provide. The section also permits the Commission to grant relief from the subsection when relief is consistent with the public interest and transportation policy of section 10101. In *Armored Carrier Corp., Petition for Relief, Section 218(a)*, 303 I.C.C. 781 (1958), the Commission granted such relief to 18 armored carriers by permitting them to file only minimum rates rather than schedules of actual rates. The relief was granted because the services provided by these carriers are so specialized that filing actual rates would be impractical. The

Commission has granted similar relief to other armored carriers since that decision.

Petitioner requests that it receive the same relief because: (1) It provides the same sort of very specialized service; and (2) otherwise it will be at a competitive disadvantage with other armored carriers. The requested relief appears consistent with the public interest, section 10101, and *Armored Carrier Corp., supra*. We will grant the relief effective 30 days from publication in the *Federal Register* unless (1) we receive, within 20 days of that publication, comments giving sufficient reason for denial of the relief, and (2) we withdraw the relief in a subsequent decision.

This decision will not significantly affect either the quality of the human environment or conservation of energy resources.

(49 U.S.C. 10702(b))

Decided: October 8, 1981.

By the Commission, Division 1, Commissioners Clapp, Gresham, and Taylor. Commissioner Taylor did not participate. Agatha L. Mergenovich, Secretary.

[FR Doc. 81-30314 Filed 10-19-81; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte No. 311]

Expedited Procedures for Recovery of Fuel Costs

Decided: October 14, 1981.

In our recent decisions, an 18.0-percent surcharge was authorized on all owner-operator traffic, and on all truckload traffic whether or not owneroperators were employed. We ordered that all owner-operators were to receive compensation at this level.

The weekly figure set forth in the appendix for transportation performed by owner-operators and for truckload traffic is 17.7-percent. Accordingly, we are authorizing that the surcharge for this traffic remain at 18.0 percent.

No change is authorized in the 3.0 percent surcharge on less-than-truckload (LTL) traffic performed by carriers not using owner-operators, the 2.0-percent surcharge for United Parcel Service, or the 6.6-percent surcharge for bus carriers.

Notice shall be given to the general public by mailing a copy of this decision to the Governor of each State and to the Public Utilities Commission or Boards of each State having jurisdiction over transportation by depositing a copy in the Office of the Secretary, Interstate Commerce Commission, Washington, D.C. for public inspection and by

depositing a copy to the Director, Office of the Federal Register, for publication therein.

It is ordered: This decision shall become effective Friday 12:01 a.m., October 16, 1981.

By the Commission, Chairman Taylor, Vice-Chairman Clapp, Commissioners Gresham and Gilliam.

Agatha L. Mergenovich, Secretary.

October 13, 1981.

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)	
October 13, 1981	129.9¢

	Transportation performed by—			
	Owner operator ¹	Other ²	Bus carrier	UPS
	(1)	(2)	(3)	(4)
Average percent fuel expenses (including taxes) of total revenue	16.9	2.9	6.3	3.3
Percent surcharge developed	17.7	3.0	6.6	*2.8
Percent surcharge allowed	18.0	3.0	6.6	*2.0

¹ Apply to all truckload rated traffic.

² Including less-than-truckload traffic.

* 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).

* The developed surcharge is reduced 0.8 percent to reflect fuel-related increases already included in UPS rates.

[FR Doc. 81-30309 Filed 10-19-81; 8:45 am]

BILLING CODE 7035-01-M

ICC Senior Executive Service; Performance Review Board

October 9, 1981.

The purpose of this notice is to reestablish a Performance Review Board and appoint its membership.

Due to recent personnel changes, membership on the Performance Review Board will be as follows. The three principal members are: Warren McFarland, Director, Office of Consumer Protection, Kathleen Dollar, Associate General Counsel, and Neil Llewellyn, Assistant Director, Bureau of Traffic. The two alternate members are: Ronald Young, Director, Bureau of Accounts, and William Southard, Director, Office of Policy and Analysis.

Reese H. Taylor, Jr., Chairman.

[FR Doc. 81-30308 Filed 10-19-81; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte No. 387 (Sub-57)]

Southern Railway Company, Exemption for Contract Tariff ICC-SOU-C-0049

AGENCY: Interstate Commerce Commission.

ACTION: Notice of provisional exemption.

SUMMARY: Petitioner is granted a provisional exemption from the notice requirements of 49 U.S.C. 10713(e). The contract tariff to be filed may become effective on one day's notice. This exemption may be revoked if protests are filed within 15 days of publication in the *Federal Register*.

FOR FURTHER INFORMATION CONTACT:

Jane F. Mackall (202) 275-7656.

SUPPLEMENTARY INFORMATION: Southern Railway Company (Sou) filed a petition on October 2, 1981, seeking an exemption under 49 U.S.C. 10713(e). It requests that we advance the effective date of its contemporaneously filed contract tariff ICC-Sou-C-0049, now November 1, 1981, so that the effective date would be on one day's notice. The contract covers the absorption of some charges out of its divisional proportion of through charges by Southern on the movement of insulated boxcars used for the transportation of malt liquor shipments.

Under 49 U.S.C. 10713(e), contracts must be filed on not less than 30 nor more than 60 days' notice. There is no provision for waiving this requirement. Cf. former section 10762(d)(1). However, the Commission has granted relief under our section 10505 exemption authority in exceptional situations.

The petition is granted. Southern invested over \$75 million in the purchase of 1400 new fifty foot insulated boxcars. Nine hundred of these new acquisitions were earmarked for shipments from the origin covered by the subject contract. Southern's participation in traffic from a specified origin has declined from 70 percent to 40 percent because of (1) eased motor carrier entry and (2) assessment of surcharges by ConRail. Rather than pay higher freight charges resulting from the assessment of surcharges, receivers of malt liquor move these shipments by motor carriers. As a result, Southern's equipment utilization has declined to 425 cars in service at this origin.

In an effort to be more competitive, Southern entered into a contract with shipper at this origin. The duration of the contract is for one year from the date the contract takes effect under 49 U.S.C. 10713. Southern will absorb

certain charges in order to offset somewhat the difference between the truck rate and the rail rate plus ConRail's surcharge. The contract will not affect ConRail's revenue in connection with the involved shipments. Shipper will also benefit by reducing congestion at its plant. Under these circumstances, a provisional exemption is warranted. Southern's contract tariff ICC-Sou-C-0049 may become effective on one day's notice.

We will apply the following conditions which have been imposed in similar exemption proceedings:

If the Commission permits the contract to become effective on one day's notice, this fact neither shall be construed to mean that this is a Commission approved contract for purposes of 49 U.S.C. 10713(g) nor shall it serve to deprive the Commission of jurisdiction to institute a proceeding on its own initiative or on complaint, to review this contract and to disapprove it.

Subject to compliance with these conditions, under 49 U.S.C. 10505(a) we find that the 30 day notice requirement in these instances is not necessary to carry out the transportation policy of 49 U.S.C. 10101a and is not needed to protect shippers from abuse of market power. Further, we will consider revoking these exemptions under 49 U.S.C. 10505(c) if protests are filed within 15 days of publication in the Federal Register.

This action will not significantly affect the quality of the human environment or the conservation of energy resources.

(49 U.S.C. 10505)

Dated: October 13, 1981.

By the Commission, Division 1,
Commissioners Clapp, Gresham, and Taylor.
Commissioner Taylor did not participate.
Agatha L. Mergenovich,
Secretary.

[FR Doc. 81-30312 Filed 10-19-81; 8:45 am]

BILLING CODE 7035-01-M

[Volume No. OP-1 283]

Motor Carriers; Permanent Authority; Republications of Grants of Operating Rights Authority Prior to Certification

The following grants of operating rights authorities are republished by order of the Commission to indicate a broadened grant of authority over that previously notice in the Federal Register.

An original and one copy of opposing verified statements must be filed with the Commission within 45 days after the date of this Federal Register notice. Applicant may file a verified statement in rebuttal within 60 days. Such pleadings shall comply with 49 CFR

1100.247 (renumbered 1100.251) addressing specifically the issue(s) indicated as the purpose for republication. Special Rule 247 (renumbered 251) was published in the Federal Register of July 3, 1980, at 45 FR 45539.

MC 154421 (republication) filed February 27, 1981, previously noticed in the Federal Register issue of March 19, 1981. Applicant: ART DeSERANO, INC., 420 Gilbertville Road, Elk Run Heights, IA 50707. Representative: Thomas J. Beener, 67 Wall Street, New York, NY 10005, (212) 269-2540. A Decision by the Commission, Division 1, acting as an Appellate Division, decided September 10, 1981, and served September 17, 1981, finds upon consideration that applicant is authorized to operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *clay, concrete, glass, and stone products*, between points in Boone, Bureau, Carroll, De Kalb, Fulton, Grundy, Hancock, Henderson, Henry, Jo Daviess, Kane, Kendall, La Salle, Lee, Livingston, McDonough, McHenry, McLean, Marshall, Mason, Mercer, Ogle, Peoria, Putnam, Rock Island, Stark, Stephenson, Tazewell, Warren, Whiteside, Winnebago, and Woodford Counties, IL, Adams, Columbia, Crawford, Dane, Dunn, Eau Claire, Grant, Green, Iowa, Jackson, La Crosse, Lafayette, Monroe, Pierce, Richland, Rock, St. Croix, Sauk, Trempealeau, Vernon, and Walworth Counties, WI, and Blue Earth, Brown, Carver, Chippewa, Cottonwood, Dakota, Dodge, Faribault, Fillmore, Freeborn, Goodhue, Hennepin, Houston, Jackson, La qui Parle, Le Sueur, Lincoln, Lyon, McLeod, Martin, Mower, Murray, Nicollet, Nobles, Olmsted, Pipestone, Ramsey, Redwood, Renville, Rice, Rock, Scott, Sibley, Steele, Waseca, Washington, Watonwan, and Yellow Medicine Counties, MN, on the one hand, and, on the other, points in Iowa, and (2) *general commodities* (except classes A and B explosives), between points in Black Hawk, Cerro Gordo, and Floyd Counties, IA. Applicant is fit, willing, and able properly to perform the fanted service and to conform to statutory and administrative requirements. The purpose of this republication is to show the broadened territorial scope as outlined in part (2).

By the Commission,
Agatha L. Mergenovich,
Secretary.

[FR Doc. 81-30307 Filed 10-19-81; 8:45 am]

BILLING CODE 7035-01-M

[Volume No. OPY4-404]

Permanent Authority Decisions; Decision-Notice

Decided: October 8, 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 on December 31, 1980, at 45 FR 86771. For compliance procedures, refer to the Federal Register issue of December 3, 1980, at 45 FR 80109.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.252. Applications may be protested *only* on the grounds that applicant is not fit, willing, and able to provide the transportation service or to comply with the appropriate statutes and Commission regulations. A copy of any application, including all supporting evidence, can be obtained from applicant's representative upon request and payment to applicant's representative of \$10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated a public need for the proposed operations and that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application to opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication (or, if the application later become unopposed), appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The

unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

By the Commission, Review Board No. 2, Members: Carleton, Fisher, Williams.

Agatha L. Mergenovich,
Secretary.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Please direct status inquiries to the Ombudsman's Office, (202) 275-7328.

MC 158537, filed September 30, 1981. Applicant: ARTY G. WILLIAMSON, d.b.a. G & D TRUCKING, Route 3, Box 413, Proctorville, OH 95669. Representative: Barry Weintraub, Suite 510, 8133 Leesburg Pike, Vienna, VA 22180, (703) 442-8330. 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.

[FR Doc. 81-30306 Filed 10-19-81; 8:45 am]

BILLING CODE 7035-01-M

[Volume No. 182]

Motor Carriers; Permanent Authority Decisions, Restriction Removals; Decision-Notice

Decided: October 13, 1981.

The following restriction removal applications, filed after December 28, 1980, are governed by 49 CFR 1137. Part 1137 was published in the Federal Register of December 31, 1980, at 45 FR 86747.

Persons wishing to file a comment to an application must follow the rules under 49 CFR 1137.12. A copy of any application can be obtained from any applicant upon request and payment to applicant of \$10.00.

Amendments to the restriction removal applications are not allowed.

Some of the applications may have been modified prior to publication to conform to the special provisions applicable to restriction removal.

Findings

We find, preliminarily, that each applicant has demonstrated that its requested removal of restrictions or broadening of unduly narrow authority is consistent with 49 U.S.C. 10922(h).

In the absence of comments filed within 25 days of publication of this decision-notice, appropriate reformed authority will be issued to each applicant. Prior to beginning operations under the newly issued authority, compliance must be made with the normal statutory and regulatory requirements for common and contract carriers.

By the Commission, Restriction Removal Board, Members Sporn, Ewing, and Shaffer.

Agatha L. Mergenovich,
Secretary.

MC 9936 (Sub-5)X, filed September 29, 1981. Applicant: HAVER HILL & LAWRENCE TRANSPORTATION COMPANY, INC., 17 Locke Street, Haverhill, MA 01830. Representative: Frank J. Weiner, 15 Court Square, Boston, MA 02108. Lead and Sub-No. 3: (1) Broaden (a) general commodities except livestock, to "general commodities" (lead) (b) boots and shoes and boot and shoe factory supplies to "textile mill products, rubber and plastic products, leather and leather products" Sub 3 and metal products, and machinery; (2) expand (lead) Boston, MA to Suffolk, Middlesex, Essex, Norfolk, and Plymouth Counties; Haverhill, Lawrence, and Lowell, MA to Middlesex and Essex Counties, MA, and Hillsborough and Rockingham Counties, NH, and (4) remove restriction against service to points in NH within the Haverhill, Lawrence, and Lowell, MA commercial zones.

MC 29674 (Sub-2)X, filed September 11, 1981. Applicant: R. F. CLEMENS & SONS, INC., RFD #1 Munyan Rd., Putnam, CT 06260. Representative: Sidney L. Goldstein, 109 Church St., New Haven, CT 06510. Lead permit: broaden to "between points in the United States (except Alaska and Hawaii)" under continuing contracts with unnamed shippers.

MC 126899 (Sub-148)X, filed September 29, 1981. Applicant: USHER TRANSPORT, INC., 3925 Old Benton Rd. (P.O. Box 3156), Paducah, KY 42001. Representative: George M. Catlett, 708 McClure Bldg., Frankfort, KY 60601. Applicant seeks to (1) change one-way to radial authority (Subs 1, 3, 4, 6, 8, 14, 16, 19, 20, 21, 23, 25, 26, 28, 32, 34, 40, 42,

45, 46, 51, 56, 57, 60, 64, 65, 66, 67, 69, 71, 73, 75, 87, 91, 92, 94, 99, 100, 102, 103, 104, 109, 110, 112, 116, 117, 119, 120F, 123F, and 125F); (2) broaden commodity descriptions to (a) "food and related products" from: malt beverages, in containers (Subs 1, 3, 4, 6, 8, 10, 20, 21, 23, 26, 28, 40, 42, 56, 57, 60, 64, 65, 66, 67, 69, 71, 73, 75, 92, 94, 100, 103, 109, 110, 120F, and 125F); liquid sugar blended with flavoring (Sub 14); liquid sugar and blends thereof, in bulk, in tank vehicles (Sub 19); blends of liquid sugar with corn syrup, corn sugar and syrup blends invert sugar, and liquid sugar and syrup blended with flavoring, in bulk, in tank vehicles (Sub 25); malt beverages (Subs 45, 91, 119, and 123F); malt beverages and related advertising material, when moving in mixed loads with malt beverages (Sub 46); alcoholic liquors in containers (Subs 104 and 110); and alcohol, alcoholic liquors and wine (Sub 117); malt beverages in containers and empty malt beverage containers (Subs 99 and 102); "chemicals and related products" from: polyurethane pads and polyurethane padding (Sub 32); sodium chloride (Sub 34), and talc, in bags (Sub 112); (c) "petroleum, natural gas and their products" from petroleum products (except petrochemicals), in bulk, in tank vehicles (Sub 87); and "rubber and plastic products, and materials and supplies used in the installation, maintenance, and repair thereof" from tires, tire tubes and materials and supplies used in the installation, maintenance and repair of named commodities (Sub 87); (3) remove facilities limitations (Subs 14, 25, and 103); and (4) replace cities with county-wide authority: Alexander County, IL (Cairo), Carroll and Warren Counties, KY (Bowling Green and Carrollton) and Robertson County, TN (Springfield), Sub 32; Christian County, KY (Hopkinsville), Subs 6, 28, 73, 94, and 119; Daviess County, KY (Owensboro), Subs 1, 40, 56, 67, and 94; Warren County, KY (Bowling Green), Subs 4, 8, 16, and 50; Posey County, IN (Mt. Vernon), Sub 21; Marion County, IL (Centralia), Sub 56; Warrick County, IN (Chandler), Subs 65 and 69; Seneca County, OH (Tiffin), Subs 66 and 92; Allen County, OH (Lima), Sub 66; Allen County, IN (Ft. Wayne), Sub 94; Ashtabula, Jefferson, Lake, and Stark Counties, OH (Dillonvale, Conneaut, Painesville, and Canton), Sub 109; Lorain County, OH (Lorain), Sub 102; Livingston County, KY (Dog Island near Smithland), Sub 51; and Hoston County, GA (Perry), Sub 103; Montgomery County, TN (Clarksville), Sub 28; and St. Lawrence County, NY (Gouverneur), Sub 112.

MC 128460 (Sub-7)X, filed October 2, 1981. Applicant: CENTRAL AIR FREIGHT SERVICES, INC., 29 W Green St., Hazelton, PA 18201. Representative: Joseph A. Keating, Jr., 121 S. Main St., Taylor, PA 18517. Lead and Sub 1: broaden Hazleton to Luzerne County, PA, and Philadelphia International Airport, Newark Airport, and John F. Kennedy International Airport, to Philadelphia, PA, Essex County, NJ, and New York City, NY; expand portions of Montour, Luzerne, Columbia, Schuylkill, Northumberland, and Carbon Counties, PA to countywide authority; and remove the ex-air restriction.

MC 141843 (Sub-5)X, filed September 28, 1981. Applicant: BOND TRANSPORTATION, INC., 155 Smith Street, Keasbey, NJ 08832. Representative: A. David Millner, 167 Fairfield Road, Fairfield, NJ 07006. Lead and Sub 3: (1) broaden, in lead, insulation materials to "building materials"; roofing materials, asphalt and asbestos building materials and asphalt paving materials to "paving materials and building materials"; plaster, plaster board, chip board, metal lath, metal lath products, fibre board, insulation board, paints, paper bags, rockwool insulation, and other insulation materials to "pulp, paper and related products, chemicals and related products, metal products, and building materials; asphalt to "petroleum, natural gas and their products and ores and minerals"; and in Sub 3 residual fuel oil to "petroleum, natural gas and their products"; (2) in the lead substitute Middlesex, Monmouth and Union Counties, NJ and Richmond County, NY for Perth Amboy, NJ; New York, NY for Long Island City and Harlem River, NY; and Bergen, Essex, Hudson, and Union Counties, NJ for Newark, NJ; Bergen County, NJ for Lyndhurst, NJ; Hudson and Essex, Counties, NJ for Bayonne, NJ; (Sub 3) Bradford County, PA for Bradford, PA; and (3) (lead) remove "in packages" and (Sub 3) "in bulk in tank vehicles" restrictions.

MC 146448 (Sub-34)X, filed September 30, 1981. Applicant: C & L TRUCKING, INC., P.O. Box 409, Judsonia, AR 72081. Representative: John P. Dodge, Suite 301, 1307 Dolley Madison Blvd., McLean, VA 22101. Lead and Subs 1F, 3F, 4F, 5F, 6F, 7F, 8F, 9F, 11F, 16F, 17F, 18F, 19F, 20F, 21F, and 24F certificates and No. MC-152171 Sub 1F permit: Broaden (1) chemicals, alloys, salt, and materials, equipment, and supplies used in manufacture of chemicals to "chemicals and related products and metal products" in lead and Sub 5F; sliced meats to "food and related products" in Sub 3F; wooden dining and game

furniture, to "furniture and fixtures" in Sub 4F; plastic sheeting, in rolls, to "rubber and plastic products" in Sub 6F; chemicals, plastics, plastic articles and materials, naval stores, mats, synthetic fabrics, rovings, paint, lead compounds, and latex to "chemicals and related products, rubber and plastic products, textile mill products and metal products," in Sub 7F; from tile, to "building materials" in Sub 9F and 17F and in the permit; electrical lighting fixtures and equipment, to "machinery" in Sub 11F; plastic materials and plastic products in Sub 18F, plastic articles in Sub 19F, and disposable plastic medical articles in Sub 20F, to "rubber and plastic products"; general commodities, (with exceptions) and commodities which because of size or weight require special equipment, to "general commodities (except Classes A and B explosives)" in Sub 21F; and foodstuffs to "food and related products" in Sub 24F; Newton, Westwood, Salem and Marlboro, MA, Irvine and Berkeley, CA, and Dallas, TX, to Middlesex, Norfolk, Essex, and Suffolk Counties, MA, Orange, Contra Costa, and Alameda Counties, CA, and Dallas, Tarrant, Ellis, Johnson, Denton, Collin, Rockwall, and Kaufman Counties, TX in the lead; Easthampton, MA, Torrance, CA, St. Louis, MO, Memphis, TN, and Irving and San Antonio, TX, to Hampshire County, MA, Los Angeles County, CA, St. Louis, MO, St. Louis County, MO, Madison and St. Clair Counties, IL, Shelby County, TN, Crittenden County, AR, De Soto County, MS, and Dallas, Tarrant, and Bexar Counties, TX in Sub 1F; Searcy, AR to White County in Sub 3F and 4F; Irvine and Berkeley, CA, Portland, OR, Dallas, TX, Chicago, IL, and Westwood, MA, to Orange, Contra Costa, and Alameda Counties, CA, Multnomah, Clackamas, and Washington Counties, OR, Clark County, WA, Dallas, Tarrant, Ellis, Johnson, Denton, Collin, Rockwall and Kaufman Counties, TX, Lake, Cook, Du Page, and Will Counties, IL, Lake and Porter Counties, IN, and Norfolk County, MA in Sub 5F; Stratford, CT to Fairfield and New Haven Counties, in Sub 6F; Bay Minette and Tuscaloosa, AL, Malvern, AR, Azusa, Irwindale, Compton, Huntington Beach, San Diego, San Francisco, and Visalia, CA, Cheswold, DE, Jacksonville, Pensacola, and Telogia, FL, Austell and Kensington, GA, Morris, IL, Kansas City, KS, Jeffersontown, KY, Oakdale, LA, Andover and Mansfield, MA, Detroit, MI, Gulfport, MS, Kalispell, MT, Carteret, Elizabeth, and Hackettstown, NJ, Brooklyn and Niagara Falls, NY, Charlotte, Concord, and Moncure, NC, Bremen and Cuyahoga Falls, OH, St.

Helens and White City, OR, Sewickley, PA, Hampton, SC, and Grand Junction, TN, Austin and Houston, TX, and Tacoma, WA, to Baldwin and Tuscaloosa Counties, AL, Hot Springs County, AR, Los Angeles, Orange, San Diego, San Francisco, San Mateo, Alameda, Contra Costa, Santa Clara, and Marin, and Tulare Counties, CA, Kent and New Castle Counties, DE, Duval, Nassau, St. Johns, Baker, Clay, Escambia, and Liberty Counties, FL, Cobb, Douglas, and Walker Counties, GA, Grundy County, IL, Wyandotte, Johnson, and Leavenworth Counties, KS, Clay and Jackson Counties, MO, Jefferson County, KY, Allen, Evangeline, and Rapides Parishes, LA, Essex, Bristol, and Norfolk Counties, MA, Wayne and Macomb Counties, MI, Harrison and Benton Counties, MS, Flathead County, MT, Middlesex, Union, Warren, and Morris Counties, NJ, New York, NY, Niagara County, NY, Gaston, Mecklenburg, Cabarrus, Chatham, and Lee Counties, NC, York and Hampton Counties, SC, Fairfield, Hocking, Perry, Summit, and Portage Counties, OH, Columbia and Jackson Counties, OR, Allegheny County, PA, Hardeman and Fayette Counties, TN, Travis, Harris, Brazoria, Galveston, and Fort Bend Counties, TX, and Clark, Pierce, Mason, and King Counties, WA, in Sub 7F; Fayette, AL to Fayette County in Sub 9F; Buffalo (correctly Eufaula), AL to Barbour County, AL and Quitman County, GA in Sub 11F; Atlanta, GA, Dallas, TX, South River, NJ, and Emeryville, CA, to Fulton, Cobb, Douglas, Henry, De Kalb, Gwinnett, and Clayton Counties, GA, Dallas, Tarrant, Ellis, Johnson, Denton, Collin, Rockwall, and Kaufman Counties, TX, Middlesex County, NJ, Alameda, Contra Costa, and San Francisco Counties, CA in Sub 16F; Roseville, CA, Cloverport and Lewisport, KY, Olean, NY, Lansdale and Quakertown, PA, and Jackson, TN to Placer and Sacramento Counties, CA, Hancock, Breckenridge, and Davies Counties, KY, Cattaraugus County, NY, Bucks and Montgomery Counties, PA, and Madison County, TN, in Sub 17F; from Charlotte, NC, Birmingham, AL, Havre de Grace, MD, St. Louis, MO, and Milford, CT to Gaston and Mecklenburg Counties, NC, York County, SC, Jefferson and Shelby Counties, AL, Harford and Cecil Counties, MD, St. Louis, MO, St. Louis County, MO, Madison and St. Clair Counties, IL, and New Haven and Fairfield Counties, CT, in Sub 19F; from Cumberland, RI to Providence County, RI in Sub 20F; from Santa Fe Springs, CA to Los Angeles and Orange Counties in Sub 21F; and from Lansing, IL to Cook County, IL and

Lake County, IN in Sub 24F; (3) remove the following restrictions, (a) against commodities in bulk in lead and Sub 4F, 5F, 7F, 8F, 17F, and 21F; and (b) to refrigerated vehicles in lead and Subs 3F and 5F; (4) remove facility limitations and originating at or destined to restriction in Subs 1F, 7F, 9F, 11F, 16F, 17F, 18F, 20F, and 21F; and (5) change one-way to radial authority in lead and Subs 1F, 3F, 4F, 5F, 6F, 7F, 8F, 18F, 19F, and 20F.

MC 146452 (Sub-5)X, filed October 6, 1981. Applicant: ALBERTSON'S INC., P.O. Box 20, Boise, ID 83726. Representative: David W. Wiley, 1100 Norton Building, Seattle, WA 98104. Sub No. 3F permit: broaden territorial scope to between all points in the U.S.

MC 151199 (Sub-2)X, filed October 5, 1981. Applicant: MOTOR RAIL DELIVERY, INC OF CHICAGO, 2075 W, 43rd St., Chicago, IL 60609. Representative: William J. Boyd, 2021 Midwest Road, Suite 205, Oak Brook, IL 60521. MC-151199F: remove prior and subsequent movement by rail and water restrictions in its general commodities authority between points in described portions of several midwestern States.

MC 151504 (Sub-7)X, filed September 29, 1981. Applicant: PHELCO, INC., 11842 Missouri Bottom Rd., Hazelwood, MO 63042. Representative: William G. Ohlhausen, 611 Olive Street, St. Louis, MO 63101. Sub-No. 3F: Remove originating at or destined to interlining restriction, and change territory to between named facilities in 33 States, on the one hand, and on the other, points in 33 States.

[FR Doc. 81-30311 Filed 10-19-81; 8:45 am]
BILLING CODE 7035-01-M

Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after February 9, 1981, are governed by Special Rule of the Commission's rules of practice, see 49 CFR 1100.251. Special Rule 251 was published in the Federal Register of December 31, 1980, at 45 FR 86771. For compliance procedures, refer to the Federal Register issue of December 3, 1980, at 45 FR 80109.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.252. A copy of any application, including all supporting evidence, can be obtained from applicant's representative upon request and payment to applicant's representative of \$10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified

prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings:

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated a public need for the proposed operations and that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication, (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Please direct status inquiries to the Ombudsman's Office, (202) 275-7326.

Volume No. OPY-3-188

Decided: October 13, 1981.

By the Commission, Review Board Number 2, Members Carleton, Fisher, and Williams.

MC 1934 (Sub-46), filed October 5, 1981. Applicant: The Arrow Line, Inc., 105 Cherry Street, East Hartford, CT 06108. Representative: Helen D. Smith (same address as applicant), (203) 289-1531. Transporting *passengers and their baggage, express and newspapers*, in the same vehicle with passengers, between Bridgeport, CT, and Albany, NY, serving the intermediate points of New Haven and Hartford, CT, and Pittsfield, MA, from Bridgeport, CT over Interstate Hwy 95 to junction Interstate Hwy 91 at West Haven, CT, then over Interstate Hwy 91 to junction Interstate Hwy 90 at West Springfield, MA, then over Interstate Hwy 90 to junction U.S. Hwy 7, then over U.S. Hwy 7 to Pittsfield, MA, then over U.S. Hwy 20 to junction Interstate Hwy 90 and U.S. Hwy 9 at Schodack, NY, then over U.S. Hwy 9 to Albany, NY, and return over the same route.

MC 58954 (Sub-41), filed October 5, 1981. Applicant: MCNAMARA MOTOR EXPRESS, INC., P.O. Box 2082, Kalamazoo, MI 49002. Representative: Brain Lee Elkins (same address as applicant), (616) 343-1371. Transporting *general commodities*, serving points in Boone County, IL as off-route points in connection with carriers authorized regular route operations.

Note.—To the extent the authority authorizes the transportation of classes A and B explosives, it shall expire 5 years from the date of issuance.

MC 59444 (Sub-13), filed October 5, 1981. Applicant: WALLER TRUCK CO., INC., Route 2, Box 5900, Richmond, MO 64085. Representative: Patrick K. McMonigle, 600 Midland Building, 1221 Baltimore Avenue, Kansas City, MO 64105, (816) 221-1464. Transporting *general commodities* (except classes A and B explosives), between Kansas City, MO, on the one hand, and, on the other, points in AR, CO, IL, IN, IA, KS, KY, LA, MN, MS, MO, ND, NE, OK, SD, TN, TX and WI.

MC 118524 (Sub-8), filed October 2, 1981. Applicant: SIG WOLD STORAGE & TRANSFER, INC., 1301 Wells St., Fairbanks, AK 99701. Representative: Jim Pitzer, 15 S. Grady Way, Suite 321, Renton, WA 98055, (206) 235-1111. Transporting *general commodities* (except classes A and B explosives), (1) between points in AK and (2) between points in AK, on the one hand, and, on the other, points in King and Pierce Counties, WA.

MC 119704 (Sub-7), filed October 5, 1981. Applicant: R. A. HARRIS & SONS, INC., 3501 22nd Street, P.O. Box 237, Menominee, MI 49858-0237. Representative: Dennis R. Harris (same address as applicant), (906) 864-2232.

Transporting (1) *polyethylene liners*, between points in the U.S., under continuing contract(s) with Wisconsin Film & Bag, Inc., of Oconto, WI, (2) *aluminum, Castings, pistons, shavings, scrap aluminum & ingots*, between points in the U.S., under a continuing contract(s) with Marinette casting Corporation, of Peshtigo, WI, (3) *canned goods*, between points in the U.S., under a continuing contract(s) with Seymour Canning Co., of Seymour, WI, (4) *chilled shot-steel and chilled grit-steel, machines* used in the distribution of the shot, aluminum castings, and aluminum shot, between points in the U.S., under continuing contract(s) with Industrial Associates, Inc., of Waukesha WI, and (5) *alcoholic liquors*, between points in the U.S. under continuing contract(s) with Bonded Spirits Corporation, of Oconomowoc, WI.

MC 135364 (Sub-50), filed October 2, 1981. Applicant: MORWALL TRUCKING, INC., R.D. #3, Box 76-C, Moscow, PA 18444. Representative: Joseph A. Keating, Jr., 121 S. Main St., Taylor, PA 18517, (717) 344-8030. Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with American Manufacturing Company, of Honesdale, PA.

MC 138395 (Sub-18), filed October 2, 1981. Applicant: DOUGLAS H. WEST, P.O. Box 1274, Salisbury, MD 21801. Representative: Dixie C. Newhouse, 1329 Pennsylvania Ave., P.O. Box 1417, Hagerstown, MD 21740, (301) 797-6060. Transporting *forest products*, between points in FL, GA, SC, NC, VA, MD, PA, NJ, NY, DE, CT, RI, MA, NH, and ME.

MC 142955 (Sub-4), filed October 5, 1981. Applicant: J & G SWARTZ, INC., 3755 Fenwick Dr., Spring Valley, CA 92077. Representative: David P. Christianson, 707 Wilshire Blvd., Suite 1800, Los Angeles, CA 90017, (213) 627-8471. Transporting *food and related products*, between points in NY, NJ, CT, PA, and MA, on the one hand, and, on the other, points in CA, AZ, NM, TX, NV, UT, CO, OR, and WA.

MC 142955 (Sub-5), filed October 5, 1981. Applicant: J & G SWARTZ, INC., 3755 Fenwick Dr., Spring Valley, CA 92077. Representative: David P. Christianson, 707 Wilshire Blvd., Suite 1800, Los Angeles, CA 90017, (213) 627-8471. Transporting (1) *furniture and fixtures*, (2) *metal products*, and (3) *rubber wheels*, between points in NY and MA, on the one hand, and, on the other, points in CA, AZ, NM, TX, NY, UT, CO, OR, and WA.

MC 145595 (Sub-8), filed October 2, 1981. Applicant: WARREN G.

GORMLEY, d.b.a. GORMLEY TRUCKING, 1607 West Swan, Springfield, MO 65805. Representative: Ronald R. Adams, 600 Hubbell Bldg., Des Moines, IA 50309, (515) 244-2329. Transporting *limestone and limestone products*, between points in Christian and Greene Counties, MO, on the one hand, and, on the other, points in OK and AR.

MC 149334 (Sub-3), filed October 2, 1981. Applicant: PIONEER ACQUISITION CORP., 2500 28th St., S.W., Wyoming, MI 49509. Representative: Donald L. Stern, Suite 610, 7171 Mercy Rd., Omaha, NE 68106, (402) 392-1220. Transporting *food and related products*, between points in Kent County, MI, on the one hand, and, on the other, points in the U.S. (except AZ, CA, CO, IL, KS, LA, MA, MO, MS, NE, NY, OK, OR, PA, TX, UT, VA, WA, and WV).

MC 151634 (Sub-2), filed September 25, 1981. Applicant: GOLDEN COACH, A.C., INC., Boston at Pacific, P.O. Box 1737, Atlantic City, NJ 08404. Representative: Larsh B. Mewhinney, 555 Madison Ave., New York, NY 10022, (212) 838-0600. Transporting *passengers and their baggage and express and newspapers*, in the same vehicle with passengers, between Philadelphia and Ben Salem Township, PA, on the one hand, and, on the other, Atlantic City, NJ; (1) from Philadelphia and Ben Salem Township over Interstate Hwy 76 to junction NJ Hwy 42, then over NJ Hwy 42 to junction Atlantic City Expressway, then over Atlantic City Expressway to Atlantic City, and return over the same route, and (2) from Philadelphia and Ben Salem Township over NJ Hwy 73 to junction Atlantic City Expressway, then over Atlantic City Expressway to Atlantic City and return over the same route.

MC 152905 (Sub-2), filed September 28, 1981. Applicant: DWAN'S MOVING & STORAGE CO., INC., 207 Hawthorne Ave., St. Joseph, MI 49085. Representative: Edward Malinzak, 900 Old Kent Bldg., Grand Rapids, MI 49503, (616) 459-7311. Transporting *household goods*, between points in the U.S. on and east of a line beginning at the mouth of the Mississippi River, and extending along the Mississippi River to its junction with the western boundary of Itasca County, MN, then northward along the western boundaries of Itasca and Koochiching Counties, MN, to the international boundary line between the U.S. and Canada.

MC 155095, filed October 2, 1981. Applicant: JOBBERS OIL TRANSPORT CO., INC., 810 Kenner Ave., Kenner, LA 70062. Representative: Edward A.

Winter, 235 Rosewood Dr., Metairie, LA 70005, (504) 835-4724. Transporting (1) *petroleum and petroleum products* and (2) *alcohols*, between points in AL, AR, LA, MS and TX.

MC 156694, filed September 28, 1981. Applicant: TWIN CITY WAREHOUSES, INC., 800 Chatham Rd., Winston-Salem, NC 27101. Representative: Mark C. Ellison, 300 Interstate No. Pkwy, Suite 329, Atlanta, GA 30339, (404) 955-4020. Transporting *caskets*, between the facilities of Simmons Casket Co. at Winston-Salem, NC, on the one hand, and, on the other, points in SC and VA.

MC 158594, filed October 2, 1981. Applicant: COOKS TRANSPORTATION INC., 200 East South, P.O. Box 81, Cheney, KS 67025. Representative: Jack N. Cook (same address as applicant), (316) 542-3189. Transporting *commercial and industrial trailers*, between points in the U.S. under continuing contract(s) with CCC, Inc., of Cheney, KS.

MC 158595, filed October 2, 1981. Applicant: KINGS HI/WAY CO., 258 N. Sixth St., Columbus, OH 43215. Representative: Stephen J. Habash, 100 E. Broad St., Columbus, OH 43215 (614) 646-3013. Transporting (1) *machinery and metal products*, between points in Guernsey County, OH, on the one hand, and, on the other, points in AL, IL, IN, MD, MI, KY, NY, PA, and WV, (2) *machinery, metal products, rubber and plastic products, food and related products*, and *such commodities* as are dealt in or used by manufacturers and distributors of paint and related products, between Columbus, OH, on the one hand, and, on the other, points in AL, IL, IN, MD, MI, KY, NY, PA, and WV.

MC 158605, filed October 5, 1981. Applicant: DONALD L. GOODRUM, d.b.a. DONALD L. GOODRUM COMPANY, 5170 N. Watervliet Rd., Watervliet, MI 49098. Representative: Karl L. Gotting, 1200 Bank of Lansing Bldg., Lansing, MI 48933, (517) 489-2400. Transporting *electrical and gas appliances*, between points in the U.S., under continuing contract(s) with Whirlpool Corporation, of Benton Harbor, MI.

Volume No. OPY-4-403

Decided: October 8, 1981.

By the Commission, Review Board Number 2, Members Carleton, Fisher and Williams.

MC 647 (Sub-20), filed September 28, 1981. Applicant: EXHIBITORS SERVICE COMPANY, 85 Helen St., McKees Rocks, PA 15136. Representative: Samuel P. Delisi, 1500 Bank Tower, 307 Fourth Ave., Pittsburgh, PA 15222, (412) 232-3505. Transporting *general*

commodities (except classes A and B explosives), between that portion of NY in and west of Brooke, Chenango, Madison, Oneida, Oswego, and Jefferson Counties, NY, and points in MD, OH, PA, and WV.

MC 28307 (Sub-31), filed October 2, 1981. Applicant: FREDRICKSON MOTOR EXPRESS CORPORATION, 3400 N. Graham St., Charlotte, NC 28206. Representative: Robert D. Hoagland, 1204 Cameron-Brown Bldg., Charlotte, NC 28204, (704) 333-8801. Transporting *general commodities* (except classes A and B explosives), between points in Alexander, Alleghany, Ashe, Bladen, Brunswick, Burke, Caswell, Chatham, Columbus, Davie, Duplin, Franklin, Granville, Harnett, Hoke, Lincoln, Moore, Nash, Onslow, Orange, Pender, Person, Polk, Randolph, Robeson, Sampson, Scotland, Stokes, Surry, Transylvania, Watauga, Wayne, Wilson, and Yadkin Counties, NC, on the one hand, and, on the other, points in NC.

MC 39167 (Sub-20), filed September 30, 1981. Applicant: C.J. ROGERS TRANS. CO., 2947 Greenfield Rd., Melvindale, MI 48122. Representative: Robert D. Schuler, 100 W. Long Lake Rd., Ste. 102, Bloomfield Hills, MI 48013, (313) 645-9600. Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with Demsey and Associates, division of Braselle Corp., of Beachwood, OH.

MC 93147 (Sub-3), filed September 29, 1981. Applicant: DELTA TRANSPORT CORPORATION 595 Cottage St., Springfield, MA Representative: James M. Burns, 1383 Main St., Suite 413, Springfield, MA 01103, (413) 781-1342. Transporting *brakes, power pumps, castings, metal racks, and agricultural implements*, between points in Jefferson County, NY, on the one hand, and, on the other, points in the U.S.

MC 134547 (Sub-12), filed September 28, 1981. Applicant: BILBO TRANSPORTS, INC., 2722 Singleton Blvd., Dallas, TX 75212. Representative: Austin L. Hatchell, P.O. Box 2165, Austin, TX 78768. Transporting *gypsum board paper*, between points in the U.S., under continuing contract(s) with Gold Bond Building Products, a division of National Gypsum Co., of Charlotte, NC.

MC 139277 (Sub-6), filed September 30, 1981. Applicant: HALL TRUCKING, INC., 201 Livingston St., Gridley, IL 61744. Representative: Patrick H. Smyth, 105 West Madison St., Suite 1008, Chicago, IL 60603, (312) 263-2397. Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under

continuing contract(s) with Shell Oil Company, of Houston, TX.

MC 139667 (Sub-11), filed October 1, 1981. Applicant: C. SCHMIDT TRUCKING CO., INC., 101 West Sanger, Salem, IL 62881. Representative: Brenda Schmidt, 903 Meadow Lane, Salem, IL 62881, (618) 548-5823. Transporting *iron and steel articles*, (1) between Chicago, IL, on the one hand, and, on the other, points in MO, TN, AR, TX, and OK, and (2) between points in TX, AR, OK, and TN, on the one hand, and, on the other, points in MO, IL, KY, IN, and IA.

MC 140227 (Sub-5), filed October 2, 1981. Applicant: DALE ETTESVOLD, INC., 1287 11th Ave., Granite Falls, MN 56241 Representative: Val M. Higgins, 1800 TCF Tower, 121 So. 8th St., Minneapolis, MN 55402, (612) 333-1341. Transporting (1) *food and related products* and (2) *machinery*, between points in Douglas, Sibley, and McLeod Counties, MN, on the one hand, and, on the other, points in Milwaukee County, WI and St. Louis County, MO.

MC 145987 (Sub-2), filed September 28, 1981. Applicant: INTER-CITY EXPRESS LTD., 2655 Dollarton Hwy., N. Vancouver, B.C., Canada V7H 1B1. Representative: Jim Pitzer, 15 S. Grady Way, Suite 321, Renton, WA 98055, (206) 235-1111. Transporting *chemicals and related products* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with Eurocan Pulp & Paper Co., Ltd.; Colour Your World, Inc.; MacMillan Bloedel, Ltd.; B.C. Timer Ltd.; Crown Zellerbach; British Columbia Forest Products Limited; FMC of Canada Ltd.; and C.I.L. Inc., all of Vancouver, B.C., Canada; Sterner Limited, of Burnaby, B.C., Canada; Canadian Occidental Petroleum Ltd., of North Vancouver, B.C., Canada; Monsanto Canada Ltd., of West Vancouver, B.C., Canada; Western Chemical Service Ltd., of White Rock, B.C., Canada; and Van Waters and Rogers Ltd., of Richmond, B.C., Canada.

MC 150667, filed September 29, 1981. Applicant: WORTHING TRANSPORT (EDSON) LTD., Box 2580, Edson, Alberta, Canada, TOE OPO. Representative: David T. Chambers (same address as applicant), (403) 723-3363. In foreign commerce only, transporting *those commodities because of their size or weight require the use of special handling or equipment*, between the ports of entry on the International Boundary line between the U.S. and Canada in MT, on the one hand, and, on the other, points in MT, ND, WY, SD, NE, CO, NM, and TX.

MC 157697, filed October 2, 1981. Applicant: C. H. (SKEET) SMITH TRUCKING CO., INC., P.O. Box 350,

Ringling, OK 73456. Representative: Stephen D. Colbert, 214 Stanley, Ardmore, OK 73401, (405) 226-1911. Transporting *Mercer commodities*, between points in OK, TX, NM, CO, KS, AR, MO, LA, and WY. Condition: Issuance of a certificate in this proceeding is subject to prior or coincidental cancellation, at applicant's written request, of Certificate of Registration No. MC-46509.

MC 158537 (Sub-1), filed September 30, 1981. Applicant: ARTY G. WILLIAMSON, d.b.a. G & D TRUCKING, Route 3, Box 413, Proctorville, OH 05669. Representative: Barry Weintraub, Suite 510, 8133 Leesburg Pike, Vienna, VA 22180, (703) 442-8330. Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with Chandler's Plywood Products, Inc. of Huntington, WV.

MC 158547, filed September 30, 1981. Applicant: COFFEY & SONS TRUCKING CO., 1099 By-Pass, P.O. Box 69, Hickman, KY 42050. Representative: Robert H. Kinker, 314 West Main St., P.O. Box 464, Frankfort, KY 40602, (502) 236-3102. Transporting *general commodities* (except classes A and B explosives), between points in Fulton County, KY, on the one hand, and, on the other, points in KY, TN, OH, IN, AR, MO, IL, MI, AL, TX, VA, WV, GA, MS, LA, PA, NC, and SC.

Volume No. OPY-5-178

Decided: October 13, 1981.

By the Commission, Review Board Number 3, Members Krock, Joyce and Donell.

MC 9859 (Sub-11), filed September 29, 1981. Applicant: KANE TRANSFER COMPANY, 4661 Hollins Ferry Rd., Baltimore, MD 21227. Representative: Walter T. Evans, 7961 Eastern Ave., Silver Spring, MD 20910, (301) 587-8656. Transporting *general commodities* (except classes A and B explosives), between Baltimore, MD, points in Prince George's County, MD, and DC, on the one hand, and, on the other, points in DE, MD, NJ, OH, PA, VA, WV, and DC.

MC 60189 (Sub-3), filed September 24, 1981. Applicant: CHAMBERS MOVING & STORAGE CO., INC., 301 S. 4th Ave., Phoenix, AZ 85003. Representative: A. Michael Bernstein, 1441 E. Thomas Rd., Phoenix, AZ 80514, (602) 264-4891. Transporting (1) *furniture and fixtures* and (2) *household goods* between points in Clark County, NV, points in AZ, and those points in and south of San Bernardino, Kern, and San Luis Obispo Counties, CA.

MC 72069 (Sub-42), filed October 1, 1981. Applicant: BLUE HEN LINES, INC., P.O. Box 280, Milford, DE 19963. Representative: Chester A. Zyblut, 366 Executive Bldg., 1030 Fifteenth St., NW., Washington, DC 20005, 202-296-3555. Transporting *paper and related products*, between points in Grayson County, KY, on the one hand, and, on the other, points in the U.S. (except HI).

MC 98689 (Sub-5), filed August 17, 1981. Applicant: D. A. BROWN TRUCKING CO., 4319 Rosedale Hwy., Bakersfield, CA 93302. Representative: Fred H. Mackensen, Suite 4150, 2029 Century Park East, Los Angeles, CA 90067, (213) 879-5955. Transporting *construction and maintenance equipment, materials and supplies*, between points in KS, UT, MT, OK, CA, ID, and NV, on the one hand, and, on the other, points in CA, ID, MT, UT, TX, WY, and OK.

MC 110689 (Sub-14), filed September 30, 1981. Applicant: AIRWAY TRUCKING CO., 4239 Newton Rd., Stockton, CA 95204. Representative: Robert Fuller, 13215 E. Penn St., Suite 310, Whittier, CA 90602, (213) 945-3002. Transporting (1) *clay, concrete, glass or stone products*, and (2) *metal products*, between points in AZ, AR, CA, OR, TX, and WA, on the one hand, and, on the other, points in AZ, AR, CA, CO, NM, NV, OK, OR, TX, UT, and WA.

MC 112239 (Sub-6), filed September 25, 1981. Applicant: LOGAN TRUCKING, INC., Prairie Hill Rd., P.O. Box 41, South Beloit, IL 61080. Representative: Donald S. Mullins, 1033 Graceland Ave., Des Plaines, IL 60016, (312) 298-1094. Transporting (1) *metal products* between points in Winnebago County, IL, on the one hand, and, on the other, Detroit, MI, Chicago, IL, those points in IN in the Chicago, IL, Commercial Zone, Pittsburgh, PA, and points in Washington County, PA, Richland and Cuyahoga Counties, OH, and Ohio County, WV, and (2) *concrete products* between points in Winnebago County, IL, on the one hand, and, on the other, points in AL, LA, ME, MA, MS, MT, NH, NM, OK, TX, and VT.

MC 148218 (Sub-2), filed September 28, 1981. Applicant: STRUCTURAL TRANSPORT, INC., 6701 West Ryan Rd., Franklin, WI 53132. Representative: William P. Dineen, 710 No. Plankinton Ave., Milwaukee, WI 53203, (414) 273-7410. Transporting *metal products* between points in the U.S., under continuing contract(s) with Wisconsin Bridge and Iron company of Milwaukee, WI.

MC 150179 (Sub-2), filed October 1, 1981. Applicant: LOGISTICS, INC., 6242 Executive Blvd., P.O. Box 638, Dayton,

OH 45402. Representative: Stephen J. Habash, 100 E. Broad St., Columbus, OH 43215, 614-228-1541. Transporting *metal products*, between points in the U.S. under continuing contract(s) with Ochs Tool & Die, Inc., of Vandalia, OH.

MC 154439, filed October 1, 1981. Applicant: VAUGHN TRUCKING, INC., General Delivery-Fontana Rd., P.O. Box 26, Independence, LA 70443. Representative: Fletcher W. Cochran, 1338 Gause Blvd, Suite 300, P.O. Box 741, Slidell, LA 70459, 504-641-7630. Transporting *lumber and wood products, and pulp, paper and related products*, between points in the U.S. under continuing contract(s) with Crown Zellerbach Corporation of Bogalusa, LA.

MC 158578, filed October 1, 1981. Applicant: FREIGHTWAY EXPRESS, INC., 10608 Poppleton Ave., Omaha, NE 68124. Representative: Arlyn L. Westergren, Suite 201, 9202 W. Dodge Rd., Omaha, NE 68114, 402-397-7033. Transporting *food and related products*, between points in the U.S. under continuing contract(s) with Pacific Provisions, Inc., of San Jose, CA.

MC 152649 (Sub-8), filed September 29, 1981. Applicant: RIVERLAND TRUCKING CO., INC., West 10th Ave., P.O. Drawer BC, Reserve, LA 70084. Representative: Harry M. England (same address as applicant), (504) 536-1191. Transporting *such commodities* as are dealt in or used by manufacturers and distributors of carriers for bottles or cans, between points in the U.S. under continuing contract(s) with Illinois Tool Works, Inc., of Itasca, IL. Agatha L. Mergenovich, Secretary.

[FR Doc. 81-30309 Filed 10-19-81; 8:45 am]
BILLING CODE 7035-01-M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

[Redelegation of Authority No. 142.1]

Director, Office of Housing; Redelegation of Authority

Pursuant to the authority delegated to me by Delegation of Authority No. 142 from the Administrator of A.I.D. dated July 8, 1981, (81 FR 2145), I hereby redelegate to the Director of the Office of Housing the following authorities:

1. All of the authorities delegated to me by the above mentioned Delegation of Authority as it may pertain to Housing and Housing Guaranties except for:

(a) the authority to prescribe and amend interest rates as provided in

Section 223(f) under the Foreign Assistance Act of 1961, as amended, [22 U.S.C. 2183(f)]

(b) the authority to authorize the issuance of guaranties.

2. The authorities redelegated hereby may be redelegated, except redelegations of authority to persons not assigned to the Office of Housing shall be subject to approval by the appropriate Regional Assistant Administrator or his designee.

3. The authority redelegated hereby may be exercised by any person performing the function of Director of Housing in an acting capacity.

4. This redelegation of authority shall be effective immediately.

Dated: September 15, 1981.

Elsie R. W. du Pont,

Assistant Administrator, Bureau for Private Enterprise.

[FR Doc. 81-30320 Filed 10-19-81; 6:45 am]
BILLING CODE 4710-01-M

DEPARTMENT OF LABOR

Employment and Training Administration

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 adjustment assistance issued during the period October 5-9, 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-10,861; Bethlehem Steel Corp., Lebanon, PA
 TA-W-10,654; Terri Girl, Inc., Hoboken, NJ, Young & Slender, Inc., On Us Blouse Co., Inc., New York, NY
 TA-W-10,262; Uniroyal Chemical Co., Naugatuck, CT
 TA-W-11,901; Horizon Screw Machine, Products, Inc., Taylor, MI
 TA-W-11,562; Display South Corp., Clanton, AL
 TA-W-11,241; Mason Mfg. Co., East Providence, RI
 TA-W-11,214; Clara Fashions, Inc., Jersey City, NJ
 TA-W-11,898, 12,002, 12,002A, & 12,003; Ditto of California, Inc., Colfax, LA, Panorama City, CA, San Fernando, CA, and Leesville, LA
 TA-W-11,246; Marmon Group, Inc., Detroit Steel Products, Morristown, IN

In each of the following cases the investigation revealed that criterion (3) has not been met. Increased imports did not contribute importantly to worker separations at the firm.

- TA-W-10,039; Quality Sportswear, Inc., Haledon, NJ
 TA-W-12,256; Duluxe Sportswear, Co., New York, NY
 TA-W-12,477; Parker Brothers, A Division of General Mills, Taunton, MA
 TA-W-10,972; Cyclops Corp., Universal-Cyclops Specialty Steel Div., Bridgeville, PA
 In each of the following cases the investigation revealed that the firm does not produce an article within the meaning of Section 222(3) of the Act.
 TA-W-12,845; National Bumper Exchange, Inc., West Memphis, AR
 TA-W-12,787; Rittenberry Cake Artcraft, Inc., Knoxville, TN and Oak Ridge, TN
 TA-W-11,753; Empire Knitwear Co., New York, NY
 TA-W-11,371; Bethlehem Steel Corp., San Pedro Shipyard, Terminal Island, CA

In each of the following cases the investigation revealed that criterion (3) has not been met for the reason(s) specified.

- TA-W-10,432; Ex-Cell-O Corp., Tool and Abrasive Products Div., Troy, MI and Clare, MI

With respect to carbide products, a survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm. With respect to the Rack Department, the investigation revealed that the workers do not produce an article within the meaning of Section 222(3) of the Act.

TA-W-11,601; Mansfield Tire and Rubber Co., National Fibril Div., Springfield, TN Aggregate U.S. imports of automotive interior trim are negligible.

I hereby certify that the aforementioned determinations were issued during the period October 5-9, 1981. Copies of these determinations are available for inspection in Room 10,332, U.S. Department of Labor, 601 D Street, NW, Washington, D.C. 20213 during normal working hours or will be mailed to persons who write to the above address.

Dated: October 13, 1981.

Marvin M. Fooks,
 Director, Office of Trade Adjustment Assistance.

[FR Doc. 81-30217 Filed 10-19-81; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-10,635]

Rockwell International Plastics Division, Ashtabula, Ohio; Notice of Negative Determination Regarding Application for Reconsideration

By an application dated August 17, 1981, the United Auto Workers requested administrative reconsideration of the Department of Labor's Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance in the case of workers and former workers producing fiberglass parts for motor vehicles at Rockwell International Plastics Division plant in Ashtabula, Ohio. The determination was published in the Federal Register on July 31, 1981 (46 FR 39253).

Pursuant to 29 CFR 90.18(c), reconsideration may be granted under the following circumstances:

(1) if it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) if it appears that the determination complained of was based on a mistake in the determination of facts previously considered; or

(3) if, in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justifies reconsideration of the decision.

The union claims that some workers at Rockwell's Plastics Division plant at Ashtabula, Ohio which made fiberglass hood assemblies and other fiberglass external parts for a certain customer were laid off because this customer switched its purchases of hoods to Canada.

The Department's review showed that the worker petition did not meet the

"contributed importantly" test of Section 222 of the Trade Act of 1974. The Department's survey of customers which represented virtually all of the Plastics Division's sales in 1979 and 1980 showed that the majority of customers did not import fiberglass hood assemblies, fiberglass reinforced plastic roofs or fiberglass external parts during the periods covered by the investigation. The one customer which reduced purchases from the Plastics Division and increased imports in 1980 (1) accounted for a relatively small percentage of the Plastics Division's sales decline in 1980 and (2) reduced purchases from the Plastics Division to a significantly greater degree than it increased imports. The Department also notes that the workers producing articles for sale to that customer were not separately identifiable from other workers in the plant.

Conclusion

After review of the application and the investigative file, I conclude that there has been no error or misinterpretation of the law which would justify reconsideration of the Department of Labor's prior decision. The application is, therefore, denied.

Signed at Washington, D.C., this 6th day of October 1981.

Robert S. Kenyon,
 Deputy Director, Office of Program Management, Unemployment Insurance Service.

[FR Doc. 81-30219 Filed 10-19-81; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-11,444]

Controls Division, RNA, Ranco, Inc., General Offices, West Fifth Avenue, Columbus, Ohio; Notice of Negative Determination on Reconsideration

On June 29, 1981, the Department made an Affirmative Determination Regarding Application for Reconsideration for workers and former workers of the Controls Division of Ranco North American (RNA), Ranco, Incorporated, West Fifth Avenue, Columbus, Ohio. This determination was published in the Federal Register on July 10, 1981 (46 FR 35828).

The petitioners in their application for reconsideration claim that the reasons taken into consideration by the Department for certification of the workers at Ranco's Plain City, Ohio and Delaware, Ohio plants be afforded to Ranco's North American Controls Division located at the West Fifth Avenue facility in Columbus, Ohio.

The Department's review of the investigative case file shows that the worker petition did not meet the "contributed importantly" test of the Trade Act of 1974. A significant portion of the employees of RNA's Controls Division was involved in administrative and other support activities for the Ranco operations in Canada and Mexico, in addition to their support activities for the Ranco plants in Ohio. Increases in imports of controls by Ranco represented only a small proportion of domestic sales. Increased company imports could not have contributed importantly to a significant decline in employment at the Controls Division. No jobs in research and development were transferred out of the country.

On reconsideration, there appears no adequate basis for certifying the workers of the Controls Division of Ranco North American. Workers producing services for another entity in the same or an affiliated corporation may only be certified if the reduction in demand for their services originates at a production facility whose workers independently meet the statutory criteria for certification and that reduction must relate to the product impacted by imports. In the instant case, Ranco workers at the Plain City (TA-W-7876), Delaware (TA-W-7877), and the Worthington-Galena (TA-W-6825 and 7333) plants have been certified for trade adjustment assistance. However, the Department found on reconsideration that the major share of the reduction in employment at the Controls Division was due to the transfer of these support operations to the Plain City and Delaware, Ohio plants in January 1981 and mid-1980, respectively. Virtually all of the workers performing support activities for the Plain City and Delaware plants were transferred to these plants. All but a very small group of the remaining workers in the Controls Division were laid off, mostly because of a decline in general business conditions. They were not separated because of the Worthington-Galena shutdown in June, 1980. The Worthington-Galena plant was a largely self-sustaining plant requiring little support activity from the Controls Division at Columbus. Worthington-Galena's production which was not transferred to Mexico was shipped to Plain City along with the requisite support personnel.

Conclusion

After reconsideration, I reaffirm the original denial of eligibility to apply for adjustment assistance to workers and former workers of the Controls Division

of Ranco North American, Ranco, Inc., West Fifth Avenue, Columbus, Ohio.

Signed at Washington, D.C. this 6th day of October 1981.

Robert S. Kenyon,

Deputy Director, Office of Program Management, Unemployment Insurance Service.

[FR Doc. 81-30220 Filed 10-19-81; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-11,955]

Hanna Furnace Corp., Buffalo, New York; Negative Determination Regarding Application for Reconsideration

By an application dated August 31, 1981, the United Steelworkers of America requested administrative reconsideration of the Department of Labor's Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance in the case of workers and former workers producing merchant pig iron at the Hanna Furnace Corporation, Buffalo, New York. The determination was published in the Federal Register on August 21, 1981 (46 FR 42542).

Pursuant to 29 CFR 90.18(c), reconsideration may be granted under the following circumstances:

- (1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;
- (2) If it appears that the determination complained of was based on a mistake in the determination of facts previously considered; or
- (3) If, in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justifies reconsideration of the decision.

The union claims that the Department's denial notice does not show the true picture of how the merchant pig iron industry is adversely affected by imports. It alleges that the Department only investigated first quarter 1981 data on Hanna's sales and average employment and aggregate U.S. imports of pig iron. The union also makes a claim concerning the adequacy of the Department's survey since they allege that the Department's survey is based on first time users of pig iron and neglected Hanna's customers who have used imports continuously over the years.

The Department does not see that the claims set forth by the union would warrant a reversal. Since workers at Hanna's Buffalo, New York facility were already under certification when the worker petition was filed, TA-W-4281

expired on January 9, 1981, the relevant period for the Department to investigate was the first quarter of 1981. Hanna's production and average employment increased while U.S. imports of merchant pig iron decreased in the first quarter of 1981 compared to the same quarter of 1980. Sales increased slightly in the first quarter of 1981 compared to the immediately preceding quarter in 1980. Recognizing that one quarter is a fairly brief period, the Department would point out that aggregate imports of merchant pig iron actually decreased in 1980 and in the first quarter of 1981 decreased again, both absolutely and relative to domestic production, compared to the first quarter of 1980.

The Department questions the union's allegation concerning the adequacy of the Department's survey. The Department's survey of Hanna's customers covered the period from January 1, 1979, through March 31, 1981. This survey, which represented a substantial part of Hanna's 1980 sales decline, showed that overall the responding customers' purchases of imports declined in 1980 compared to 1979 and, again, in the first quarter of 1981 compared to the same period in 1980. (The Department notes that its survey of Hanna's customers for worker petition TA-W-4281 received on October 17, 1978 covered the period from January 1, 1976 through the first ten months of 1978.)

Conclusion

After review of the application and the investigative file, I conclude that there has been no error or misinterpretation of the law which would justify reconsideration of the Department of Labor's prior decision. The application is, therefore, denied.

Signed at Washington, D.C. this 6th day of October 1981.

Robert S. Kenyon,

Deputy Director, Office of Program Management, Unemployment Insurance Service.

[FR Doc. 81-30218 Filed 10-19-81; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-9673]

Michigan Plating and Stamping, Grand Rapids, Michigan; Notice of Negative Determination on Reconsideration

On August 6, 1981, the Department made an Affirmative Determination Regarding Application for Reconsideration for workers and former workers at Michigan Plating and Stamping's plant in Grand Rapids, Michigan. This determination was

published in the Federal Register on August 14, 1981, [46 FR 41232].

The union claims that Canadian production of auto bumpers adversely affected production at Michigan Planting and Stamping (MP&S) in Grand Rapids, Michigan. A Canadian plant in Oshawa, Ontario, belonging to a domestic competitor is alleged to have taken much of the bumper business away from MP&S. This allegation is predicated upon the fact that when the domestic competitor's plant in Canada ceased production in September 1980 much of the "lost" production was returned to MP&S.

On reconsideration, the Department found that the Canadian facility produced auto bumpers mainly for the Chrysler Corporation which was a customer of MP&S but with insignificant purchases of auto bumpers in 1978, 1979 and 1980.

Of the sixteen bumpers types enumerated by the union as being picked up by MP&S upon the demise of the Canadian operation, eleven are Chrysler Corporation bumpers and five are Ford Motor Company aluminum bumpers. MP&S never made any of these bumpers before obtaining this new business upon the closure of the Canadian plant. Actually, MP&S never had any significant Chrysler business during the investigative period. The MY 1980 decline in auto bumper production at MP&S was largely the result of the decline in the Ford Motor Company's auto production, especially at the Wixom, Michigan, assembly plant where Lincoln and Mark V autos are built.

U.S. imports of auto bumpers decreased absolutely in 1979 compared to 1978 and in 1980 compared to 1979. The Department's survey of MP&S's customers showed that the respondents either did not import auto bumpers or that imported auto bumpers were not a substantial proportion of their overall bumper purchases. Some customers indicated that the level of production of new cars, for which MP&S supplied bumpers, declined in MY 1980 compared to MY 1979. This decline in auto production reduced the demand for bumpers produced by MP&S.

The union also pointed out that MP&S had a substantial level of business from MY 1974 through MY 1977 with a customer who was also a customer of the Canadian plant. However, the Department's focus must be centered on the period from 1978 through 1980 since no certification can cover worker separations occurring more than one year before the petition date, which in this case is June 23, 1980. The Department's authority stems from

Section 223(b)(1) of the Trade Act of 1974 which defines the one year rule.

Conclusion

After reconsideration, I reaffirm the original denial of eligibility to apply for adjustment assistance to workers and former workers of Michigan Planting and Stamping, Grand Rapids, Michigan.

Signed at Washington, D.C., this 6th day of October 1981.

Robert S. Kenyon,

Deputy Director, Office of Program Management, Unemployment Insurance Service.

[FR Doc. 81-30221 Filed 10-19-81; 8:45 am]

BILLING CODE 4510-30-M

Pension and Welfare Benefit Programs

[Application No. D-2569]

Proposed Exemption for Certain Transactions Involving the BMC Pathology Group, P.A., Employees' Pension Plan Located in Birmingham, Ala.

AGENCY: Pension and welfare benefit programs, 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 (1) the proposed sale of an improved parcel of real property (the Property) to Dr. Arthur S. Ludwig's (Dr. Ludwig) directed investment account (the Account) in the BMC Pathology Group, P.A. Employees Pension Plan (the Plan) by Dr. Ludwig, a party in interest with respect to the Plan; (2) the proposed leaseback of the Property by the Plan on behalf of the Account to Dr. Ludwig; and (3) a guarantee by Dr. Ludwig to the Plan with respect to the future disposition of the Property by the Plan. The proposed exemption, if granted, would affect Dr. Ludwig, the Account, the Plan and any other persons participating in the proposed transactions.

DATE: Written comments and requests for a public hearing must be received by the Department on or before November 23, 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-2569. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue, N.W., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT:

Mr. David Stander of the Department, 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 section 406(a), 406(b)(1) and 406(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 on behalf of Dr. Ludwig, 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 a defined contribution money purchase plan providing for individually directed accounts. As of September 30, 1980, the Plan had total assets of approximately \$1.8 million and ten (10) participants. Dr. Ludwig is a fully vested participant in the Plan and may direct the trustee of the Plan, the First National Bank of Birmingham (the Trustee), to invest the assets of his Account. Dr. Ludwig's Account totals approximately \$295,000.

2. The BMC Pathology Group, P.A. (the Employer) is the Plan sponsor. The Employer is engaged in the practice of pathology in the Birmingham, Alabama area. Dr. Ludwig is an employee, director and 16 percent shareholder of the Employer.

3. The Property consists of 48.9 acres of timber and pasture land and is improved by two small dwelling structures. Approximately 40 acres of the Property is pasture land. The Property is known as the Old Durbin Farm and is located in Shelby County, Alabama, approximately 3.6 miles south of Alabaster, Alabama and approximately 21 miles south of downtown Birmingham.

4. Ludwig proposes to direct the Trustee to purchase the Property for his Account and then leaseback (the Lease) such Property. The Property will be sold free and clear of any mortgages, liens, or encumbrances except for a right of way granted to the Alabama Power Company. Mr. Charles N. Zanaty, SRA, CRA, an independent appraiser, determined that as of January 30, 1981, the Property had a fair market value of \$184,000. Mr. Zanaty represents that due to the existence and completion of interstate highways in the area of the Property and the continuing expansion of the Birmingham metropolitan area southward in the direction of the Property, values in such area are expected to increase in value.

5. Upon purchase of the Property the Plan, on behalf of the Account, intends to enter into the Lease with Dr. Ludwig. The Lease provides for an initial term of ten years with an option to renew for two additional two year terms. The Lease will be "absolute net" as the Plan as lessor will not be required to provide any services or incur any expenses with regard to the Property. Dr. Ludwig as lessee will maintain insurance coverage on the Property.

6. Mr. Larry E. Cain, a real estate broker located in Montevallo, Alabama, represents that, as of January 16, 1981, the fair rental value of the two dwelling structures on the Property was \$325 per month. Mr. Lee G. Gober, a county agent coordinator for the Alabama Cooperative Extension Service, represents that, as of January 16, 1981, the fair and equitable land rent in Shelby County, for the purpose of growing beef cattle, is \$14 per acre. Dr. Ludwig proposes to pay initial rental to the Plan of \$18,000 a year which is represented to be an amount no less than the Property's estimated fair market rental value. This initial rental would provide Dr. Ludwig's Account a rate of return on the Property of approximately 9.7%. The rental payable will be adjusted every three years to the higher of the preceding rental or the then appraised fair market rental value of the Property. The applicant represents that the proposed transactions will not cause the annual additions to the Account to

exceed the limitations of section 415 of the Code.

7. Dr. Ludwig represents that if the Plan, on behalf of the Account, sells the Property to a bona fide purchaser for a price (Sales Price) which is less than the fair market value of the Property when originally sold to the Plan, he will contribute to his Account an amount equal to the difference between the Sales Price and the fair market value of the Property when originally sold to the Plan.

8. Mr. Stanley E. Goodwin, a consultant experienced in employee benefit plans, has reviewed the proposed transactions and has represented that he will supervise and monitor the terms and conditions of the Lease. Mr. Goodwin will obtain professional advice with respect to the valuation of the Property and appropriate Lease provisions.

9. In summary, the applicant represents that the proposed transactions satisfy the statutory criteria of section 408(a) of the Act because (a) the Property is to be sold to the Plan at its appraised fair market value; (b) the Property is expected to increase in value; (c) the initial rental to be received by the Plan is represented to be no less than the Property's fair market rental value and will be adjusted every three years to the higher of the preceding rental or the then appraised fair market rental value of the Property; (d) the only assets of the Plan which will be affected by the proposed transactions will be from Dr. Ludwig's Account and he has directed that the proposed transactions be consummated; and (e) an independent party will monitor and supervise the terms and conditions of the Lease.

Tax Consequences of Transaction

The Department of the Treasury has determined that if a transaction between a qualified employee benefit plan and its sponsoring employer (or affiliate thereof) results in the plan either paying less than or receiving more than fair market value, such excess may be considered to be a contribution by the sponsoring employer to the plan and therefore must be examined under applicable provisions of the Code, including sections 401(a)(4), 404 and 415.

Notice to Interested Persons

Because Dr. Ludwig's Account will be the only Plan assets involved in the proposed transactions it has been determined that there is no need to distribute the notice of pendency to interested persons.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of sections 408(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 the Property by Dr. Ludwig to his Account in the Plan; (2) the proposed Lease of the Property by the Plan, on behalf of the Account, to Dr. Ludwig; and (3) the guarantee by Dr. Ludwig to the Plan, on behalf of the Account, with regard to the future disposition of the Property; provided that (a) the sales price of the Property is not less than its fair market value on the date of sale; and (b) the rental received by the Plan from the Property throughout the terms of the Lease is not less than the Property's fair market rental value.

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 to be consummated pursuant to the exemption.

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

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

[FR Doc. 81-30355 Filed 10-19-81; 9:45 am]

BILLING CODE 4510-29-M

[Application No. D-2731]

Proposed Exemption for Certain Transactions Involving the Bermo, Inc. Profit Sharing Plan Located in Marshall, Minn.

AGENCY: Pension and Welfare Benefit Program, 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 temporary

exemption would exempt (1) for a period of five years, the proposed loans (the Loans) of money by the Bermo, Inc. Profit Sharing Plan (the Plan) to Bermo, Inc. (the Employer), the sponsor of the Plan and (2) the guarantee of the obligation of the Employer in such Loans by Fred P. Berdass (Berdass), a party in interest with respect to the Plan. The proposed exemption, if granted, would affect the plan, the Employer, Berdass and other persons participating in the proposed transactions.

DATES: Written comments and requests for a Public hearing must be received by the department on or before November 30, 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-2731. 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-4877, 200 Constitution Avenue, N.W., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Richard Small of the Department, 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 section 408(a), 406(b)(1) and 406(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 a defined contribution plan which as of April 1, 1981 had 19 participants and assets of \$711,101. Richfield Bank and Trust Company (the Trustee) of Richfield, Minnesota is the Trustee of the Plan. The Employer is a closely held corporation in the metal-stamping business. The shareholders of the Employer are Berdass and his wife. In the regular course of its business, the Employer purchases machinery (Machinery) and equipment (Equipment) for its operations. Presently, the purchase of such Machinery and Equipment is financed through the Trustee which charges the Employer the Trustee's prevailing prime rate of interest.

2. The Employer is requesting an exemption to allow the Plan, for a period of five years to make Loans on a recurring basis to the Employer. The five year period would begin on the date the exemption for the proposed transactions is published in the Federal Register. The proceeds from the Loans would be used by the Company to purchase the Machinery and Equipment. Each loan would be subject to the following conditions:

- (a) All Machinery and Equipment purchase will be new.
- (b) Each Loan will be collateralized by a promissory note and a security agreement.
- (c) Each Loan will have a first lien on the purchased Machinery or Equipment and in addition will be collateralized by specific Equipment or assets which are owned by the Employer, such that at all times each Loan will be collateralized in an amount at least equal to 150% of the outstanding balance of such Loan.
- (d) No Loan will exceed 80% of the purchase price of the Machinery or Equipment financed, excluding tax and transportation costs.
- (e) The maximum length of any Loan will be 48 months.
- (f) The interest rate on the Loans will be fixed at a rate 1% above the prevailing prime rate of the Trustee.
- (g) At the time of its making, no Loan, together with the outstanding balances on other Loans will exceed 25% of the market value of the assets of the Plan.
- (h) The Employer will adequately insure the Machinery and Equipment and all other collateral against fire and all other relevant hazards with the Plan being named the beneficiary of the insurance.
- (i) Each Loan will be personally guaranteed by Berdass.

3. Prior to the Plan entering into any Loan, an independent fiduciary, the

Western Bank and Trust Co. (the Bank) of Marshall, Minnesota must certify that such Loan will be an appropriate investment for the Plan and that the terms of such Loan are at least equal to those which the Plan could receive in a similar transaction with an unrelated party. The Bank will also be responsible for determining the appropriate collateral for the Loans; and for monitoring the fair market value of the collateral used in securing the Loans; for monitoring the payments on the Loans; and enforcing the terms and conditions of the Loans on the Plan's behalf. The Bank represents that it has reviewed the personal financial statements of Berdass, and represents that Berdass has the financial ability to personally assure repayment of all the Loans. In addition, the Trustee has certified that the Loans are in the best interests of the Plan.

4. In summary, the applicant represents that the proposed transactions will meet the statutory criteria of section 408(a) of the Act because:

(a) The Trustee of the Plan represents that the Loans will be in the best interests of the Plan;

(b) The Loans will be approved and monitored by an independent fiduciary;

(c) The Plans will receive a high rate of return on their investments;

(d) The Loans will be secured at all times at 150 percent of the outstanding balance of the Loans and by the personal guarantee of the principal owner of the Employer; and

(e) The exemption will be for a five year period.

Notice to Interested Persons

Within ten days of its publication in the *Federal Register*, a copy of the notice of pendency and a statement advising participants and beneficiaries of the Plan advising them of their right to comment will be posted at the Employer's principal place of business in the places used for labor relations matters. The same information will be mailed within the above stated ten day period to all terminated participants and beneficiaries who have the right to receive benefits.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to

which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules.

Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of

section 406(a), 406(b)(1) and 406(b)(2) of the act and the sanctions resulting from the application of section 4975(c) of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code shall not apply (1) for a period of five years to the Loans by the Plan to the Employer provided that the terms and conditions of the Loans are at least equal to those which the Plan could receive in a similar transaction with an unrelated party; and (2) to the personal guarantee of the obligation of the Employer in such Loans by Berdass.

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 to be consummated pursuant to the exemption.

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

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Programs, Labor-Management Service Administration, Department of Labor.

[FR Doc. 81-30357 Filed 10-19-81; 8:45 am]

BILLING CODE 4510-29-M

[Application No. D-2591]

Proposed Exemption for Certain Transactions Involving the Charles O. Bruce, Jr., M.D., P.S.C. Pension Trust Located in Louisville, Ky.

AGENCY: Pension and Welfare Benefit Programs, 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 proposed sale of an improved parcel of property (the Property) by the Charles O. Bruce, Jr., M.D., P.S.C. Pension Trust (the Plan) to Dr. Charles O. Bruce, Jr. (Dr. Bruce), a party in interest with respect to the Plan. The proposed exemption, if granted, would affect the Plan, Dr. Bruce, and any other persons participating in the proposed transaction.

DATES: Written comments and requests for a public hearing must be received by the Department on or before December 2, 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 NW., Washington, D.C. 20216, Attention: Application No. D-2591. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue, N.W., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Mr. David Stander of the Department, 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 section 406(a), 406(b)(1) and 406(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 on behalf of the Plan, pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). 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 of file with the Department for the complete representations of the applicant.

1. The Plan is a defined benefit plan with three participants. The Plan participants are Dr. & Mrs. Bruce and their son Charles O. Bruce, III, M.D. The Plan sponsor is Charles O. Bruce, Jr., M.D., P.S.C., a corporation engaged in the practice of medicine. Dr. Bruce is a principal of the Plan sponsor and a participant and sole trustee of the Plan. As of December 31, 1980, the Plan had net assets of approximately \$288,460.

2. On May 24, 1971, the Plan, seeking to diversify its assets, purchased the Property from an unrelated third party for \$25,000. The Property is improved by

a single family residence and is located at 127 South Sherrin Avenue in St. Matthews, Kentucky, a suburb of Louisville. Since acquisition the Property has been leased to unrelated third parties and has generated net income of approximately \$27,400. This amount represents a rate of return on the initial value of the Property of approximately 11 percent. The Property is located proximate to other property owned by Dr. Bruce.

3. The Plan is presently in the process of being terminated and therefore seeks an exemption to sell the Property to Dr. Bruce. Mr. Clarence A. Boyles, a Certified Property Manager independent of Dr. Bruce and the Plan sponsor has determined that, as of June 23, 1981, the Property had a fair market value of \$50,000. Mr. Boyles represents that the value of the Property to Dr. Bruce is not greater than its appraised fair market value. The sale will be for cash and no sales commission will be involved in the transaction. The sale of the Property will enable the Plan to more effectively distribute its assets to its participants.

4. In summary, the applicant represents that the proposed transaction satisfies the statutory criteria of section 408(a) of the Act because (a) the sale will enable the Plan to more effectively distribute its assets and allow the complete liquidation of Plan assets to Plan participants; (b) the sale will be a one-time transaction for cash; (c) the Plan will receive the fair market value of the Property as determined by an independent appraiser; (d) the Plan will not incur any expenses with respect to the sale; and (e) the trustee of the Plan represents that the proposed transaction is in the best interests of the Plan and its participants and beneficiaries.

Notice to Interested Persons

Within 10 days of publication in the *Federal Register*, notice of the pending exemption will be provided by hand delivery or registered mail to the participants of the Plan. The notice will include a copy of the notice of proposed exemption as published in the *Federal Register* and will inform each recipient of his right to comment on or request a hearing regarding the pending 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 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.

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of section 406(a), 406(b)(1) and 406(b)(2) of

the Act and the 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 the Property by the Plan to Dr. Bruce for \$50,000 provided that this amount is not less than the fair market value of the Property on the date of sale.

The proposed exemption, if granted, will be subject to the express conditions that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to the exemption.

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

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Programs Labor-Management Services Administration, Department of Labor.

[FR Doc. 81-30354 Filed 10-19-81; 8:45 am]

BILLING CODE 4510-29-M

[Application No. D-2309]

Proposed Exemption for Certain Transactions Involving the Donald B. French Profit Sharing Plan and Trust Located in Chicago, Ill.

AGENCY: Pension and Welfare benefit Programs, 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 Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt the leasing of an art portfolio (the Art Portfolio) by the Donald B. French Profit Sharing Plan and Trust (the Plan) to Mr. Donald B. French (Mr. French), a disqualified person with respect to the Plan. Since Mr. French is a sole proprietor with no common-law employees and is, therefore, the only participant in the Plan, there is no jurisdiction under Title I of the Employee Retirement Income Security Act of 1974 (the Act) pursuant to 29 CFR 2510.3-3(b). However, there is jurisdiction under Title II of the Act by reason of section 4975 of the Code. The proposed exemption, if granted, would affect Mr. French, the Plan, the trustee and other persons participating in the proposed transaction.

DATES: Written comments and requests for a public hearing must be received by the Department of Labor on or before November 23, 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. 20218, Attention: Application No. D-2309. 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. 20218.

FOR FURTHER INFORMATION CONTACT: Ms. Jan Broady of the Department of Labor, telephone (202) 523-7222. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the 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 jointly by Mr. French and the Plan trustee, pursuant to section 4975(c)(2) of the Code, and in accordance with procedures set forth in Rev. Proc. 75-28, 1975-1 C.B. 722. 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 a defined contribution plan, established by the Ford City Bank and Trust Company of Chicago, Illinois (Ford City) and adopted by Donald B. French (the Employer) on August 14, 1980. The Plan is a plan for self-employed individuals. Mr. French is the sole participant in the Plan and Ford City serves as the Plan trustee. Prior to Ford City's assumption of fiduciary duties, Plan assets were held by the Paul Revere Variable Insurance Company of Chicago, Illinois (Paul Revere). As of June 30, 1980, the time during which Paul Revere was the Plan custodian, Plan assets totaled \$17,557.36 and consisted of investments in insurance contracts of Paul Revere. Since September 1, 1980,

Plan assets have been diversified into cash, numismatic investments and art work.

2. The Employer is an unincorporated sole proprietorship located in Lombard, Illinois. The Employer is engaged in the sale of insurance products to individuals and business entities in the State of Illinois. The Employer also provides insurance brokerage services.

3. On September 19, 1980, Ford City acquired, at the direction of the Employer, the Art Portfolio as a Plan investment. The Art Portfolio was purchased from Fine Arts Investments, Inc. of Chicago, Illinois (an unrelated third party) for \$5,000. The Art Portfolio is more specifically described as the "Medicine Men Portfolio" by artist John Doyle. It consists of ten handsigned and numbered lithographs and ten monochromatic proofs which are also signed by the artist and numbered. At present, the Art Portfolio is held in trust by Ford City.

4. Mr. Jan Mitchell (Mr. Mitchell) of Skokie, Illinois, who is an independent art dealer with more than fifteen years of experience in the art consulting and appraisal business, placed the value of the Art Portfolio on August 1, 1980 at \$12,000 and on November 18, 1980 at \$5,000. To clarify the discrepancy in the values given the artwork, Mr. Mitchell explained in a letter of February 26, 1980 that the purpose of the first appraisal was to value the Art Portfolio for insurance purposes in the event it was lost or stolen. Thus, the \$12,000 valuation represents the replacement value of the artwork. According to Mr. Mitchell, the \$5,000 value given the artwork at the time of the second appraisal represents its fair market value if it were sold at auction or to an art dealer on a wholesale basis. Thus, the second appraised value represents a liquidation of the artwork in the marketplace.

5. Mr. French wishes to display the Art Portfolio on his business premises. Therefore, he is requesting an exemption in order to lease the artwork from the Plan (the Lease). The Lease, which is a "net" lease, will be in effect for an initial term of one year at a monthly rental of \$50, payable to Ford City. The Lease may be renewed at an adjusted rental for up to fifteen years beyond the initial term. Mr. French is responsible for paying all expenses incidental to such Lease and insuring the Art Portfolio. The premium for the insurance will be based upon the replacement value of the artwork. Assuming there is no default, Mr. French is to return the Art Portfolio to the Plan upon termination of the Lease.

6. The rental value for the Lease has been determined by Ford City based upon its experience in the trust investment field. In addition, Ford City has consulted with Mr. Mitchell on the specific rental fee and other terms of the Lease. Ford City is to continue to consult with Mr. Mitchell annually regarding the appropriate rental fee.

7. Ford City has been designated as the independent fiduciary with respect to the proposed Lease. Ford City represents it has no other commercial relationship with Mr. French other than its being the existing Plan trustee. Ford City believes the transaction is in the best interests of the Plan, its sole participant and his beneficiaries. Ford City represents it will be responsible for monitoring the terms and provisions of the Lease; verifying that the rent is timely paid and that the insurance is adequate; and obtaining qualified appraisals of the Art Portfolio on an annual basis and adjusting the rent accordingly. Ford City also represents it has the authority to terminate the Lease and to take any and all actions necessary to protect the interests of the Plan including its participant and beneficiaries.

8. In summary, the applicant represents that the proposed transaction meets the statutory criteria under section 4975(c)(2) of the Code because: (a) the Lease will provide the Plan with an investment producing a favorable rate of return; (b) the monthly rental charged by the Plan is based on the fair market rental value as determined by Ford City and a qualified independent appraiser; (c) Mr. French has agreed to insure the Art Portfolio and name the Plan as the beneficiary of the insurance policy; (d) Mr. French will bear all expenses incidental to the Lease; (e) Ford City, as the independent fiduciary, has reviewed the terms of the Lease and has stated it would be in the best interests of the Plan and its participant and beneficiaries to enter into the Lease; (f) Ford City has exclusive authority and discretion to monitor the proposed Lease to ensure compliance with its terms and conditions; and (g) the only participant affected by the proposed transaction is Mr. French and he desires that the transaction be consummated.

Notice to Interested Persons

It has been determined that there is no need to distribute the notice of pendency to interested persons since Mr. French is the sole participant in the Plan and the only employee of the Employer.

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 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 Code, including any prohibited transaction provisions to which the exemption does not apply; 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 4975(c)(1)(F) of the Code;

(3) Before an exemption may be granted under 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 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 4975(c)(2) of the Code and in accordance with the procedures set forth in Rev. Proc. 75-26, 1975-1 C.B. 722. If the exemption is granted, 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 of the Art Portfolio by the Plan to Mr. French, provided that the terms and conditions of such Lease are and will remain at least as favorable to the Plan as those it could obtain from an unrelated third party.

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 14th day of October, 1981.

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 81-30356 Filed 10-19-81; 8:45 am]

BILLING CODE 4510-29-M

[Prohibited Transaction Exemption 81-93; Exemption Application No. D-2618]

Exemption From the Prohibitions for Certain Transactions Involving the Phelps Dodge Corporation Retirement Plan for Salaried Employees Located in New York, N.Y.

AGENCY: Pension and Welfare Benefit Programs, Labor.

ACTION: Grant of individual exemption.

SUMMARY: This exemption permits, effective September 14, 1981, (1) the contribution of an 81 acre parcel of improved real property situated in South Brunswick, New Jersey, (the Property) to the Phelps Dodge Corporation Retirement Plan for Salaried Employees (the Plan) by Phelps Dodge Industries, Inc. (PDI), a party in interest with respect to the Plan; (2) a guarantee by PDI or Phelps Dodge Corporation (PDC), the plan sponsor, with respect to the future disposition of the Property by the Plan; and (3) a guarantee by PDI to the Plan with regard to certain obligations of the lessee (the Lessee) under a lease of the Property (the Lease) from the Plan. The Lessee, Uniroyal, Inc., is not directly nor indirectly affiliated with PDI, PDC or any of its affiliates, or the Plan trustee.

EFFECTIVE DATE: This exemption is effective September 14, 1981.

FOR FURTHER INFORMATION CONTACT: Mr. David Stander of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200

Constitution Avenue, N.W., Washington, D.C. 20216. (202) 523-8881. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On August 7, 1981, notice was published in the Federal Register (46 FR 40353) 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 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 provided to interested persons in accordance with the requirements set forth in the notice. No requests for a hearing were received by the Department.

Three public comments were received by the Department. Two commentators requested further information as to whether the proposed transactions would affect their pension benefits. The Department contacted each commentator and informed them that the proposed transactions will not affect the amount of retirement benefits that they presently receive from the Plan. The commentators then stated that they had no objection to the granting of the exemption. The third commentator requested that the Department give final approval of the proposed transactions.

After publication of the notice of pendency the applicant contacted the Department and requested that the final grant of an exemption be retroactive to September 14, 1981. The applicant requests final exemptive relief be effective prior to the expiration of the comment period, September 15, 1981, so that the contribution may be reflected on PDI's Federal income tax return for the 1980 taxable year. The applicant recognizes the possible tax liability under section 4975 of the Code by effecting the transactions prior to the

grant of a final exemption. The Department notes this change and has determined that such does not reflect on the merits of the exemption. The Department hereby incorporates such change into this final grant.

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 which 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, effective September 14, 1981, to (1) the contribution of the Property subject to the Lease by PDI to the Plan provided the contribution is valued at fair market value on the date contributed; (2) the guarantee by PDI or PDC to repurchase the Property at a price not less than the contribution value of the Property if the Plan cannot realize such amount upon a subsequent sale of the Property provided the amount received by the Plan under the repurchase agreement is not less than the fair market value of the Property on the date repurchased; and (3) the guarantee by PDI to the Plan with regard to certain obligations of the Lessee under the 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 transactions which are the subject of this exemption.

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

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

[FR Doc. 81-30347 Filed 10-19-81; 8:45 am]

BILLING CODE 4510-29-M

[Prohibited Transaction Exemption 81-92; Exemption Application Nos. D-2483 and D-2487]

Exemption From the Prohibitions for Certain Transactions Involving the Goossen Farms, Inc. Money Purchase Pension Trust Plan and the Goossen Farms, Inc. Profit Sharing Plan Located in Dinuba, Calif.

AGENCY: Pension and Welfare Benefit Programs, Labor.

ACTION: Grant of individual exemption.

SUMMARY: This exemption would exempt the cash sale of real property by the Goossen Farms, Inc. Money Purchase Pension Trust Plan and the

Goossen Farms, Inc. Profit Sharing Plan (the Plan) to Messrs. Ray and Virgil Goossen (the Plans' trustees), parties in interest with respect to the Plans.

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, N.W., Washington, D.C. 20216, (202) 523-8884. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On August 7, 1981, notice was published in the *Federal Register* (46 FR 40352) 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 (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 transaction described in an application filed by the Plans' trustees. 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 complied with the requirements of the notification 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 (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 cash sale of real property by the Plans to the Plans' trustees for \$145,000, provided that this amount is not less than the fair market value at the time 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 to be consummated pursuant to this exemption.

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

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

[FR Doc. 81-30349 Filed 10-19-81; 8:45 am]

BILLING CODE 4510-29-M

[Prohibited Transaction Exemption 81-90; Exemption Application Nos. L-2403 and L-2558]

Exemption From the Prohibitions for Certain Transactions Involving Hotel and Restaurant Employees Welfare and Insurance Fund and the Local 150 and Industry Pension Plan Located in Syracuse, N.Y.

AGENCY: Pension and Welfare Benefit Programs, Labor.

ACTION: Grant of individual exemption.

SUMMARY: This exemption permits the transfer of funds by the Hotel and Restaurant Employees Welfare and Insurance Fund (the Fund) to the Local 150 and Industry Pension Plan (the Plan).

FOR FURTHER INFORMATION CONTACT: Mr. Robert N. Sandler 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) 523-8195. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On July 10, 1981, notice was published in the *Federal Register* (46 FR 35818) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the restrictions of section 406(b)(2) of the Employee Retirement Income Security Act of 1974 (the Act) for the above-described transaction.

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 applicant has represented that a copy of the notice

was distributed to interested persons in accordance with the requirements set out in the proposed exemption. No public comments and no requests for a hearing were received by the Department.

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 does not relieve a fiduciary or other party in interest with respect to a plan to which the exemption is applicable from certain other provisions of the Act. 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.

(2) This exemption does not extend to transactions prohibited under section 406(a) and 406(b)(1) and (3) of the Act.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Act, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption 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 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 Fund and the Plan and of their participants and beneficiaries; and

(c) It is protective of the rights of the participants and beneficiaries of the Fund and the Plan.

Accordingly, the restrictions of section 406(b)(2) of the Act shall not apply to the transfer to the Plan of the Fund's accumulated reserves.

The availability of this exemption is subject to the express conditions 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 transaction to be consummated pursuant to this exemption.

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

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

[FR Doc. 81-30330 Filed 10-19-81; 8:45 am]

BILLING CODE 4510-29-M

[Prohibited Transaction Exemption 81-89; Exemption Application No. D-2161]

Exemption From the Prohibitions for Certain Transactions Involving the McDermott Food Brokers, Inc. Profit Sharing Plan Located in Albany, New York

AGENCY: Pension and Welfare Benefit Programs, Labor.

ACTION: Grant of individual exemption.

SUMMARY: This exemption permits the loan of approximately \$130,000 from the McDermott Food Brokers, Inc. Profit Sharing Plan (the Plan) to McDermott Food Brokers, Inc. (the Employer).

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 July 6, 1981, notice was published in the Federal Register (46 FR 34871) 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 (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 a transaction 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 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.

By letter of July 31, 1981, the applicant notified the Department that notice was not given to interested persons within the specified time period. Notice was not given to interested persons until 3 days later than the time specified in the Notice of Pendency. Also, notice was given to interested persons by mail, rather than by enclosures in pay envelopes as represented in the Notice of Pendency. Therefore, pursuant to discussions with the Department, all interested persons were notified that the time period within which they could comment and/or request a hearing on the proposed exemption would be extended for a one week period, until September 8, 1981. 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 loan from the Plan to the Employer of the lesser of \$130,000 or 25 percent of Plan assets at the time the loan is consummated, provided that the terms of the loan are at least as favorable to the Plan as those obtainable in an arm's length 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 14th day of October, 1981.

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

[FR Doc. 81-30351 Filed 10-19-81; 8:45 am]

BILLING CODE 4510-29-M

[Prohibited Transaction Exemption 81-88; Exemption Application No. D-1998]

Exemption From the Prohibitions for Certain Transactions Involving the Pay Less N.W. Profit Sharing Plan Located in Wilsonville, Oreg.

AGENCY: Pension and Welfare Benefit Programs, Labor.

ACTION: Grant of individual exemption.

SUMMARY: This exemption permits the contribution to the Pay Less N.W. Profit

Sharing Plan (the Plan) by the Pay Less Drug Stores Northwest, Inc. (the Employer) of a master lease (the Master Lease) and certain parcels of real property (the Properties).

EFFECTIVE DATE: This exemption is effective April 30, 1980.

FOR FURTHER INFORMATION CONTACT:

Louis Campagna 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) 523-8883. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On July 24, 1981, notice was published in the Federal Register (46 FR 38185) 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 a transaction described in an application filed by the Employer. 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 complied with the requirements of notification 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), 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 the contribution on April 30, 1980 of the Master Lease and the Properties by the Employer to the Plan, provided that: (1) the Employer's federal tax deduction for the contribution of the Master Lease and the Properties was not greater than

their fair market values on the date of contribution; and (2) the contribution of the Master Lease and Properties was valued at their fair market values by the Plan on the date of contribution.

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 14th day of October, 1981.

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

[FR Doc. 81-30352 Filed 10-19-81; 8:45 am]

BILLING CODE 4510-29-M

[Application No. D-1572]

Proposed Exemption for Certain Transactions Involving the RREEF Corp. Located in San Francisco, Calif.

AGENCY: Pension and Welfare Benefit Programs, 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 Internation Revenue Code of 1954 (the Code). The proposed exemption would allow collective investment funds (together, the Funds) that are managed by the RREEF Corporation and its affiliates, RREEF Mid America and RREEF USA Partners, in which employee benefit plans participate, to engage in certain transactions provided specified conditions are met. The proposed exemption, if granted, would affect participants and beneficiaries of employee benefit plans, employers of employees covered under such plans, the Funds, and other persons engaging in the described transactions.

DATES: Written comments and requests for a public hearing must be received by the Department of Labor on or before December 4, 1981.

ADDRESS: All written comments and request 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-1572. 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), 406(b)(1), 406(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 proposed exemption was requested in an application filed on behalf of the RREEF Corporation, its affiliates, and the Funds, 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 Procedures 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.

Preamble

On July 25, 1980, the Department published a class exemption, prohibited Transaction Exemption 80-51 (PTE 80-51, 45 FR 49709), which permits collective investment funds that are maintained by banks and in which employee benefit plans participate to engage in certain transactions provided that specified conditions are met. The transactions for which the applicant has requested relief are those which are the subject of PTE 80-51.

The Department stated in PTE 80-51 that a comment had been received to the proposed class exemption requesting that it be amended to apply to collective investment funds that are not maintained by banks. Relief was granted for bank collective investment funds because, among other reasons, such funds are regulated by other governmental agencies and constitute a well-defined class of funds. In the case of collective investment funds that are not maintained by banks, the Department found that the record was insufficient to determine the nature of the funds and the entities managing the funds that would comprise the class covered by such board relief. As a

result, the Department stated that it could not make the required statutory findings for such relief, and that relief for non-bank maintained collective investment funds should be dealt with on an individual rather than a class basis.

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 RREEF Corporation is a registered investment adviser under the Investment Advisers Act of 1940. It was formed in 1975 for the purpose of managing and operating real estate investments owned by various real estate funds. Presently, RREEF Corporation acts as manager for four real estate funds: 1) Rosenberg Real Estate Equity Fund-I, Inc., (RREEF-I) established in 1975; 2) Rosenberg Real Estate Equity Fund-II, Inc. (RREEF-II), established in 1976; 3) Rosenberg Real Estate Equity Fund-III, (RREEF-III), established in the 1978; and 4) Rosenberg Real Estate Equity Fund West-IV, (RREEF-IV), established in the fall of 1979. Two affiliates of the RREEF Corporation, RREEF Mid America and RREEF USA Partners, currently advise two other real estate funds, RREEF Mid America Fund-I and RREEF USA Fund-I, respectively.

2. The first of the Funds, RREEF-I, was organized in 1975 to offer tax exempt entities, principally pension and profit sharing trusts, a vehicle whereby they could make equity investments in diversified parcels of improved real property. It was contemplated that real estate investments could provide a greater return than was currently obtainable from investments in equity and debt securities and would also provide the necessary diversification. RREEF-I is a closed-end investment fund which acts as a title-holding corporation, receiving income from property and turning over the entire amount thereof, less expenses, to its shareholders, all of whom are organizations exempt from tax under section 501 of the Code. The RREEF Corporation was formed at the same time as RREEF-I to act as the investment adviser to the fund. The management and operation of the rest of the Funds is essentially the same as that of RREEF-I. The Funds also use short-term investments to avoid holding uninvested cash pending permanent investment or distribution. These short-

term investments include, but are not limited to, corporate or governmental obligations or related repurchase agreements, certificates of deposit, bankers' acceptances and variable amount notes of borrowers of prime credit having a stated maturity date of one year or less.

3. Each Fund has set a minimum and maximum size for its operation. RREEF-I has a minimum of \$10,050,000 in assets, and a maximum of \$50,000,000. RREEF-II has a minimum of \$4,950,000 in total assets, and a maximum of \$45,000,000. RREEF-III has a minimum of \$4,950,000 and a maximum of \$60,000,000. In addition, those three Funds require that any employee benefit plan investing in them have a minimum of \$10,000,000 in assets, and have less than 15 percent of its assets invested in real estate. RREEF USA Fund-I has a minimum of \$150,000,000 in total assets, and a maximum of \$300,000,000. RREEF USA Fund-I requires that any investing employee benefit plan have a minimum of \$125,000,000 in assets, and have less than 20 percent of its assets invested in real estate.

4. RREEF-I is to have an existence of 10 years, unless 70 percent of its shareholders vote to extend it for periods of up to two years, or 70 percent or more of its shareholders vote to voluntarily dissolve it earlier. The transferability of shares of RREEF-I is expected to be extremely limited, and its shares are only intended to be considered for long-term investment. Shares of RREEF-I may only be sold to an organization exempt from tax under section 501 of the Code.

In the event that a shareholder shall at any time desire to sell any of the shares of RREEF-I, the shareholder may sell such shares to third parties, or may offer the shares to the other shareholders of RREEF-I. If any shares are not purchased by the other shareholders, the Fund will seek to offer the shares to other qualified organizations. If any shares are not purchased within 120 days of the first notice by a shareholder of its desire to sell, the Fund will use its best efforts to dispose of certain of its properties in an orderly fashion, but no such property will be sold if RREEF Corporation deems that the sale would be inimical to the remaining shareholders of the Fund. The proceeds of any such sale of properties will be used to purchase the shares offered by the selling shareholder at 90 percent of their appraised value. The remaining 10 percent of the appraised value of a share will be retained by the Fund along with any interest or income thereon and will be

paid to the selling shareholder when the Fund is dissolved if and to the extent that more than 90 percent of the appraised value of all shares as of the date of valuation is realized. There is a similar limitation on the transferability of the shares of all the Funds.

5. The Private Placement Memoranda in which the Funds offer shares describe completely to potential investors the management, operation, investment objective, income tax consequences, and the compensation to the investment managers of the Funds.

In addition, within 120 days after each fiscal year, each investor shall receive from the trustees a balance sheet, profit and loss statement, and statement of change in financial position of the fund as prepared by an independent certified public accountant. Investors also received a statement of source and application of funds and a statement of fees paid to the investment manager.

Within 60 days of the end of each quarter, the trustees will distribute a quarterly balance sheet and a statement of all realty purchased during that quarter. From time to time, the trustees will provide whatever other information is reasonably requested by the investors.

Appraisals will be made each fiscal year by independent appraisers. These appraisals will be included in the above yearly reports.

6. There are no interlocking directorships involved, that is, none of the individual trustees of the Funds, nor any of the employees, officers, directors or shareholders of the investment managers of the Funds, serve as fiduciaries of the pension funds which hold interests in the Funds, or as directors or officers of the sponsors of these pension funds.

7. None of the individuals who are trustees of the Funds nor any of the employees, officers or directors or shareholders of the investment managers of the Funds own equity interests in the Funds. The investment managers of the Funds do not receive performance-related compensation. Because the receipt of management fees is structured so that fees are not generated on the basis of particular transactions, the possibility of conflicts of interest arising is avoided.

8. The applicants have submitted an exemption request seeking the same relief as granted to bank collective investment funds in PTE 80-51. The subject transactions have not yet been entered into by any of the Funds and will not be entered into until an exemption is granted. The RREEF Corporation does currently provide

some property management services to the Funds, but they are provided without compensation or other consideration, as the charge made for such services merely reimburses the direct expenses of the RREEF Corporation which are properly and actually incurred in the performance of such property management services.

9. The Funds lease real estate, either directly to tenants or through third party property management services. The group of prospective tenants includes employers or their affiliates whose plans are participating in the Funds, a person providing services to such a plan, or a fiduciary of such a plan. While any given lease typically accounts for a small percentage of rental income to one of the Funds, and the participation of a party in interest is proportionately small, it is necessary without an exemption to check every prospective tenant of property owned by the Funds to ascertain whether that tenant is a party in interest with respect to any participating pension trust. The end result of the failure to grant the proposed exemption could be the denial of leases to the best tenants or the failure to purchase valuable properties, with a commensurate injury to the pension trust participants.

10. The property management services which will be performed by RREEF Corporation involve contracting for property maintenance and repair, rent collection, bookkeeping and lease negotiation. These services must be performed for the Funds in order to have successful real estate investments. Since the formation of the Funds, these services have been performed in the most part by outside property management companies. RREEF Corporation and the directors and trustees of the Funds, many of whom are experienced managers of property, have been very disappointed at the quality of property management services they have found available to the Funds from outside property management companies, many of whom are merely independent real estate brokers who maintain property management departments. The outside management companies have performed less than satisfactorily in filling tenant vacancies and have been slow in responding to RREEF Corporation's requests for information, which has inhibited the efficiency of the operation of the Funds. RREEF Corporation would have a greater incentive than outside companies to provide efficient property management services, and also would not charge the Funds either an initial tenant leasing fee, or a lease renewal

fee, both of which fees would have to be paid to an outside property management company.

11. The applicants represent that they can satisfy the conditions for the subject transactions as exempted for bank collective investment funds in PTE 80-51, except that the collective investment funds here are privately maintained.

12. The applicants represent that the RREEF Corporation and its affiliates are registered investment advisers under the Investment Advisers Act of 1940. Therefore, certain, but not all, of their activities and operations are regulated by the Securities and Exchange Commission and subject to periodic examination.

13. Each of the Funds is regularly audited by the national accounting firm of Touche Ross & Company (TR), which uses procedures for auditing and examination comparable to those used by a bank examiner in a compliance examination. The audit and examination procedures performed by TR were specifically designed for the Funds. TR performs tests to trace history of ownership of property acquired by the Funds to ensure that RREEF Corporation and its affiliates have never had a prior interest in the property. TR also performs tests to ensure that lease transactions are not entered into with parties related to RREEF Corporation, its affiliates, or any investors in the Funds. TR performs tests in general to ensure compliance with the provisions of the Act. TR recomputes the investment adviser's fee in compliance with the investment adviser's agreement. TR performs reasonableness tests on direct management fees. TR maintains documentation of all significant investor-related matters. As part of obtaining this documentation, they review RREEF Corporation and affiliate) file for completeness. TR performs surprise cash counts of all bank accounts where RREEF Corporation maintain monies of investors. TR also confirms all aspects of the sale agreement with those parties selling properties to the Funds, including a verification that no "side-agreements" exists.

14. In summary, the applicants represent that the subject transactions meet the criteria of section 408(a) of the Act because: (1) RREEF Corporation can provide property management services to the Funds at less expense and more effectively than outside property management companies; (2) The Funds will be able to make the best possible real estate investments; (3) Each of the protections provided to investing plans and their participants and beneficiaries by PTE 80-51 will be satisfied for the

subject transactions, except that the Funds are privately maintained; and (4) The decisions to invest in any of the Funds are made by knowledgeable fiduciaries of large employee benefit plans on the basis of a detailed private placement memorandum. Furthermore, such fiduciaries are unrelated to the RREEF Corporation or any of its affiliates. In addition, the proposed exemption imposes limitations which are designed to prevent the potential for abuse while permitting the relief requested by the applicants.

Notice to Interested Persons

Within 10 days of the publication of this notice of proposed exemption in the Federal Register, RREEF Corporation and its affiliates will send by mail a copy of such notice to the appropriate fiduciary of each plan or trust that has subscribed to invest in one of the Funds. The notice will also inform interested persons of their right to comment and request a hearing within the time period set forth in the notice of 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 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 following 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).

Section I—Exemption for Certain Transactions Involving the Fund

(a) The restrictions of sections 406(a), 406(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 (D) of the Code, shall not apply to the transactions described below if the applicable conditions set forth in Section III are met.

(1) Transactions Between Parties In Interest and the Fund: General.

Any transaction between a party in interest with respect to a plan that is participating in the Fund (a Participating Plan) and the Fund, or any acquisition or holding by the Fund of employer securities or employer real property, if the party in interest is not the RREEF Corporation or one of its affiliates and if, at the time of the transaction, acquisition or holding, the interest of the Plan together with the interests of any other Plans maintained by the same employer or employee organization in the Fund does not exceed 5 percent of the total of all assets in the Fund.

(2) Special Transactions Not Meeting the Criteria of Section I(a)(1) Between Employers of Employees Covered by a Multiple Employer Plan and the Fund.

Any transaction between an employer (or an affiliate of an employer) of employees covered by a multiple employer plan that is a Participating Plan and the Fund, or any acquisition or holding by the Fund of employer real property, if at the time of the transaction, acquisition or holding—

(A) the interest of the multiple employer plan in the Fund does not exceed 10 percent of the total assets in the Fund, and the employer is not a "substantial employer" with respect to the plan (within the meaning of section 4001(a)(2) of the Act), or

(B) the interest of the multiple employer plan in the Fund exceeds 10 percent of the total assets in the Fund, but the employer is not a "substantial employer" with respect to the plan and would not be a "substantial employer" within the meaning of Section 4001(a)(2) of the Act if "5 percent" were substituted for "10 percent" in that definition.

(3) Acquisitions, Sales or Holdings of Employer Securities and Employer Real Property.

(A) Except as provided in subsection (B) of this section (3), any acquisition, sale or holding of employer securities or employer real property by the Fund which does not meet the requirements of paragraphs (a)(1) and (a)(2) of this Section I, if no commission is paid to RREEF Corporation or to the employer or to any affiliate of RREEF Corporation or the employer in connection with the acquisition, sale or lease of employer real property, and

(i) In the case of employer real property—

(aa) each parcel of employer real property and the improvements thereon held by the Fund are suitable (or adaptable without excessive cost) for use by different tenants, and

(bb) the property of the Fund that is leased or held for lease to others, in the aggregate, is dispersed geographically.

(ii) in the case of employer securities—

(aa) Neither RREEF Corporation nor any of its affiliates is an affiliate of the issuer of the security, and

(bb) If the security is an obligation of the issuer, either

1. The Fund owns the obligation at the time the plan acquires an interest in the Fund, and interests in the Fund are offered and redeemed in accordance with valuation procedures of the Fund applied on a uniform or consistent basis, or

2. Immediately after acquisition of the obligation: (a) Not more than 25 percent of the aggregate amount of obligations issued in the issue and outstanding at the time of acquisition is held by such plan, and (b) in the case of an obligation that is a restricted security within the meaning of Rule 144 under the Securities Act of 1933, at least 50 percent of the aggregate amount of obligations issued in the issue and outstanding at the time of acquisition is held by persons independent of the issuer. RREEF Corporation, its affiliates and any collective investment fund maintained by the RREEF Corporation or its affiliates shall be considered to be persons independent of the issuer if the RREEF Corporation is not an affiliate of the issuer.

(B) In the case of a Participating Plan that is not an eligible individual account plan (as defined in section 407(d)(3) of the Act), the exemption provided in subsection (A) of this section (3) shall be available only if, immediately after the acquisition of the securities or real property, the aggregate fair market value of employer securities and employer real property with respect to which RREEF Corporation or its affiliate has investment discretion does not exceed 10 percent of the fair market value of all the assets of the plan with respect to which RREEF Corporation or its affiliate has investment discretion.

(C) For the purposes of the exemption contained in subsection (A) of this section (3), the term "employer securities" shall include securities issued by, and the term "employer real property" shall include real property leased to a person who is a party in interest with respect to a Participating Plan by reason of a relationship to the employer described in Section 3(14) (E), (G), (H) or (I) of the Act.

(b) The restrictions of section 406(a)(1) (A), (B), (C) and (D) and section 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) shall not apply to the transactions described below, if the conditions of Section III are met.

(1) Transactions with Persons Who are Parties In Interest With Respect to a Participating Plan Solely by Virtue of Being Certain Service Providers or Certain Affiliates of Service Providers.

Any transaction between the Fund and a person who is a party in interest with respect to a Participating Plan if—
(A) the person is a party in interest (including a fiduciary) solely by reason of providing services to the Participating Plan, or solely by reason of a relationship to a service provider described in section 3(14) (F), (G), (H) or

(I) of the Act, or both, and the person neither exercised nor has any discretionary authority, control, responsibility or influence with respect to the investment of the Participating Plan's assets in, or held by, the Fund, and

(B) The person is not an affiliate of RREEF Corporation.

(2) Certain Leases and Goods.

The furnishing of goods to the Fund by a party in interest with respect to a Participating Plan or the leasing of real property owned by the Fund to such party in interest and the incidental furnishing of goods to such party in interest by the Fund, if—

(A) In the case of goods, they are furnished to or by the Fund in connection with real property owned by the Fund,

(B) The party in interest is not RREEF Corporation, any affiliate of RREEF Corporation, or one of the other Funds, and

(C) The amount involved in the furnishing of goods or leasing of real property in any calendar year (including the amount under any other lease or arrangement for the furnishing of goods in connection with the real property investments of the Fund with the same party in interest, or any affiliate thereof) does not exceed the greater of \$25,000 or 0.5 percent of the fair market value of the assets of the Fund on the most recent valuation date of the Fund prior to the transaction.

(3) Management of Real Property.

Any services provided to the Fund by RREEF Corporation or by an affiliate of RREEF Corporation in connection with the management of the real property owned by the Fund, if the compensation paid to RREEF Corporation or its affiliate does not exceed the cost of the services to RREEF Corporation or its affiliate.

(4) Transactions Involving Places of Public Accommodation.

The furnishing of services, facilities and any goods incidental to such services and facilities by a place of public accommodation owned by the Fund to a party in interest with respect to a Participating Plan, if the services, facilities and incidental goods are furnished on a comparable basis to the general public.

Section II—Excess Holding Exemption for Employee Benefit Plans

(a) The restrictions of sections 406(a), 406(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 (D) of the Code shall not apply to a Participating

Plan with respect to any acquisition or holding of qualifying employer securities or qualifying employer real property (other than through the Fund), if—

(1) the acquisition or holding contravenes the restrictions of sections 406(a)(1)(E), 406(a)(2) and 407(a) of the Act solely by reason of being aggregated with employer securities or employer real property held by the Fund.

(2) the requirements of either paragraph (a)(1) or paragraph (a)(2) of Section I of this exemption are met, and

(3) the applicable conditions set forth in Section III of this exemption are met.

Section III—General Conditions

(a) At the time the transaction is entered into, and at the time of any subsequent renewal thereof that requires the consent of the RREEF Corporation or its affiliate, the terms of the transaction are not less favorable to the Fund than the terms generally available in arm's-length transactions between unrelated parties.

(b) RREEF Corporation or its affiliate maintains for a period of six years from the date of the transaction the records necessary to enable the persons described in paragraph (c) of this Section III to determine whether the conditions of this exemption have been met, except that (1) a prohibited transaction will not be considered to have occurred if, due to circumstances beyond the control of RREEF Corporation or its affiliate, the records are lost or destroyed prior to the end of the six-year period, and (2) no party in interest shall be subject to the civil penalty that may be assessed under section 502(i) of the Act, or to the taxes imposed by section 4975 (a) and (b) of the Code, if the records are not maintained, or are not available for examination as required by paragraph (c) below.

(c)(1) Except as provided in section 2 of this paragraph (c) and notwithstanding any provisions of subsections (a)(2) and (b) of section 504 of the Act, the records referred to in paragraph (b) of this Section III are unconditionally available at their customary location for examination during normal business hours by:

(A) any duly authorized employee or representative of the Department or the Internal Revenue Service,

(B) any fiduciary of a Participating Plan who has authority to acquire or dispose of the interests in the Fund of the Participating Plan or any duly authorized employee or representative of such fiduciary,

(C) any contributing employer to any Participating Plan or any duly

authorized employee or representative of such employer, and

(D) any participant or beneficiary of any Participating Plan, or any duly authorized employee or representative of such participant or beneficiary.

(2) None of the persons described in subparagraphs (B) through (D) of this paragraph (c) shall be authorized to examine trade secrets of RREEF Corporation or its affiliate, or commercial or financial information which is privileged or confidential.

Section IV—Definitions and General Rules

For the purposes of this exemption,

(a) An "affiliate" of a person includes—

(1) any person directly or indirectly through one or more intermediaries, controlling, controlled by, or under common control with the person,

(2) any officer, director, employee, relative of, or partner in any such person, and

(3) any corporation or partnership of which such person is an officer, director, partner or employee.

(b) The term "control" means the power to exercise a controlling influence over the management or policies of a person other than an individual.

(c) The term "relative" means a "relative" as that term is defined in section 3(15) of the Act (or a "member of the family" as that term is defined in section 4975(e)(6) of the Code), or a brother, a sister, or a spouse of a brother or sister.

(d) The term "multiple employer plan" means an employee benefit plan that satisfies at least the requirements of section 3(37)(A) (i), (ii) and (v) of the Act and section 414(f)(1) (A), (B) and (E) of the Code.

(e) The time as of which any transaction, acquisition or holding occurs is the date upon which the transaction is entered into, the acquisition is made or the holding commences. In addition, in the case of a transaction that is continuing, the transaction shall be deemed to occur until it is terminated. If any transaction is entered into, or an acquisition is made, on or after the date of granting of this exemption, or a renewal that requires the consent of the Fund occurs on or after the date of granting of this exemption, and the requirements of this exemption are satisfied at the time the transaction is entered into or renewed, respectively, or at the time the acquisition is made, the requirements will continue to be satisfied thereafter with respect to the transaction or acquisition and the exemption shall apply thereafter to the continued

holding of the property so acquired. Notwithstanding the foregoing, this exemption shall cease to apply to a holding exempt by virtue of Section I(a)(1) at such time as the interest of the Participating Plan exceeds the percentage interest limitation of Section I(a)(1), unless no portion of such excess results from an increase in the assets allocated to the Fund by the Participating Plan. For this purpose, assets allocated do not include the reinvestment of Fund earnings. Nothing in this paragraph (e) shall be construed as exempting a transaction entered into by the Fund which becomes a transaction described in Section 406 of the Act or Section 4975 of the Code while the transaction is continuing, unless the conditions of the exemption were met either at the time the transaction was entered into or at the time the transaction would have become prohibited but for this exemption.

(f) Each Participating Plan shall be considered to own the same proportionate undivided interest in each asset of the Fund as its proportionate interest in the total assets of the Fund as calculated on the most recent preceding valuation date of the Fund.

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 to be consummated pursuant to the exemption.

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

Jan D. Lanoff,

Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

[FR Doc. 81-30353 Filed 10-19-81; 8:45 am]

BILLING CODE 4510-29-M

[Prohibited Transaction Exemption 81-91; Exemption Application No. D-2428]

Exemption From the Prohibitions for Certain Transactions Involving Southern Nevada Culinary and Bartenders Pension Trust Located in Las Vegas, Nev.

AGENCY: Pension and Welfare Benefit Programs, Labor.

ACTION: Grant of individual exemption.

SUMMARY: This exemption permits: (1) the guarantee (the Guarantee) by the Hotel and Restaurant Employees' and Bartenders' International Union (International), of a loan (the Dutchman Loan) to Thrifty Dutchman, Inc.

(Dutchman), by the Southern Nevada Culinary and Bartenders Pension Trust (the Pension Trust); and (2) the two loan agreements (the 1976 Agreement and the 1977 Agreement; collectively, the Loan Agreements) between the Pension Trust and International which were entered into to satisfy International's Guarantee obligation after Dutchman's default on the Dutchman Loan.

FOR FURTHER INFORMATION CONTACT: Mr. Robert N. Sandler 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) 523-8195. [This is not a toll-free number.]

SUPPLEMENTARY INFORMATION: On July 10, 1981, notice was published in the Federal Register (46 FR 35822) 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)(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 (D) 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 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) (1) and (3) of the Act and section 4975(c)(1) (E) and (F) of the Code.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is, in fact, a prohibited transaction.

Exemption

In accordance with section 408(a) of the Act and section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interests of the Pension Trust and of its participants and beneficiaries; and

(c) It is protective of the rights of the participants and beneficiaries of the Pension Trust.

Accordingly the restrictions of section 406(a) 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 (D) of the Code, shall not apply to: (1) the Guarantee by International of the Dutchman Loan; and (2) the Loan Agreements, provided that the terms

and conditions of the 1976 Agreement and the 1977 Agreement were as favorable to the Pension Trust as those it could have obtained from an unrelated third 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 transactions that are the subject of this exemption.

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

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

[FR Doc. 81-30340 Filed 10-19-81; 8:45 am]

BILLING CODE 4510-29-M

NATIONAL SCIENCE FOUNDATION

Ad Hoc Oversight Subcommittee for Solid State Chemistry; Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Science Foundation announces the following meetings:

Name: Ad Hoc Oversight Subcommittee for Solid State Chemistry, Advisory Committee for Materials Research

Date and time: November 6-7, 1981, 9:00 a.m.-5:00 p.m. each day

Place: National Science Foundation, 1800 G Street, N.W., Room 421, Washington, D.C. 20550

Type of meeting: Closed

Contact person: Dr. Fred E. Stafford, Program Director, Solid State Chemistry Program, Condensed Matter Sciences Section, Division of Materials Research, Room 408, National Science Foundation, Washington, D.C. 20550, Telephone: (202) 337-9787

Purpose of subcommittee: To provide advice and recommendations concerning support for research in Solid State Chemistry

Agenda:

Friday, November 6, 1981—9:00 a.m. to 5:00 p.m.—Closed

Review and comparison of declined proposals (and supporting documentation) with successful awards including review of peer review materials and other privileged materials.

Saturday, November 7, 1981—9:00 a.m. to 5:00 p.m.—Closed

Further discussions of declined proposals and awards—Preparation of report on Subcommittee findings and recommendations.

Reasons for closing: The Subcommittee will be reviewing grants and/or declination jackets which contain the names of applicant institutions and principal investigators and privileged information

contained in declined proposals. This session will also include a review of the peer review of documentation pertaining to applicants. These matters are within exemptions (4) and (6) to 5 U.S.C. 552 (c), Government in the Sunshine Act.

Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF on July 8, 1979.

M. Rebecca Winkler,

Committee Management Coordinator.

October 14, 1981.

[FR Doc. 81-30215 Filed 10-19-81; 8:45 am]

BILLING CODE 7555-01-M

Advisory Committee for Chemistry; Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92-463, the National Science Foundation announces the following meeting:

Name: Advisory Committee for Chemistry
Date and time: November 5-6, 1981; 9:00 AM to 5:00 PM each day

Place: Room 338, National Science Foundation, 1800 G Street, N.W., Washington, D.C. 20550

Type of meeting: Part Open—Open November 5—9:00 AM to 5:00 PM. Open November 6—9:00 AM to 12:00 noon. Closed November 6—1:00 PM to 5:00 PM.

Contact person: Dr. Richard S. Nicholson, Director, Division of Chemistry National Science Foundation, Washington, D.C. 20550 Telephone (202) 357-7947

Summary minutes: May be obtained from Dr. Richard S. Nicholson.

Purpose of committee: To provide advice and recommendations concerning NSF support for research in chemistry.

Agenda: The meeting will involve briefing of the Committee by NSF staff on items of topical interest to the Committee. The closed session will involve review of pending proposals.

Reason for closing: The meeting will deal with a review of proposals containing the names of applicant institutions and principal investigators and privileged information from the files pertaining to the proposals. The meeting will also include a review of the peer review documentation pertaining to applicants. These matters are within exemptions (4) and (6) of 5 U.S.C. 522b(c), Government in the Sunshine Act.

Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such

determinations by the Acting Director, NSF, on February 18, 1977.

M. Rebecca Winkler,
Committee Management Coordinator.
October 14, 1981.

[FR Doc. 81-30216 Filed 10-19-81; 8:45 am]

BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 30-6931]

Armed Forces Radiobiology Research Institute; Establishment of Atomic Safety and Licensing Board To Preside in Proceeding

Pursuant to Commission order, an Atomic Safety and Licensing Board is being established in the following proceeding to rule on request for hearing and to preside over the proceeding in the event that a hearing is ordered.

Armed Forces Radiobiology Research Institute

(Cobalt-60 Storage Facility) Byproduct Material License No. 19-08330-03

This action is in reference to an order of the Commission dated October 8, 1981 concerning a request for a hearing by Citizens for Nuclear Reactor Safety, with regard to the renewal of a Cobalt-60 Storage Facility license held by the Armed Forces Radiobiology Research Institute.

The Board is comprised of the following Administrative Judges:

Louis J. Carter, Chairman, 23 Wiltshire Road, Philadelphia, Pennsylvania 19151

Ernest E. Hill, Lawrence Livermore Laboratory, University of California, P.O. Box 808, L-123, Livermore, California 94550

Dr. David R. Schink, Department of Oceanography, Texas A&M University, College Station, Texas 77840

Issued at Bethesda, Maryland, this 13th day of October 1981.

B. Paul Cotter, Jr.,
Chief Administrative Judge, Atomic Safety and Licensing Board Panel.

[FR Doc. 81-30335 Filed 10-19-81; 8:45 am]

BILLING CODE 7590-01-M

International Atomic Energy Agency Draft Safety Guide; Availability of Draft for Public Comment

The International Atomic Energy Agency (IAEA) is completing development of a number of internationally acceptable codes of practice and safety guides for nuclear

power plants. These codes and guides are in the following five areas: Government Organization, Design, Siting, Operation, and Quality Assurance. All of the codes and most of the proposed safety guides have been completed. The purpose of these codes and guides is to provide guidance to countries beginning nuclear power programs.

The IAEA codes of practice and safety guides are developed in the following way. The IAEA receives and collates relevant existing information used by member countries in a specified safety area. Using this collation as a starting point, an IAEA working group of a few experts develops a preliminary draft of a code or safety guide which is then reviewed and modified by an IAEA Technical Review Committee corresponding to the specified area. The draft code of practice or safety guide is then sent to the IAEA Senior Advisory Group which reviews and modifies as necessary the drafts of all codes and guides prior to their being forwarded to the IAEA Secretariat and thence to the IAEA Member States for comments. Taking into account the comments received from the Member States, the Senior Advisory Group then modifies the draft as necessary to reach agreement before forwarding it to the IAEA Director General with a recommendation that it be accepted.

As part of this program, Safety Guide SG-D13, "Reactor Cooling Systems in Nuclear Power Plants," has been developed. An IAEA working group, consisting of Mr. G. Ellia from France; Mr. C. N. Bapat from India; Mr. P. C. Dannatt from the United Kingdom; and Mr. W. D. D'Ardenne (General Electric Company) from the U.S.A., developed this guide from an IAEA collation, and we are now soliciting public comment on this draft dated June 10, 1981. Comments received by December 7, 1981, will be particularly useful to the U.S. representatives to the Technical Review Committee and the Senior Advisory Group in developing their positions on its adequacy prior to their next IAEA meetings.

Single copies of this draft Safety Guide may be obtained by a written request to the Director, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

(5 U.S.C. 522(a))

Dated at Washington, D.C., this 9th day of October 1981.

For the Nuclear Regulatory Commission.
Denwood F. Ross, Jr.,
*Acting Director, Office of Nuclear Regulatory
Research.*

[FR Doc. 81-30336 Filed 10-19-81; 8:45 am]
BILLING CODE 7590-01-M

[Docket No. 50-220]

**Niagara Mohawk Power Corp.;
Extension of Completion Dates**

By letter dated September 11, 1981 Niagara Mohawk Power Corporation (the licensee) requested that the Nuclear regulatory Commission (the Commission) extend a completion date for the fire protection modifications for the Nine Mile Point Nuclear Station Unit 1 located in Oswego County, New York. The fire detection system modification completion date has been extended to November 17, 1981.

The Commission's Director of Nuclear Reactor Regulation has concluded that good cause has been shown and that such postponement will not adversely affect the public health and safety. Accordingly, pursuant to 10 CFR 50.48(d) the request has been granted.

For further details with respect to this action, see (1) the licensee's request dated September 11, 1981 and (2) the Director's letter to the licensee dated September 30, 1981 which are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C., and at the Oswego County Office Building, 46 E Bridge Street, Oswego, New York 13126.

Dated at Bethesda, Maryland, this 13th day of October 1981.

For the Nuclear Regulatory Commission.
Harold R. Denton,
*Director, Office of Nuclear Reactor
Regulation.*

[FR Doc. 81-30337 Filed 10-19-81; 8:45 am]
BILLING CODE 7590-01-M

[Docket No. 50-285]

**Omaha Public Power District; Granting
of Relief From ASME Code Section XI
Inservice Inspection Requirements**

The Nuclear Regulatory Commission (the Commission) has granted relief from certain requirements of the ASME Code, Section XI, "Rules for Inservice Inspection of Nuclear Power Plant Components," to Omaha Public Power District (the licensee), which revised the inservice inspection program for the Fort Calhoun Station, Unit No. 1, located in Washington County, Nebraska. The ASME Code requirements are incorporated by reference into the

Commission's rules and regulations in 10 CFR Part 50. The relief is effective as of its date of issuance, and expires September 26, 1983.

The relief consists of exemption from performing a 100 percent volumetric examination of reactor vessel studs with center-drilled holes. In lieu of this, the licensee has received Commission approval to use ASME Code Case N-307, "Revised Ultrasonic Examination Volume for Class 1 Bolting, Examination Category B-G-1, Section XI, Division 1, when the Examinations Are Conducted from the Center-drilled Hole."

The request for relief 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 letter granting relief and related Safety Evaluation.

The Commission has determined that the granting of this relief 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 this action.

For further details with respect to this action, see (1) the request for relief dated August 26, 1981, (2) the letter to the licensee dated October 8, 1981, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. 20555, and at the W. Dale Clark Library, 215 South 15th Street, Omaha, Nebraska 68102. 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 October 1981.

For the Nuclear Regulatory Commission.
Robert A. Clark,
*Chief, Operating Reactors Branch No. 3,
Division of Licensing.*

[FR Doc. 81-30338 Filed 10-19-81; 8:45 am]
BILLING CODE 7590-01-M

**Regulatory Guide; Issuance and
Availability**

The Nuclear Regulatory Commission has issued a revision to a guide in its Regulatory Guide Series. This series has been developed to describe and make available to the public methods acceptable to the NRC staff of

implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

Regulatory Guide 1.101, Revision 2, "Emergency Planning and Preparedness for Nuclear Power Reactors," provides guidance to licensees and applicants on methods acceptable to the NRC staff for complying with the Commission's regulations for emergency response plans and preparedness at nuclear power reactors. Revision 2 to this guide endorses Revision 1 of NUREG-0654/FEMA-REP-1 entitled "Criteria for Preparation and Evaluation of Radiological Emergency Response Plans and Preparedness in Support of Nuclear Power Plants," which was developed by a joint steering committee of the Federal Emergency Management Agency (FEMA) and the NRC after public comment and NRC, FEMA, and other reviews. Therefore, Revision 2 to this guide is not being issued for public comment.

Comments and suggestions in connection with (1) items for inclusion in guides currently being developed or (2) improvements in all published guides are encouraged at any time. Comments should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch.

Regulatory guides are available for inspection at the Commission's Public Document Room, 1717 H Street NW, Washington, D.C. Copies of active guides may be purchased at the current Government Printing Office price. A subscription service for future guides in specific divisions is available through the Government Printing Office. Information on the subscription service and current prices may be obtained by writing to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Public Sales Manager.
(5 U.S.C. 552(a))

Dated at Silver Spring, Maryland this 14th day of October 1981.

For the Nuclear Regulatory Commission.
D. F. Ross,
*Acting Director, Office of Nuclear Regulatory
Research.*

[FR Doc. 81-30339 Filed 10-19-81; 8:45 am]
BILLING CODE 7590-01-M

POSTAL SERVICE

International Mail; Announces New Rates for Certain Categories

AGENCY: Postal Service.

ACTION: New International Postal Rates.

SUMMARY: Pursuant to its authority under 39 U.S.C. 407, the Postal Service announces new rates for certain categories of international mail as indicated below.

EFFECTIVE DATE: 12:01 A.M., November 1, 1981.

FOR FURTHER INFORMATION CONTACT: J. Duane Redic, (202) 245-4414.

SUPPLEMENTARY INFORMATION:

Concurrent with domestic mail postal rate changes that become effective on November 1, 1981, new postal rates for certain categories of international mail that are related to the domestic schedules also become effective on November 1, 1981.

The rate changes affect the following categories of international mail:

1. *Letters and Letter Package* rates for Canada and Mexico are increased from 18 cents to 20 cents for the first ounce.

2. *Post Card* rate for Canada and Mexico is increased from 12 cents to 13 cents each.

3. *Regular Printed Matter and Small Packets (surface)* rates. The weight steps zero through eight are adjusted to the levels indicated below due to changes in the domestic third-class single piece rate.

Accordingly, the Postal Service hereby adopts the following rate changes, which will be published in the Postal Service's International Mail Manual.

(39 U.S.C. 401, 403, 402(2), 407, 410(a))

Fred Eggleston,

Assistant General Counsel, Legislative Division.

New Rates

1. LETTERS AND LETTER PACKAGES

Weight steps				Canada ¹	Mexico ¹
Over		Through			
Pounds	Ounces	Pounds	Ounces		
		0	1	\$0.20	\$0.20
0	1	0	2	.37	.37
0	2	0	3	.54	.54
0	3	0	4	.71	.71
0	4	0	5	.88	.88
0	5	0	6	1.05	1.05
0	6	0	7	1.22	1.22
0	7	0	8	1.39	1.39
0	8	0	9	1.56	1.56
0	9	0	10	1.73	1.73
0	10	0	11	1.90	1.90
0	11	0	12	2.07	2.07
0	12	1	0	2.58	2.58
1	0	1	8	3.07	3.07
1	8	2	0	3.57	3.57

1. LETTERS AND LETTER PACKAGES—Continued

Weight steps				Canada ¹	Mexico ¹
Over		Through			
Pounds	Ounces	Pounds	Ounces		
2	0	2	8	4.06	4.06
2	8	3	0	4.56	4.56
3	0	3	6	5.05	5.05
3	6	4	0	5.55	5.55
4	0	4	6	6.05	
4	6	5	0	6.54	

Maximum limit 60 pounds to Canada, 4 pounds to Mexico.

¹ Eighth zone priority mail rates for weights over 12 ounces.

2. Post and Postal Cards

Canada and Mexico: 13 cents each.

3. OTHER ARTICLES (AO)—REGULAR PRINTED MATTER (SURFACE)

Weight steps		Canada and Mexico	All other countries
Over	Through		
Ounces:	Ounces:		
0	1	\$0.20	\$0.23
1	2	.37	.37
2	3	.54	.54
3	4	.71	.71
4	6	.85	.85
6	8	.95	.95
8	10	1.14	1.14
10	12	1.36	1.36
12	14	1.58	1.58
14	16	1.81	1.81
16	18	1.81	1.81
18	20	1.94	1.94
20	22	2.07	2.07
22	24	2.21	2.21
24	26	2.35	2.35
26	28	2.49	2.49
28	30	2.62	2.62
30	32	2.76	2.76
Pounds:	Pounds:		
2	3	3.31	3.31
3	4	3.86	3.86
Each additional	1	.96	.96
Direct sack to one	—	.86	.86
addressee (M bag), minimum 15 lbs., maximum 66 lbs., per pound or fraction.			

4. SMALL PACKETS (SURFACE)

Weight steps		Canada	Mexico	All other countries
Over (ounces)	Through (ounces)			
0	1	\$0.20	\$0.20	\$0.23
1	2	.37	.37	.37
2	3	.54	.54	.54
3	4	.71	.71	.71
4	6	.85	.85	.85
6	8	.95	.95	.95
8	10	1.14	1.14	1.14
10	12	1.36	1.36	1.36
12	14	1.58	1.58	1.58
14	16	1.81	1.81	1.81
16	18		1.81	1.81
18	20		1.94	1.94
20	22		2.07	2.07
22	24		2.21	2.21
24	26		2.35	2.35
26	28		2.49	2.49
28	30		2.62	2.62
30	32		2.76	2.76

[FR Doc. 81-30326 Filed 10-19-81; 8:45 am]

BILLING CODE 7710-12-M

SECURITIES AND EXCHANGE COMMISSION

Advisory Committee on Shareholder Communications; meeting

This is to give public notice, pursuant to Section 10(a) of the Federal Advisory Committee Act, 5 U.S.C. App. I, 10(a), that the Securities and Exchange Commission Advisory Committee on Shareholder Communications will conduct a meeting on October 30, 1981, at Manufacturers Hanover Trust Company, 40 Wall Street, New York, New York in the Federal Room, 4th floor beginning at 10:00 a.m. This meeting will be open to the public.

The purposes of the meeting are to discuss existing procedures regarding the distribution of proxy material to beneficial owners and, if time permits, to discuss existing proxy voting procedures.

Further information may be obtained by contacting: Gregory H. Mathews, Division of Corporation Finance, Securities and Exchange Commission, 500 N. Capitol Street, Washington, D.C. 20549, (202) 272-2589.

Dated: October 9, 1981.

George A. Fitzsimmons,

Secretary.

[FR Doc. 81-30290 Filed 10-19-81; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 22231; 70-6648]

New England Electric System and New England Power Co.; Proposed Issuance and Sale of Common Stock and Short-Term Notes by Newly Organized Public-Utility Subsidiary and Intrasystem Sale of Utility Assets

October 14, 1981.

In the matter of New England Electric System and New England Power Co., 25 Research Drive, Westborough, Massachusetts 01581, (70-6648).

New England Electric System ("NEES"), a registered holding company, and New England Power Company ("NEP"), a public-utility subsidiary of NEES, have filed an application-declaration with this Commission pursuant to Sections 6(a), (7), 9(a), 10, and 12(f) of the Public Utility Holding Company Act of 1935 ("Act") and Rule 43 thereunder.

NEP's business is that of generating, purchasing, transmitting, and selling electric energy in wholesale quantities, principally to distribution subsidiaries within the NEES System. NEP is a member of the New England Power Pool ("NEPOOL") which, under the NEPOOL Agreement, provides for the

coordination of planning and operation of the generation and transmission facilities of its members. Approximately 99 percent of the generating capacity in New England is represented in NEPOOL. NEPOOL is negotiating a major transmission interconnection between New England and the Province of Quebec. The initial intertie will be capable of exchanging 600 MW between the systems of Hydro-Quebec and NEPOOL. A possible extension would increase the capability of the intertie to a total of 2000 MW. The transmission line from the Canadian border to Comerford, New Hampshire, may be located in Vermont or in New Hampshire. If the line is located predominantly in Vermont, it will be built by Vermont Electric Power Company ("VELCO"). If the line is located in New Hampshire, it will be constructed by the NEES System. The possible second phase may be later constructed extending the lines to Massachusetts. It is anticipated that this extension will be built almost entirely on rights-of-way in New Hampshire and Massachusetts now owned by NEP and used for its transmission lines.

The construction and operation of the proposed intertie involves, to a large extent, use of property presently owned and operated by NEP. This property includes rights-of-way and transmission lines, as well as a contemplated building site near Comerford. For this reason, and because the NEES system is one of two NEPOOL members operating in New Hampshire that could undertake the construction of the necessary facilities, the NEES system will undertake completion of those facilities located in New Hampshire and Massachusetts. It is proposed that responsibility for that portion of the intertie to be constructed, owned, and maintained by the NEES system be put in a new corporation, New England Electric Transmission Corporation ("NEET") which will be a wholly-owned subsidiary of NEES. Under a preliminary support agreement, NEP (or in its stead

NEET) and VELCO are authorized to incur preliminary expenditures of up to an aggregate of \$3.5 million before the Phase I route is selected.

In order to supply NEET with funds to conduct necessary studies, apply to regulatory authorities for requisite permits and licenses, and commence right-of-way activities, it is proposed that NEET issue to NEES \$100,000 of capitol stock and make short-term borrowings from NEES or banks of not exceeding \$3.5 million. NEET is being organized as a public utility having authorized capital stock of 300 shares of common stock, one dollar par value per share. It is proposed that NEET issue, and NEES acquire, 100 shares of such common stock at \$1,000 per share for an aggregate purchase price of \$100,000. Borrowings from banks and/or NEES will be evidenced by notes payable maturing in less than one year from the date of issue. The effective interest cost of borrowings from NEES will be at a rate equivalent to the effective interest costs to NEET of borrowings from banks. The effective interest costs to NEET with respect to the bank borrowings will not be greater than effective interest cost of borrowings at prime with compensating balance requirements of 10 percent of the line of credit and 10 percent of any borrowings thereunder. Based on compensating balance requirements of 10 to 20 percent or fees equivalent thereto, the effective interest cost of bank borrowing would be approximately 22 percent to 24 percent per annum, based on a prime rate of 19½ percent.

Part of the right-of-way, as well as the potential sites for a terminal near Comerford, is currently owned, either in fee or as easements, by NEP. Almost all of that property was originally acquired in the later 1920's and has been since used in connection with the transmission of energy from NEP's hydroelectric projects on the Connecticut River. Most of this property has increased significantly in value since its acquisition. Under terms

currently being negotiated with the participating utilities, it is proposed that NEP will sell the property and associated rights necessary for the project to NEET at book value. NEET will bill support payments on the basis of current fair market value at the time of transfer from NEP. All money received by NEET on account of this higher value will be remitted or credited to NEP. Alternatively, NEP may lease the property to NEET at a rental based upon current fair market value. In either event, the benefits of the increase in value of the property or property rights transferred will be passed directly to NEP's customers through either reductions in payments (expense) under the support agreements or as a reduction in revenue requirements.

The application-declaration and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by November 9, 1981, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the applicants-declarants at the address specified above. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the application-declaration, as filed or as it may be amended, may be granted and permitted to become effective.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

[FR Doc. 81-30279 Filed 10-19-81; 8:45 am]

BILLING CODE 8010-01-M

Sunshine Act Meetings

Federal Register

Vol. 46, No. 202

Tuesday, October 20, 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

[M-334 (Amdt. 2; Oct. 15, 1981.)

CIVIL AERONAUTICS BOARD

Notice of addition and closure of item to the October 14, 1981 Board meeting.

TIME AND DATE: 2:30 pm, October 14, 1981.

PLACE: Room 1027 (Open), Room 1012 (Closed), 1825 Connecticut Avenue, N.W., Washington, D.C. 20428.

SUBJECT: 30. Docket 32851: The IATA Review Show Case Proceeding. (OGC, BIA)

STATUS: Items 1-27 (Open); Items 28-30 (Closed).

PERSON TO CONTACT: Phyllis T. Kaylor, The Secretary, (202) 673-5068.

[S-1581-81 Filed 10-16-81; 3:30 pm]

BILLING CODE 6320-01-M

2

[M-335; Oct. 15, 1981]

CIVIL AERONAUTICS BOARD

TIME AND DATE: 9:30 a.m., October 22, 1981.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT:

1. Ratification of Items Adopted by Notation.

2. Dockets 39532 and 39533, Petitions of Transamerica Airlines, Inc. and Piedmont Aviation, Inc. for Review of Staff Action Denying a Waiver of Part 252 of the Economic Regulations. (Memo 840, BCCP)

3. Docket 38748, *Capitol International Airways, Inc. Enforcement Proceeding—*

Motion for Discretionary Review of Partial Summary Judgment. (Memo 845, OGC)

4. H.R. 1679—A Bill to Require the Secretary of Transportation to Require No-Smoking Areas on Board Certificated Air Carriers, Rail Carriers, and Motor Carriers in Domestic Transportation. (OGC)

5. Docket 38905, Civil Penalty for Violation of CAB Rules of Conduct. (Memo 765, OGC, BCCP)

6. Docket 39485, Elimination of Registration and Reporting Requirements for Indirect Cargo Air Carriers. (OGC, BDA)

7. Semiannual Agenda of Significant Rules Under Development or Review. (OGC)

8. Delegation of Authority to the Bureau of Domestic Aviation for Several Matters Relating to the Essential Air Service Program. (OGC, BDA)

9. Docket 35307, Notice of Ozark Air Lines, Inc. of Intent to Suspend Service at Clarksville, Tennessee/Ft. Campbell/Hopkinsville, Kentucky. (Memo 074-B, BDA, OCCR, OC)

10. Dockets 40078 and 40079, Notice of ANA, Ltd. d/b/a Air North of Intent to Suspend Service at Rochester, New York, and Application of Air North for an Exemption from the Notice Requirements of Section 401(j)(1) of the Act to Permit It to Suspend Service at These Points On or After October 25, 1981. (Memo 843, BDA, OCCR)

11. Docket 38946, Notice of Ozark Air Lines, Inc. to Suspend All Service at Dubuque, Iowa. (Memo 841, BDA, OCCR)

12. Docket 37732, Essential Air Service at Alamogordo and Silver City, New Mexico. (BDA, OCCR, OC)

13. Fitness Determination of Chalk's International Airline, Inc. Under Section 419(c)(2) of the Act. (Memo 847, BDA)

14. Fitness Determination of New York Helicopter Corporation Under Section 419(c)(2) of the Act. (Memo 848, BDA)

15. Docket 39930, Application of Transocean Air Lines, Inc. for a Section 418 All-Cargo Air Service Certificate. (Memo 849, BDA)

16. Docket 39613, Request of Empresa Consolidada Cubana de Aviacion (Cubana) for Reconsideration of Order 81-5-41 Requiring Prior Approval of Charter Operations. (Memo 431-A, BIA)

17. Docket 37052, Application of Flugleidir, H.F./Icelandair for Renewal of Temporary Exemption Authority to Operate Nonstop Foreign Air Transportation Between Points in the United States and Luxembourg (Fifth Freedom Passenger Service). (Memo 009-A, BIA)

STATUS: Open.

PERSON TO CONTACT: Phyllis T. Kaylor, The Secretary, (202) 673-5068.

[S-1582-81 Filed 10-16-81; 3:30 pm]

BILLING CODE 6320-01-M

3

FEDERAL ENERGY REGULATORY COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: (46 FR 51110, October 16, 1981).

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: October 21, 1981, 10 a.m.

CHANGE IN THE MEETING: The meeting has been cancelled.

Kenneth F. Plumb,
Secretary.

[S-1580-81 Filed 10-16-81; 3:05 pm]

BILLING CODE 6717-02-M

4

FEDERAL RESERVE SYSTEM

(Board of Governors).

TIME AND DATE: 10:30 a.m., Friday, October 23, 1981.

PLACE: 20th Street and Constitution Avenue, N.W., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Issues regarding the Financial Institutions Restructuring and Services Act of 1981.

2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE

INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board, (202) 452-3204.

Dated: October 16, 1981.

James McAfee,

Assistant Secretary of the Board.

[S-1578-81 Filed 10-16-81; 12:27 pm]

BILLING CODE 6210-01-M

5

FEDERAL RESERVE SYSTEM (Board of Governors).

TIME AND DATE: 10 a.m., Monday, October 26, 1981.

PLACE: 20th Street and Constitution Avenue, N.W., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve Systems employees.

2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE

INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board, (202) 452-3204.

Dated: October 16, 1981.

James McAfee,

Assistant Secretary of the Board.

[S-1503-81 Filed 10-16-81; 4:08 pm]

BILLING CODE 6210-01-M

6

USITC SE-80-31A

INTERNATIONAL TRADE COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 46 FR 48394 (10/1/81).

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: Monday, October 15, 1981.

CHANGES IN THE MEETING: Emergency notice to delete agenda item No. 4 [Petitions and complaints: a. Extracting plastic tubing (Docket No. 762).] from its agenda of the meeting Monday, October 19, 1981. This item will be added to the agenda of a meeting to be held on Friday, October 29, 1981, to be announced.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary, (202) 523-0161.

[S-1579-81 Filed 10-16-81; 1:48 pm]

BILLING CODE 7020-02-M

7

NATIONAL RAILROAD PASSENGER CORPORATION. Board of Directors Meeting.

In accordance with Rule 4(a) of Appendix A of the Bylaws of the National Railroad Passenger Corporation, notice is given that the Board of Directors will meet on October 28, 1981.

A. The meeting will be held on Wednesday, October 28, 1981, in the Pierre Suite, at Loew's L'Enfant Plaza Hotel, Washington, D.C. at 9:30 a.m.

B. The meeting will be open to the public at 10:30 a.m. beginning with agenda item No. 3, as described below.

C. The agenda items to be discussed at the meeting follow.

Agenda—National Railroad Passenger Corporation

Meeting of the Board of Directors—October 28, 1981

Closed Session (9:30)

1. Internal personnel matters.
2. Litigation matters.

Open Session (10:30)

3. Approval of minutes of regular meeting of September 25, 1981.
4. Approval of amendments to retirement income plan.
5. Approval of amendments to articles of incorporation.
6. Approval of amendment to bylaws.
7. Approval of consulting contract on labor relations.
8. Philadelphia 30th Street Station joint venture agreement.
9. Resolution authorizing participation in leases.
10. Commitment approval requests:
 - 82-01 Wilmington Distribution Center Lease.
 - 82-02 Phase I of fiscal year 1982 Northeast Corridor Track Program—Harrisburg Continuous Welded Rail.
11. Report of Incorporators of Amtrak Commuter Services Corporation.
12. Board Committee Reports: Finance, Northeast Corridor Improvement Project, Organization and Compensation.
13. President's report.
14. New business.
15. Adjournment.

D. Inquiries regarding the information required to be made available pursuant to Appendix A of the Corporation's Bylaws should be directed to the Corporate Secretary at (202) 383-3754.

Barbara J. Willman,

Assistant Corporate Secretary.

October 16, 1981.

[S-1577-81 Filed 10-16-81; 11:19 am]

BILLING CODE 0000-00-M

8

POSTAL RATE COMMISSION. Meeting.

TIME AND DATE: Periodic meetings scheduled on short notice during business days in the period October 23-30, 1981.

PLACE: Conference Room, Room 500, 2000 L Street NW., Washington, D.C.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Issues in Docket No. MC78-3 (Remand), [Electronic Mail, E-COM].

[Closed pursuant to 5 U.S.C. § 552b(c)(10)]

CONTACT PERSON FOR MORE

INFORMATION: Dennis Watson, Information Officer, Postal Rate Commission, Room 500, 2000 L Street, N.W., Washington, D.C. 20268, Telephone (202) 254-5614.

[S-1576-81 Filed 10-16-81; 10:59 am]

BILLING CODE 7715-01-M

9

SECURITIES AND EXCHANGE COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: [46 FR 48395 October 1, 1981].

STATUS: Closed meeting.

PLACE: Room 825, 500 North Capitol Street, Washington, D.C.

DATE PREVIOUSLY ANNOUNCED: Monday, September 28, 1981.

CHANGES IN THE MEETING: Additional meeting.

The following item was considered at a closed meeting held on Wednesday, October 7, 1981, at 10:30 a.m.

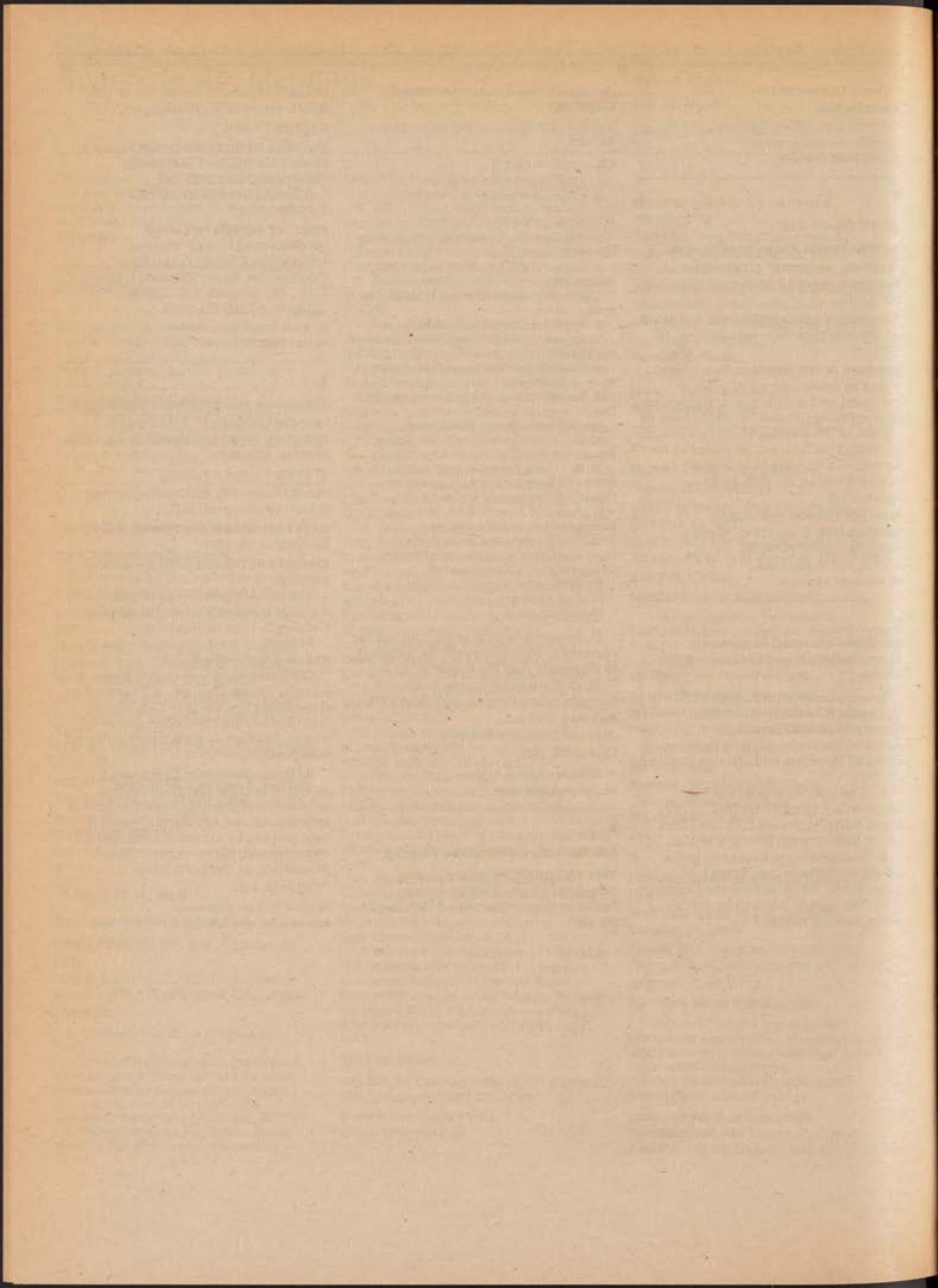
Regulatory matter bearing enforcement implications.

Chairman Shad and Commissioners Loomis, Evans, Thomas, and Longstreth determined by vote that Commission business required consideration of this matter and that no earlier notice thereof was possible.

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: Bruce Mendelohn at (202) 272-2091. October 15, 1981.

[S-1575-81 Filed 10-15-81; 4:31 pm]

BILLING CODE 8010-01-M



federal register

Tuesday
October 20, 1981

Part II

**Department of
Agriculture**

Commodity Credit Corporation

Cotton Loan Program

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

7 CFR Part 1427

Cotton Loan Program

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Final rule.

SUMMARY: This rule deletes the regulations codified at 7 CFR 1427.100 through 1427.105 (Cotton Loan and Differential Schedules). Loan schedules and differentials applicable to eligible qualities of upland and extra long staple cotton for price support have been published each year in the Federal Register and later codified in the Code of Federal Regulations. In order to avoid amending the Code of Federal Regulations each time a change is made in these schedules, the annual crop loan schedules will no longer be codified in the Code of Federal Regulations beginning with the schedules for the 1981-crop cotton loan program but will be published in the Federal Register in the notice section.

EFFECTIVE DATE: October 20, 1981.

FOR FURTHER INFORMATION CONTACT: Eloise V. Mauck, (202) 447-7923.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed in accordance with the provisions of Executive Order 12291 and Secretary's Memorandum No. 1512-1 and has been classified "not major." It has been determined that this final rule will not result in an annual effect on the economy of \$100 million or more.

It has been determined that the Regulatory Flexibility Act is not applicable to this rule since Commodity Credit Corporation is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this rule.

Previously, loan schedules were published in the Federal Register as final rules. The same data was later codified in the Code of Federal Regulations Effective for the 1981 and subsequent crops of cotton, price support loan rates and differentials will appear only as notices in the Federal

Register. Since this rule makes no substantive change but merely deletes the loan schedules previously published in the Code of Federal Regulations, it is hereby determined that no further public rulemaking is required. The material previously appearing at 7 CFR 1427.100 through 1427.105 remains in full force and effect as to the crop years to which it is applicable.

PART 1427—COTTON

§§ 1427.100-1427.105 [Removed]

Accordingly, §§ 1427.100 through 1427.105 of Title 7 are hereby removed from the Code of Federal Regulations.

(Secs. 4, 5, 62 Stat. 1070 (15 U.S.C. 714 b and c); sec. 101, 103, 404, 63 Stat. 1051, as amended (7 U.S.C. 1441, 1444, 1421); sec. 103(f), 91 Stat. 934, as amended by 92 Stat. 240 (7 U.S.C. 1444))

Signed at Washington, D.C., on October 8, 1981.

C. Hoke Leggett,

Acting Executive Vice President, Commodity Credit Corporation.

[FR Doc. 81-30150 Filed 10-19-81; 8:45 am]

BILLING CODE 3410-05-M

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

1981 Cotton Loan Program

AGENCY: Commodity Credit Corporation.

ACTION: Notice of Determination of the 1981-Crop Cotton Loan Program Differentials.

SUMMARY: This notice of determination sets forth the base loan rates by warehouse location for upland cotton, loan rates by location for extra long staple (ELS) cotton, premiums and discounts for upland cotton, and micronaire differentials applicable for all 1981-crop loan cotton. Price support loans will be available to eligible producers on 1981-crop cotton under such differentials and rates.

EFFECTIVE DATE: October 20, 1981.

FOR FURTHER INFORMATION CONTACT: Eloise V. Mauck, (202) 447-7923. The Final Impact Statement describing the options considered in developing these determinations is available on request from the above-named individual.

SUPPLEMENTARY INFORMATION: This notice of determination has been reviewed in accordance with the provisions of Executive Order 12291 and Secretary's Memorandum No. 15124 and has been classified "not major." It has been determined that this notice of determination will not result in an annual effect on the economy of \$100 million or more.

The title and number of the Federal Assistance Program that this notice of determination applies to are: Commodity Loans and Purchases; 10.051, as found in the Catalog of Federal Domestic Assistance.

This action will not have a significant impact specifically on area and community development. Therefore, a review as established by Office of Management and Budget Circular A-95, was not used to assure that units of local Government are informed of this action.

It has been determined that the Regulatory Flexibility Act is not applicable to this notice of determination since Commodity Credit Corporation (CCC) is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this notice.

The determinations of differentials with respect to the 1981 crops of uplands and ELS cotton are made pursuant to the Agricultural Act of 1949, as amended (7 U.S.C. 1421), (hereinafter referred to as the "Act").

Section 403 of the Act provides, in part, as follows:

"Appropriate adjustments may be made in the support price for any commodity for differences in grade, type, staple, quality, location, and other factors. Such adjustments shall, so far as practicable, be made in such manner that the average support price for such commodity will, on the basis of the anticipated incidence of such factors, be equal to the level of support determined as provided in this Act * * *

On October 31, 1980, the Secretary announced the base loan rate for 1981-crop upland cotton at 52.46 cents per pound, basis Strict Low Middling (SLM) 1-1/16-inches, micronaire 3.5-4.9, net weight, at average location in the U.S. and a national average loan rate of 99.00 cents per pound for ELS cotton. The determinations included in this notice will apply to these loan levels, as applicable.

On February 4, 1981, a notice of proposed rulemaking was published in the Federal Register (46 FR 10746) stating that CCC was preparing to make certain determinations regarding the loan programs for the 1981 crops of upland and ELS cotton. This notice also solicited public comments regarding these proposed determinations. The comment period extended through April 6.

A total of 63 responses were received. Sixteen letters arrived too late to be included in the summary but were given consideration prior to making the final decisions for the 1981 differentials. The 47 responses included: 32 from individuals, one from a cotton exchange, one from a cooperative marketing association, four from members of Congress, three from general farm organizations, two from shippers, one from a compress manager, one from a shipper organization, one from a mill representative, and one classified as "other."

There was little consensus on recommended differentials for the 1981 crop loan program. However, a majority of the respondents expressed concern regarding the methodology followed in past years in establishing loan program quality differentials. While most respondents were concerned, their views on improving methodology varied widely, particularly between the High Plains production area and other cotton-producing areas. The following comments both summarize and illustrate the differences in such views with respect to the methodology in establishing loan program quality differentials. Two commentators stated that the method presently used to establish quality differentials does not accurately reflect current market

demand for cotton principally because it provides higher loan rates for less desirable growths of cotton thus encouraging greater production than is needed in areas where poorer qualities of cotton predominate. Twenty-three commentators contended that the method presently used to establish quality differentials disadvantages the High Plains area because it does not adequately reflect market differences by giving more emphasis to the quality of cotton which is being produced in the largest volume in certain markets. Thus, their position is that loan differentials should reflect quotations from selective spot markets rather than quotations from all markets. Five commentators stated that loan quality differentials do not have a close relationship with spot market differentials and could cause an increase in the production of less desirable qualities of cotton which would burden the market.

The options considered in developing the 1981 crop loan quality differentials reflected a weighting of the 1980 loan schedule and the average of spot market differences for the first 8 months of the current marketing season in varying ratios of loan to market. The ratios of loan to market considered for weighting were: 5 to 1, 3, to 1, and 1 to 1. This means, for example, at 5 to 1, the differences in the 1980 loan schedule were given a weight of 5, while differentials reflecting the 8-month average spot market differences were given a weight of 1 in making the calculations.

One commentator recommended a weighting of 5 to 1 between the previous year's loan schedule and the current average market differences to prevent rapid escalation of quality differentials. One commentator believed a 3 to 1 ratio would prevent wide swings in differentials in times of market disruptions for a particular quality of cotton. Ten commentators recommended at least equal weight (1 to 1) be established between current average market differences and the previous year's loan differentials in order to reflect more accurately the current market demand for cotton.

Loan differences should, where practicable, reflect market conditions. The option of 1 to 1 for premiums and discounts for upland cotton and micronaire discounts for ELS cotton gives maximum consideration to market quotations. The various spot markets on average quote grade and staple differences for the major types of cotton traded in that market. Accordingly, the option of a 1 to 1 weighting was selected for premiums and discounts for upland

cotton and micronaire discounts for ELS cotton since this option should more nearly reflect actual market conditions.

The 1 to 1 weighting provided by the selected option for micronaire discounts for ELS cotton should also reflect a better balance in the new loan schedule for ELS cotton. This results from the following: (a) the increase in the 1981 average loan rate, (b) the relationship between the higher loan rate and current market prices, and (c) the need to move production into consumption channels, thus minimizing additional acquisitions by CCC.

Although a 1 to 1 or a 3 to 1 weighting would have reflected, to a larger degree, the average market differences for upland micronaire discounts, these weightings were not selected since although all nine spot markets quote micronaire discounts, almost all lower micronaire cotton is grown in one area of the Cotton Belt and only two of the nine designated spot markets (Dallas and Lubbock) trade any substantial volume of low micronaire cotton. Use of equal weights in this situation would have resulted in unfair large discounts for low micronaire cotton in West Texas. Accordingly, the option of 5 to 1 for upland micronaire discounts was selected since this option should more nearly reflect actual market conditions.

Other, more specific, comments stated that: micronaire differentials should be eliminated from the loan program; micronaire discounts should range from 0 to 385 points; differentials for 1981 should remain unchanged during the marketing year; micronaire differences for 1981 should be no wider than those in effect for 1979; and low micronaire does not affect spinning capabilities.

Base loan rates are calculated to reflect the transportation costs by using a percentage of the minimum freight rate per carload lot to the mill area. The options considered this year were the following percentages of the freight rates: 100, 75, and 50 percent of minimum rates weighted by the most recent 5-year average production available.

Eight responses were received concerning location differentials for upland cotton. Six recommended continuation of the present method for determining location differentials (75 percent of freight rates). One recommended using 100 percent of freight rates and one recommended 50 percent.

The schedule of base loan rates by warehouse location as set forth in this determination for the 1981 crop of cotton was established by using 75 percent of the freight rate, basis minimum weight per carload lot, the same as under the

1980 program. The freight rates used in developing this schedule reflect the freight rates established for 50,000 pound minimum carload lots in all areas except California and Arizona, where the freight rates are based on 62,500 pound minimum carload lots. However, there are also higher minimum carload lots available which will result in cheaper transportation if the shipper is able to avail himself of these higher minimums. Therefore, the freight rates which were adopted and used in establishing the schedule of base loan rates should prevent producers from moving cotton from one location to another simply to obtain greater benefits under the loan program.

Two responses were received regarding loan rates for eligible qualities of ELS cotton. Both commentators recommended continuation of the present method of establishing loan program quality differentials for ELS cotton.

Comments not applicable to the proposed determinations included the following: (a) Pesticides are not necessary; (b) West Texas cotton should be classed and sold on average grade and staple; (c) there should be two established "target" prices for upland cotton—one for short staple and another for longer staple cotton; (d) the loan rate should be established between 65 to 70 cents per pound and the established "target" price should be 75 cents per pound.

The options selected in this determination of 1981-crop cotton loan rates and differentials fulfill the legislative objectives to offer to eligible producers support levels by grade, staple, type, location, and other factors which are representative of the differences in market values between these various types and qualities in relation to the base quality for cotton. The selected options are also considered to be least disruptive for all segments of the cotton industry.

The base loan rates, premiums and discounts, and micronaire differentials upland and ELS cotton set forth herein are being published as a Notice of Determination and will no longer be codified in the Code of Federal Regulations. In the future, such determinations will be published annually in the notice section of the Federal Register.

Accordingly, after taking into consideration the comments received, as well as the applicable statutory requirements and other factors, the following determinations have been made with respect to the 1981 crops of upland and ELS cotton:

Determinations

(a) Schedule of Base Loan Rates for Eligible 1981-Crop Upland Cotton by Warehouse Location.

BASIS STRICT LOW MIDDLING WHITE 1½-
INCHES [4134]
[Cents per pound]

City	County	Loan rate
Alabama		
Albertville	Marshall	53.55
Aliceville	Pickens	53.25
Atmore	Escambia	53.25
Attala	Etowah	53.90
Belle Mina	Limestone	53.55
Birmingham	Jefferson	53.55
Centre	Cherokee	53.90
Decatur	Morgan	53.55
Eclectic	Elmore	53.55
Elkmont	Limestone	53.55
Eutaw	Greene	53.25
Fayette	Fayette	53.55
Frisco City	Monroe	53.25
Geraldine	De Kalb	53.55
Greenbrier	Limestone	53.55
Greensboro	Hale	53.25
Hamilton	Marion	53.25
Huntsville	Madison	53.55
Madison	Madison	53.55
McCullough	Escambia	53.25
Moundville	Hale	53.25
Northport	Tuscaloosa	53.25
Opelika	Lee	53.90
Panola	Sumter	53.25
Selma	Dallas	53.55
Sulligent	Lamar	53.25
Sweet Water	Marengo	53.25
Tallassee	Elmore	53.55
Wetumpka	Elmore	53.55
Arizona		
Eloy	Pinal	51.45
Phoenix	Maricopa	51.45
Picacho	Pinal	51.45
Yuma	Yuma	51.45
Arkansas		
Blytheville	Mississippi	53.15
Bradley	Lavayette	53.90
Brinkley	Monroe	53.15
Clarendon	Monroe	53.15
Cotton Plant	Woodruff	53.15
Dell	Mississippi	53.15
Dumas	Desha	53.15
England	Lonoke	53.15
Eudora	Chicot	53.15
Evadale	Mississippi	53.15
Forrest City	St. Francis	53.15
Helena	Phillips	53.15
Jonesboro	Craighead	53.15
Leachville	Mississippi	53.15
Marianna	Lee	53.15
Marked Tree	Poinsett	53.15
Marvell	Phillips	53.15
McCroy	Woodruff	53.15
McGehee	Desha	53.15
North Little Rock	Pulaski	53.15
Pigg Bluff	Jefferson	52.15
Portland	Ashley	53.15
Trumann	Poinsett	53.15
West Memphis	Crittenden	53.15
California		
Bakersfield	Kern	51.45
Calico	Kern	51.45
Fresno	Fresno	51.45
Hanford	Kings	51.45
Imperial	Imperial	51.45
Kerman	Fresno	51.45
Pinedale	Fresno	51.45
Tulare	Tulare	51.45
Florida		
Jay	Santa Rosa	53.55

BASIS STRICT LOW MIDDLING WHITE 1½-
INCHES [4134]—Continued

(Cents per pound)

City	County	Loan rate
Georgia		
Allentown	Wilkinson	54.20
Arlington	Calhoun	53.55
Augusta	Richmond	54.60
Barlow	Jefferson	54.20
Blakely	Early	53.55
Byromville	Dooly	53.90
Cochran	Bleckley	54.20
Columbus	Muscogee	54.20
Cordele	Crisp	53.90
Dawson	Terrell	53.90
De Soto	Sumter	53.90
Deer	Laurens	54.20
Doerun	Colquitt	53.55
Dublin	Laurens	54.20
Eastman	Dodge	54.20
Edison	Calhoun	53.55
Funston	Colquitt	53.55
Hawkinsville	Pulaski	54.20
Jacksonville	Twiggs	54.20
Madison	Morgan	54.20
Metter	Candler	54.20
Midville	Burke	54.20
Monroe	Walton	54.20
Montezuma	Macon	54.20
Moultrie	Colquitt	53.55
Norman Park	Colquitt	53.55
Omega	Tift	53.90
Pinehurst	Dooly	53.90
Pitts	Wilcox	53.90
Rebecca	Turner	53.90
Rome	Floyd	54.20
Shelman	Randolph	53.55
Sycamore	Turner	53.90
Trion	Chatooga	54.20
Unadilla	Dooly	53.90
Vienna	Dooly	53.90
Wadley	Jefferson	54.20
Watkinsville	Oconee	54.60
Waynesboro	Burke	54.20
Wrightsville	Johnston	54.20
Yatesville	Upson	54.20
Louisiana		
Berme	Union	52.90
Cheneyville	Rapides	52.90
Columbia	Caldwell	53.15
Delhi	Richland	53.15
Ferriday	Concordia	53.15
Lake Providence	East Carroll	53.15
Mansfield	De Soto	52.90
Mer Rouge	Morehouse	53.15
Monroe	Ouachita	53.15
Natchitoches	Natchitoches	52.90
New Orleans	Orleans	53.15
Oak Grove	West Carroll	53.15
Plain Dealing	Rossier	52.90
Rayville	Richland	53.15
St. Joseph	Tensas	53.15
Tallulah	Madison	53.15
Winnboro	Franklin	53.15
Mississippi		
Aberdeen	Monroe	53.20
Batesville	Panola	53.20
Betzn	Humphreys	53.15
Canton	Madison	53.20
Clarkdale	Coahoma	53.15
Cleveland	Boivar	53.15
Como	Panola	53.20
Drew	Sunflower	53.15
Greenville	Washington	53.15
Greenwood	Leflore	53.15
Grenada	Grenada	53.20
Gulfport	Harrison	53.15
Holtandale	Washington	53.15
Holly Springs	Marshall	53.20
Houston	Chickasaw	53.20
Indianola	Sunflower	53.15
Inverness	Sunflower	53.15
Itta Bena	Leflore	53.15
Kearney Park	Madison	53.15
Kosciusko	Attala	53.20
Leland	Washington	53.15
Marks	Quitman	53.15

BASIS STRICT LOW MIDDLING WHITE 1½-
INCHES [4134]—Continued

(Cents per pound)

City	County	Loan rate
Missouri		
Arbyrd	Dunklin	53.15
Caruthersville	Pemiscot	53.15
Gideon	New Madrid	53.15
Kennett	Dunklin	53.15
Libour	New Madrid	53.15
Malden	Dunklin	53.15
Portageville	New Madrid	53.15
Sikeston	Scott	53.15
New Mexico		
Artesia	Eddy	52.25
Deming	Luna	52.05
Las Cruces	Doña Ana	52.25
Lovington	Lea	52.50
Roswell	Cheves	52.25
North Carolina		
Charlotte	Mecklenburg	54.90
Cherryville	Gaston	54.90
Conway	Northampton	54.90
Dunn	Harnett	54.90
Edenton	Chowan	54.90
Enfield	Halifax	54.90
Fayetteville	Cumberland	54.90
Jackson	Northampton	54.90
Laurinburg	Scotland	54.90
Lincolnton	Lincoln	54.90
Lumberton	Rosseson	54.90
Morven	Anson	54.90
Nashville	Nash	54.90
Pembroke	Robeson	54.90
Raeford	Hoke	54.90
Red Springs	Robeson	54.90
Roanoke Rapids	Halifax	54.90
Salisbury	Rowan	54.90
Scotland Neck	Halifax	54.90
Shelby	Cleveland	54.90
Smithfield	Johnston	54.90
Tarboro	Edgecombe	54.90
Wagram	Scotland	54.90
Weldon	Halifax	54.90
Wilson	Wilson	54.90
Oklahoma		
Altus	Jackson	52.70
Chickasha	Grady	52.70
Frederick	Tillman	52.70
Mountain View	Kiowa	52.70
South Carolina		
Abbeville	Abbeville	54.90
Barnberg	Barnberg	54.90
Bennettsville	Marboro	54.90
Bishopville	Lee	54.90
Calhoun Falls	Abbeville	54.90
Cameron	Calhoun	54.90
Chester	Chester	54.90
Clio	Marboro	54.90
Columbia	Richland	54.90
Dalzell	Sumter	54.90
Darlington	Darlington	54.90
Dillon	Dillon	54.90
Edgefield	Edgefield	54.90
Ellore	Orangeburg	54.90
Gaffney	Cherokee	54.90
Greenville	Greenville	54.90
Harrisville	Darlington	54.90
Lake City	Florence	54.90
Lamar	Darlington	54.90
Manning	Clarendon	54.90

BASIS STRICT LOW MIDDLING WHITE 1½-
INCHES [4134]—Continued

(Cents per pound)

City	County	Loan rate
Tennessee		
Brownsville	Haywood	53.20
Covington	Tipton	53.20
Dyersburg	Madison	53.20
Jackson	Madison	53.20
Memphis	Shelby	53.20
Milan	Gibson	53.20
Texas		
Abernathy	Hale	52.50
Ballinger	Runnels	52.70
Big Spring	Howard	52.50
Bovina	Parmer	52.50
Brownfield	Terry	52.50
Brownsville	Cameron	52.50
Bryan	Brazos	52.70
Cameron	Milam	52.70
Childress	Childress	52.70
Colorado City	Mitchell	52.70
Corpus Christi	Nueces	52.70
Concana	Navarro	52.70
Dimmitt	Castro	52.50
Enloe	Delta	52.90
Ennis	Ellis	52.70
Fabens	El Paso	52.25
Floydade	Floyd	52.50
Gainesville	Cooke	52.90
Galveston	Galveston	52.90
Greenville	Hunt	52.90
Hamlin	Jones	52.70
Harlingen	Cameron	52.50
Haskell	Haskell	52.70
Hearne	Robertson	52.70
Hillsboro	Hill	52.70
Houston	Harris	52.90
Hubbard	Hill	52.70
Kenedy	Karnes	52.70
Lamesa	Dawson	52.50
Levelland	Hockley	52.50
Littlefield	Lamb	52.50
Lockhart	Caldwell	52.70
Lockney	Floyd	52.50
Lubbock	Lubbock	52.50
McKinney	Collin	52.90
Memphis	Hall	52.70
Morton	Cochran	52.50
Muleshoe	Bailey	52.50
Navasota	Grimes	52.70
Needville	Fort Bend	52.90
Odonnell	Lynn	52.50
Pedcuh	Cottle	52.70
Pecos	Roeves	52.50
Plainview	Hale	52.50
Qusnah	Hardeman	52.70
Quitaque	Briscoe	52.50
Rails	Crosby	52.50
Raymondville	Willacy	52.50
Ruaring Springs	Motley	52.70
Ruchester	Haskell	52.70
Rule	Haskell	52.70
San Angelo	Tom Green	52.70
Seagraves	Caines	52.50
Seymour	Baylor	52.70
Slaton	Lubbock	52.50
Stamford	Jones	52.70
Stanton	Martin	52.50
Sudan	Lamb	52.50
Sweetwater	Nolan	52.70
Tahoka	Lynn	52.50
Taylor	Williamson	52.70
Temple	Bell	52.70
Texarkana	Bowie	52.90
Tulla	Swisher	52.50
Turkey	Hall	52.50
Vernon	Wilbarger	52.70

BASIS STRICT LOW MIDDLING WHITE 1½¹⁶-
INCHES [4134]—Continued

(Cents per pound)

City	County	Loan rate
Waco	McLennan	52.70

BASIS STRICT LOW MIDDLING WHITE 1½¹⁶-
INCHES [4134]—Continued

(Cents per pound)

City	County	Loan rate
Waxahachie	Ellis	52.70

(b) Schedule of Premiums and Discounts for Grade and Staple Length of
Eligible 1981-Crop Upland Cotton.[Basis strict low middling 1½¹⁶-inches, new weight]

Grade	Code	Staple length (inches)								
		13/16 through 29/32 (26-29)	15/16 (30)	31/32 (31)	1 (32)	1½ ¹⁶ (33)	1½ ¹⁶ (34)	1½ ¹⁶ (35)	1½ ¹⁶ (36)	1½ ¹⁶ and Longer (37 and longer)
Points per pound										
White:										
SM and better	(11 and 21)	-1010	-840	-585	-420	-20	+175	+210	+240	+345
MID plus	(30)	-1025	-855	-605	-440	-40	+150	+190	+225	+325
MID	(31)	-1035	-870	-610	-450	-55	+135	+170	+205	+300
SLM plus	(40)	-1075	-900	-655	-515	-135	+55	+90	+125	+220
SLM	(41)	-1100	-930	-685	-560	-185	B	+40	+70	+160
LM plus	(50)	-1185	-1025	-785	-685	-360	-205	-175	-160	-85
LM	(51)	-1235	-1075	-840	-745	-470	-320	-295	-255	-195
SGO plus	(60)	-1500	-1390	-1270	-1205	-925	-850	-835	-810	-810
SGO	(61)	-1545	-1445	-1320	-1255	-1000	-930	-920	-895	-895
GO plus	(70)	-1810	-1720	-1620	-1570	-1320	-1260	-1250	-1225	-1225
GO	(71)	-1855	-1765	-1665	-1620	-1385	-1335	-1320	-1300	-1300
Light spotted:										
SM and better	(12 and 22)	-1060	-895	-850	-515	-100	+75	+110	+140	+235
MID	(32)	-1095	-935	-680	-560	-185	-10	+25	+60	+155
SLM	(42)	-1190	-1060	-830	-720	-460	-315	-295	-250	-195
LM	(52)	-1425	-1295	-1160	-1130	-925	-860	-845	-825	-825
Spotted:										
SM and better	(13 and 23)	-1295	-1210	-1130	-1015	-830	-515	-505	-480	-480
MID	(33)	-1375	-1295	-1210	-1110	-805	-705	-700	-675	-675
SLM	(43)	-1515	-1435	-1355	-1305	-1080	-1030	-1020	-1000	-1000
LM	(53)	-1705	-1600	-1540	-1510	-1300	-1265	-1260	-1240	-1240
Tinged: ¹										
SM	(24)	-1565	-1490	-1460	-1435	-1410	-1395	-1395	-1155	-1155
MID	(34)	-1610	-1530	-1500	-1475	-1450	-1440	-1440	-1200	-1200
SLM	(44)	-1695	-1615	-1595	-1580	-1555	-1550	-1545	-1300	-1300
LM	(54)	-1810	-1740	-1715	-1695	-1675	-1665	-1660	-1415	-1415
Light gray:										
SM and better	(16 and 26)	-1265	-1080	-805	-670	-235	+5	+55	+110	+200
MID	(36)	-1415	-1230	-1000	-900	-540	-310	-275	-200	-145
SLM	(46)	-1745	-1615	-1450	-1330	-1035	-935	-900	-775	-775
Gray:										
SM and better	(17 and 27)	-1415	-1230	-1010	-910	-565	-355	-325	-255	-195
MID	(37)	-1750	-1620	-1455	-1330	-1105	-990	-955	-840	-840
SLM	(47)	-2105	-1975	-1855	-1785	-1520	-1420	-1390	-1260	-1260

Grade symbols: SM—Strict Middling; MID—Middling; SLM—Strict Low Middling; LM—Low Middling; SGO—Strict Good Ordinary; GO—Good Ordinary.

¹ Cotton classed as "Yellow Stained" (Middling and better grades) will be eligible for loan, if otherwise eligible, at a discount 200 points greater than the discount applicable to the comparable quality in the color group "Tinged."

(c) Schedule of Micronaire Differences for 1981-Crop Upland Cotton.

Micronaire reading	Points per pound
5.3 and above	-150
5.0 through 5.2	-70
3.5 through 4.9	0
3.3 through 3.4	-130
3.0 through 3.2	-365
2.7 through 2.9	-625
2.6 and below	-900

(d) Schedule of Loan Rates for Eligible Qualities of 1981-Crop Extra Long Staple Cotton by Location.(In cents per pound, net weight—micronaire 3.5 and above)¹

Grade	Staple length (inches)			
	1 $\frac{1}{2}$ and longer		1 $\frac{3}{4}$ and longer	
	Cotton stored in approved warehouses in—		Cotton stored in approved warehouses in—	
	Arizona and California	New Mexico, Texas and other States	Arizona and California	New Mexico, Texas and other States
1	103.70	104.40	104.15	104.65
2	103.20	103.90	103.70	104.40
3	102.75	103.45	103.20	103.90
4	101.35	102.05	101.85	102.55
5	94.40	95.10	94.65	95.35
6	80.55	81.25	80.80	81.50
7	66.05	66.75	66.25	66.95
8	60.20	60.90	60.45	61.15
9	58.20	58.90	58.45	59.15

¹ A micronaire premium of 95 points (0.95 cent) per pound is included in the loan rate for each eligible quality; thus, the national average loan rate reflected in the above schedule is 99.95 cents per pound. Cotton with micronaire readings below the micronaire range "3.5 and above" will be subject to the discounts in the schedule of micronaire differences for ELS cotton which follows:

(e) Schedule of Micronaire Differences for 1981-Crop Extra Long Staple Cotton.

Micronaire reading	Points per pound
3.5 and above	0
3.3 through 3.4	-205
3.0 through 3.2	-405
2.7 through 2.9	-815

(Secs. 4, 5, 62 Stat. 1070 (15 U.S.C. 714 b and c); secs. 101, 103, 401, 63 Stat. 1051, as amended, (7 U.S.C. 1441, 1444); sec. 602, 91 Stat. 934, as amended, (7 U.S.C. 1444); and sec. 102, 92 Stat. 240 (7 U.S.C. 1444).

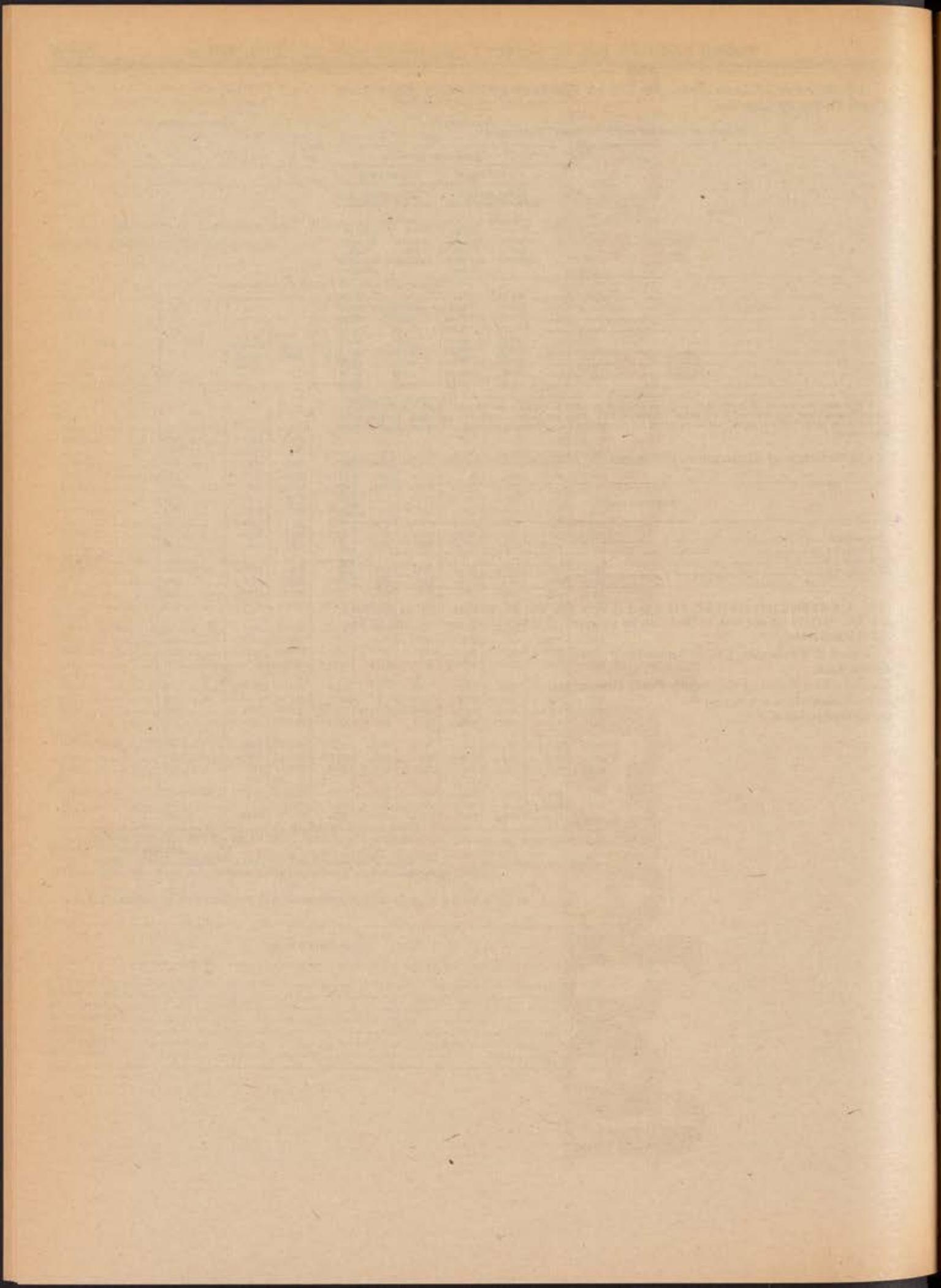
Signed at Washington, D.C. on September 21, 1981.

Everett Rank,

Executive Vice President, Commodity Credit Corporation.

[FR Doc. 81-28039 Filed 10-19-81; 8:45 am]

BILLING CODE 3410-05-M



federal register

Tuesday
October 20, 1981

Part III

Department of Agriculture

**Agricultural Stabilization and
Conservation Service**

**1981 Crop of Extra Long Staple Cotton,
Acreage Allotments and Marketing
Quotas**

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and
Conservation Service

7 CFR Part 722

1981 Crop of Extra Long Staple
Cotton; Acreage Allotments and
Marketing Quotas

AGENCY: Agricultural Stabilization and
Conservation Service, USDA.

ACTION: Final rule.

SUMMARY: The purpose of this rule is to delete from the Code of Federal Regulations certain regulations regarding extra long staple (ELS) cotton marketing quotas and acreage allotments. The national marketing quota and national acreage allotment for ELS, the apportionment of the national allotment to States, the period for conducting the national marketing quota referendum, the State reserves and county allotments, and the results of the national marketing quota referendum have been published each year in the *Federal Register* and later codified in the Code of the Federal Regulations. In order to avoid having to amend the Code of Federal Regulations annually and to eliminate unnecessary expenses, the proclamation of the national quota and allotment, the apportionment of such allotment to States, the dates for conducting the national marketing quota referendum, the State reserves and county allotments, and the results of the national marketing quota referendum will no longer be codified in the Code of Federal Regulations.

EFFECTIVE DATE: October 15, 1981.

FOR FURTHER INFORMATION CONTACT: Charles V. Cunningham, Chief, Program Analysis Branch, Production Adjustment Division, USDA-ASCS, P.O. Box 2415, Washington, D.C. 20013 (202) 447-7873.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed in

accordance with the provisions of Executive Order 12291 and Secretary's Memorandum No. 1512-1 and has been classified "not major" because it will not result in: (1) An annual effect on the economy of \$100 million or more; (2) major increases in costs or prices for consumers, individual industries, Federal, State, or local Government agencies, or geographic regions; or (3) significant adverse impacts on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The title and number of the federal assistance program that this notice applies to are: Title—Cotton Production Stabilization, number—10.052, as found in the Catalog of Federal Domestic Assistance.

This action will not have a significant impact specifically on area and community development. Therefore, review as established under OMB Circular A-95 was not used to assure that units of local government are informed of this action.

It has been determined that the Regulatory Flexibility Act is not applicable to this rule since the Agricultural Stabilization and Conservation Service (ASCS) is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this rule.

This rule makes no substantive changes but deletes the codification of the national marketing quota and national acreage allotment for ELS cotton, the apportionment of the national acreage allotment to States, the national marketing quota referendum for ELS cotton, the State reserves and county allotments for ELS cotton, and the results of the marketing quota referendum for ELS cotton. In the past, these determinations and proclamations have been published final rules that were later codified in the Code of

Federal Regulations. Effective with the 1982 crop of ELS cotton, these determinations and proclamations will appear only as notices in the *Federal Register*. The regulations previously published at 7 CFR 722.558-722.562 and 722.564 relating to these proclamations and determinations shall remain applicable to the marketing year to which each refers.

PART 722—COTTON

Final Rule

Accordingly, the following portions of 7 CFR Part 722 are hereby removed from the Code of Federal Regulations:

Subpart—1981 Crop of Extra Long Staple Cotton; Acreage Allotments and Marketing Quotas [Removed]

§§ 722.558 through 722.562 and 722.564
[Removed]

Subpart—1981 Crop of-Extra Long Staple Cotton; Acreage Allotments and Marketing Quotas; § 722.558, National marketing quota for the 1981 crop of ELS cotton; § 722.559, National acreage allotment for the 1981 crop of ELS cotton; § 722.560, Apportionment of national acreage allotment to the States; § 722.561, National marketing quota referendum for the 1981 crop of extra long staple cotton; § 722.562, State reserves and county allotments for the 1981 crop of extra long staple cotton; and § 722.564, Result of the national marketing quota referendum for the 1981 crop of extra long staple cotton.

(Secs. 301, 343, 344, 347, 375; 52 Stat. 38, as amended; 63 Stat. 670, as amended; 63 Stat. 675, as amended; 52 Stat. 66, as amended (7 U.S.C. 1301, 1343, 1344, 1347, 1375))

Signed at Washington, D.C. on October 15, 1981.

Everett Rank,

Administrator, Agricultural Stabilization and
Conservation Service.

[FR Doc. 81-30273 Filed 10-15-81; 12:05 pm]

BILLING CODE 3410-05-M

DEPARTMENT OF AGRICULTURE

Office of the Secretary

1982 Crop Extra Long Staple (ELS) Cotton; National Marketing Quota and National Acreage Allotment

ACTION: Notice of determinations of a national marketing quota and national acreage allotment for the 1982 crop of extra long staple (ELS) cotton.

SUMMARY: The purpose of this notice is to announce that it has been determined that a national marketing quota of 157,000 bales and a national acreage allotment of 120,191 acres shall be in effect for the 1982 crop of extra long staple (referred to as "ELS") cotton. This notice also apportions the national acreage allotment to States and establishes the period for conducting a national marketing quota referendum in order to determine whether ELS producers favor or oppose the marketing quota. This notice is needed to satisfy statutory requirements of the Agricultural Adjustment Act of 1938, as amended (hereinafter referred to as the "Act").

EFFECTIVE DATE: October 15, 1981.

FOR FURTHER INFORMATION CONTACT: Charles V. Cunningham, Chief, Program Analysis Branch, Production Adjustment Division, USDA-ASCS, P.O. Box 2415, Washington, D.C. 20013, (202) 447-7873. The Final Regulatory Impact Analysis describing the options considered in developing this notice of determinations is available on request from the above named individual.

SUPPLEMENTARY INFORMATION: This notice of determinations has been reviewed in accordance with the provisions of Executive Order 12291 and Secretary's Memorandum No. 1512-1 and has been classified "not major" because it will not result in: (1) An annual effect on the economy of \$100 million or more; (2) major increases in costs or prices for consumers, individual industries, Federal, State, or local Government agencies, or geographic regions; or (3) significant adverse impacts on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The title and number of the federal assistance program that this notice applies to are: Title—Cotton Production Stabilization, number—10.052, as found

in the Catalog of Federal Domestic Assistance.

This action will not have a significant impact specifically on area and community development. Therefore, review as established under OMB Circular A-95 was not used to assure that units of local government are informed of this action.

It has been determined that the Regulatory Flexibility Act is not applicable to this notice since there is no requirement that a notice of proposed rulemaking be published with respect to the subject matter of these determinations in accordance with 5 U.S.C. 553 or any other provision of law.

A notice that the Secretary was preparing to make these determinations was published in the *Federal Register* on July 28, 1981 (46 FR 38549). One comment was received recommending a national marketing quota of 157,000 bales and a national acreage allotment of 120,000 acres. This recommendation is reflected in the determination of the quota and allotment levels.

Section 347(b)(1) of the Act provides that the Secretary shall proclaim the amount of the National marketing quota for the 1982 crop of ELS cotton by October 15, 1981. Such marketing quota shall be the number of standard bales of ELS cotton equal to the sum of the estimated domestic consumption and estimated exports, less estimated imports, for the 1982-83 marketing year beginning August 1, 1982, plus such additional number of bales, if any, as the Secretary determines necessary to assure adequate working stocks in trade channels until ELS cotton from the 1983 crop becomes readily available without resort to Commodity Credit Corporation (CCC) stocks. At present, CCC stocks are insignificant.

Section 344(a) of the Act provides that the national acreage allotment for the 1982 crop of ELS cotton shall be that acreage determined by multiplying the national marketing quota in bales by 480 pounds (net weight of a standard bale) and dividing the result by the national average yield per acre of ELS cotton for the four calendar years 1977, 1978, 1979, and 1980. The national average yield per planted acre during this four year period was 627 pounds.

Sections 344 (b) and (e) of the Act provide that the national acreage allotment for the 1982 crop of ELS cotton shall be apportioned to States and counties on the basis of the acreage planted to ELS cotton, (including

acreage regarded as having been planted) during the five calendar years 1976, 1977, 1978, 1979, and 1980, adjusted for abnormal weather conditions during such period.

Section 343 of the Act requires the Secretary to conduct a referendum by secret ballot of the farmers engaged in the production of ELS cotton during 1981 by December 15, 1981, to determine whether such farmers are in favor of or opposed to the quota. If more than one-third of the farmers voting in the referendum oppose the national marketing quota, such quota shall become ineffective upon proclamation of the results of the referendum.

The national marketing quota, the national acreage allotment, apportionment of the national allotment to States and dates for conducting a national marketing quota referendum of producers with respect to ELS cotton set forth herein are being published as a Notice of Determination and will no longer be codified in the Code of Federal Regulations. Such determinations will hereafter be published annually as notices in the *Federal Register*.

In accordance with these statutory requirements, the following determinations have been made.

Determinations

1. National Marketing Quota. In accordance with Section 347(b)(1) of the Act, the national marketing quota for the 1982 crop of ELS cotton is hereby determined to be 157,000 bales. This determination is based on the following:

	Bales
Estimated domestic consumption, 1982-83	67,000
Estimated exports, 1982-83	38,000
Less estimated imports, 1982-83	2,000
Plus stock adjustment	54,000
Total	157,000

2. National Acreage Allotment. In accordance with Section 344(a) of the Act, the national acreage allotment for the 1982 crop of ELS cotton is hereby determined to be 120,191 acres. This is determined by multiplying the national marketing quota of 157,000 bales by 480 pounds per bale and dividing the result by the four-year average yield per planted acre of 627 pounds.

3. Apportionment of the national allotment to States. The national acreage allotment has been apportioned to States in accordance with Sections 344 (b) and (e) of the Act as follows:

State	State allotment (acres)
Arizona	52,465
California	333
Florida	150
Georgia	159
New Mexico	23,954
Texas	43,110
U.S. total	120,181

4. *Dates for conducting a national marketing quota referendum of producers.* In accordance with Section 343 of the Act, a national marketing quota referendum shall be held December 7 through 11, 1981, inclusive, by mail ballot.

(Secs. 301, 343, 344, 347, 375; 52 Stat. 38, as amended; 63 Stat. 670, as amended; 63 Stat. 675, as amended; 52 Stat. 66, as amended (7 U.S.C. 1301, 1343, 1344, 1347, 1375))

Signed at Washington, D.C. on October 14, 1981.

Richard E. Lyng,
Acting Secretary.

[FR Doc. 81-30274 Filed 10-15-81; 12:05 pm]

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federal register

Tuesday
October 20, 1981

Part IV

**Department of the
Interior**

National Park Service

World Heritage Convention

DEPARTMENT OF THE INTERIOR

National Park Service

36 CFR Part 73

World Heritage Convention

AGENCY: National Park Service, Interior.
ACTION: Proposed rules.

SUMMARY: The proposed rules set forth the policies and procedures that the Department of the Interior, through the National Park Service, proposes to use to direct and coordinate United States participation in the Convention Concerning the Protection of the World Cultural and Natural Heritage, including the identification and preparation of U.S. nominations to the World Heritage List, and other activities under the Convention. The proposed rules draw on experience with implementing the Convention following its ratification by the United States Senate on October 26, 1973, and reflect new requirements contained in the National Historic Preservation Act Amendments of 1980 (94 Stat. 3000; 16 U.S.C. 470a-1, a-2). If adopted, the proposed rules would formalize the Department's World Heritage procedures, and would make available to other Federal agencies, State and local governments, private organizations, and individuals information on the Convention and means through which they may participate. Interested agencies, organizations, and individuals are encouraged to provide comments on the proposed rules. All comments received will be considered in the preparation of final rules for implementing the World Heritage Convention.

DATES: All interested parties are encouraged to submit written comments or recommendations regarding the proposed rules no later than December 21, 1981.

ADDRESS: Written comments or requests for more information should be sent to the Director, National Park Service, U.S. Department of the Interior, Washington, D.C. 20240 (Attn: World Heritage Convention—773).

FOR FURTHER INFORMATION CONTACT: Mr. Robert A. Ritsch, Acting Associate Director, Recreation Resources, National Park Service, Washington, D.C. 20240 (202-343-4462).

SUPPLEMENTARY INFORMATION: On January 13, 1981, the Department of the Interior published interpretive guidelines for implementing the World Heritage Convention (46 FR 3073). The guidelines set forth the interpretation that the Department will use to carry out provisions of Title IV of the National

Historic Preservation Act Amendments of 1980 on an interim basis pending publication of formal rules.

The Department of the Interior will implement its responsibilities under the World Heritage Convention in accordance with the statutory mandate of Title IV of the National Historic Preservation Act Amendments of 1980 (Pub. L. 96-515), which reads as follows:

Title IV—International Activities and World Heritage Convention

Sec. 401(a) The Secretary of the Interior shall direct and coordinate United States participation in the Convention Concerning the Protection of the World Cultural and Natural Heritage, approved by the Senate on October 26, 1973, in cooperation with the Secretary of State, the Smithsonian Institution, and the Advisory Council on Historic Preservation. Whenever possible, expenditures incurred in carrying out activities in cooperation with other nations and international organizations shall be paid for in such excess currency of the country or area where the expense is incurred as may be available to the United States.

(b) The Secretary of the Interior shall periodically nominate properties he determines are of international significance to the World Heritage Committee on behalf of the United States. No property may be so nominated unless it has previously been determined to be of national significance. Each such nomination shall include evidence of such legal protections as may be necessary to ensure preservation of the property and its environment (including restrictive covenants, easements, or other forms of protection). Before making any such nomination, the Secretary shall notify the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate.

(c) No non-Federal property may be nominated by the Secretary of the Interior to the World Heritage Committee for inclusion on the World Heritage List unless the owner of the property concurs in writing to such nomination.

Sec. 402. Prior to the approval of any Federal undertaking outside the United States which may directly and adversely affect a property which is on the World Heritage List or on the applicable country's equivalent of the National Register, the head of a Federal agency having direct or indirect jurisdiction over such undertaking shall take into account the effect of the undertaking on such property for purposes of avoiding or mitigating any adverse effects.

Program Information

The Convention Concerning the Protection of the World Cultural and Natural Heritage, ratified by the United States and 58 other Nations as of this date, has established a means through which natural and cultural properties of outstanding universal value to mankind may be recognized and protected. The Convention seeks to put into place an

orderly approach for coordinated and consistent heritage resource protection and enhancement throughout the world.

The Convention complements each participating nation's heritage conservation programs and provides for:

(a) The establishment of a 21-member World Heritage Committee within UNESCO to further the goals of the Convention and to approve properties for inclusion on the World Heritage List;

(b) The development and maintenance of a World Heritage List to be comprised of natural and cultural properties of outstanding universal value;

(c) The preparation of a List of World Heritage in Danger;

(d) The establishment of a World Heritage Fund, with a primary function to assist participating countries in preserving and protecting endangered World Heritage properties;

(e) The provision of technical assistance to participating countries, upon request; and

(f) The promotion and enhancement of public knowledge and understanding of the vital importance of heritage conservation at the international level.

Participating nations identify and nominate sites for inclusion on the World Heritage List, which currently is comprised of 85 cultural and natural properties. The World Heritage Committee judges all nominations against established criteria. Under the Convention, each participating nation assumes responsibility for taking appropriate legal, scientific, technical, administrative, and financial measures necessary for the identification, protection, conservation, presentation, and rehabilitation of World Heritage properties situated within its borders.

A Federal Interagency Panel for World Heritage makes recommendations to the Secretary on proposed U.S. nominations and related matters. The panel includes representatives from the Office of the Assistant Secretary for Fish and Wildlife and Parks, the National Park Service and the U.S. Fish and Wildlife Service within the Department of the Interior; the President's Council on Environmental Quality; the Smithsonian Institution; the Advisory Council on Historic Preservation; and the Department of State.

Public Comments

The January 13, 1981, Federal Register notice (46 FR 3073) requested comments on the Department's interpretive guidelines for implementing the Convention, indicating that any comments received would be considered in the formal rulemaking process.

In response to the notice, two comments were received on the guidelines, both dealing with the same basic issue: the current limitation of possible U.S. World Heritage nominations to only those properties owned or controlled by Federal, State and/or local governments, thereby excluding privately held properties from consideration at the present time. Both respondents expressed the strong belief that by considering only public properties, the United States is limiting itself in a way that other participating nations are not.

It was pointed out that the World Heritage List already includes many properties throughout the world that are not under government control, e.g., historic Center of Quito, Ancient Thebes, Historic Center of Rome, and the Ancient City of Damascus. The importance of private organizations and individuals to American heritage conservation was stressed as follows:

"The private sector represents the dominant holding of cultural resources in this country, and to deny them the recognition they deserve under this program makes a worldwide statement that the United States considers only those properties publicly held to be significant enough for the World Heritage List. The program is the highest international statement of recognition * * *

As stated in the January 13 notice, the Department recognizes that some privately held properties may possess universally significant cultural and/or natural values. United States participation in the Convention is an evolutionary process. In 1981, for the first time, properties owned or controlled by State and/or local governments are actively being considered for nomination along with Federal properties. The Department is currently examining measures that will help ensure that all U.S. World Heritage properties are maintained and protected, regardless of ownership. For private properties, such arrangements may ultimately include covenants, easements, maintenance agreements, or other forms of less-than-fee protection, as proposed in § 73.13. It is anticipated that the public property limitation will remain in effect only until final rules are published.

Adequate protection measures must be in place before any property, either public or private, may be considered for nomination. Article 5 of the Convention mandates that each participating nation, insofar as possible, shall "take the appropriate legal, scientific, technical, administrative, and financial measures necessary for the identification, protection, conservation, presentation, and rehabilitation" of World Heritage

properties within its borders. In addition, Section 401(b) of the National Historic Preservation Act Amendments of 1980 requires that, "each such nomination shall include evidence of such legal protections as may be necessary to ensure preservation of the property and its environment" (94 Stat. 3000; 16 U.S.C. 470a-1). Thus, both treaty and legislative mandates require that adequate protection measures be provided for prior to nomination. The Secretary, based on advice of counsel, must be satisfied that each nominated site has adequate legal protection to ensure its continued preservation.

Delegation of Secretarial Authority

The Secretary of the Interior has delegated to the Assistant Secretary for Fish and Wildlife and Parks his authority to direct and coordinate U.S. participation in the World Heritage Convention, including setting U.S. World Heritage policy and procedures, approving and transmitting U.S. nominations to the World Heritage List, and preparing formal rules to implement the Convention.

Significance Statement

The Department of the Interior has determined that this document is not a major rule, and that a regulatory impact analysis is not required under provisions of Executive Order 12291 and 43 CFR Part 14.

Furthermore, an environmental assessment of the proposed rules has been prepared in accordance with the National Environmental Policy Act of 1969 (83 Stat. 852; 42 U.S.C. 4321 et seq.). Based on this assessment, it has been determined that this rulemaking is not a major Federal action significantly affecting the quality of the human environment, and that an environmental impact statement is not required. The assessment is on file in the International Affairs Branch, Cooperative Activities Division, National Park Service, Department of the Interior, Washington, D.C. 20240.

Authorship Statement

The primary author of this document is Mr. James F. Orr, International Affairs Branch, Cooperative Activities Division, National Park Service, U.S. Department of the Interior, Washington, D.C. 20240 (202-523-0150).

It is proposed that Title 36, Chapter I of the Code of Federal Regulations be amended by adding a new Part 73, reading as follows:

PART 73—WORLD HERITAGE CONVENTION

Sec.

- 73.1 Purpose.
- 73.3 Definitions.
- 73.5 Authority.
- 73.7 World Heritage nomination process.
- 73.9 World Heritage criteria.
- 73.11 Federal Interagency Panel for World Heritage.
- 73.13 Protection of U.S. World Heritage Properties.
- 73.15 International World Heritage Activities.
- 73.17 Public information and education activities.

Authority: 94 Stat. 3000; 16 U.S.C. 470a-1, a-2, d.

§ 73.1 Purpose.

The purpose of these rules is to set forth the policies and procedures that the Department of the Interior, through the National Park Service, uses to direct and coordinate United States participation in the Convention Concerning the Protection of the World Cultural and Natural Heritage. The rules describe the procedures to implement the Convention, which was ratified by the Senate on October 26, 1973, and the National Historic Preservation Act Amendments of 1980. The purpose of the World Heritage Convention is to enhance worldwide understanding and appreciation of heritage conservation, and to recognize and preserve natural and cultural properties throughout the world that have outstanding universal value to mankind.

§ 73.3 Definitions.

"*Cultural Heritage*," as defined in Article 1 of the Convention, means: monuments: architectural works, works of monumental sculpture and painting, elements or structures of an archeological nature, inscriptions, cave dwellings, and combinations of features, which are of outstanding universal value from the point of view of history, art or science; groups of buildings: groups of separate or connected buildings which, because of their architecture, their homogeneity or their place in the landscape, are of outstanding universal value from the point of view of history, art or science; and sites: works of man or the combined works of nature and of man, and areas including archeological sites which are of outstanding universal value from the historical, aesthetic, ethnological or anthropological points of view.

"*Natural Heritage*," as defined in Article 2 of the Convention, means:

natural features, consisting of physical and biological formations or groups of such formations, which are of outstanding universal value from the aesthetic or scientific point of view; geological and physiographical formations and precisely delineated areas which constitute the habitat of threatened species of animals and plants of outstanding universal value from the point of view of science or conservation; and

natural sites or precisely delineated natural areas of outstanding universal value from the point of view of science, conservation, or natural beauty.

"Intergovernmental Committee for the Protection of the World Cultural and Natural Heritage," or "World Heritage Committee," means the Committee established by Article 8 of the Convention located within the United Nations Educational, Scientific and Cultural Organization. It is composed of representatives from 21 nations participating in the Convention, and is responsible for implementing the Convention at the international level. Representatives are elected by participating nations and serve for three years. The Committee establishes criteria which properties must satisfy for inclusion on the World Heritage List, sets policy and procedures, and approves properties for inclusion on the World Heritage List.

"World Heritage Convention," or "Convention," means the Convention Concerning the Protection of the World Cultural and Natural Heritage, approved by the U.S. Senate on October 26, 1973.

"World Heritage List," means the List established by Article 11 of the Convention which includes those cultural and natural properties judged to possess outstanding universal value for mankind.

"UNESCO," means the United Nations Educational, Scientific and Cultural Organization, which has overall responsibility for the Convention and its implementation.

"Secretary," means the Secretary of the Interior, or the designee authorized to carry out the Secretary's responsibilities.

"Assistant Secretary," means the Assistant Secretary for Fish and Wildlife and Parks, Department of the Interior, or the designee authorized to carry out the Assistant Secretary's responsibilities.

"Director," means the Director of the National Park Service, Department of the Interior, or the designee authorized to carry out the Director's responsibilities.

"Federal Interagency Panel for World Heritage," or "Panel," means the Panel consisting of representatives from the Office of the Assistant Secretary, the National Park Service, and the U.S. Fish and Wildlife Service within the Department of the Interior; the President's Council on Environmental Quality; the Smithsonian Institution; the Advisory Council on Historic Preservation; and the Department of State.

"Owner," means the individual(s) or organization(s) of record that own private land, or the head of the public agency, or subordinate to whom such authority has been delegated, responsible for administering public land.

§ 73.5 Authority.

The policies and procedures contained herein are based on the authority of the Secretary of the Interior under Title IV of the National Historic Preservation Act Amendments of 1980 (Pub. L. 96-515; 94 Stat. 3000; 16 U.S.C. 470 a-1, a-2), which directs the Secretary to ensure and direct U.S. participation in the Convention Concerning the Protection of the World Cultural and Natural Heritage, approved by the U.S. Senate on October 26, 1973, in cooperation with the Secretary of State, the Smithsonian Institution, and the Advisory Council on Historic Preservation.

§ 73.7 World Heritage nomination process.

(a) *Overview.* The Assistant Secretary periodically nominates properties which appear to be of outstanding universal value to the World Heritage Committee on behalf of the United States. The identification, preparation, evaluation, and approval of U.S. nominations is an annual process (January-December) which is initiated through a Federal Register notice that requests recommendations from interested public and private sources. The Assistant Secretary subsequently selects potential U.S. nominations from the recommendations received and from its own sources. The Assistant Secretary, working in cooperation with the Federal Interagency Panel for World Heritage, selects a limited number of proposed nominations from among the potentials. A detailed nomination document is prepared for each property identified as a proposed nomination. The Panel reviews the accuracy and completeness of the draft nominations, and makes recommendations to the Assistant Secretary. If approved, the Assistant Secretary transmits the U.S. nominations, through the Department of State, to UNESCO for review and

approval by the World Heritage Committee during the following year.

(b) *Identification.* (1) *Process.* Suggestions of cultural and natural properties for consideration as potential U.S. nominations are solicited through a notice which is published in the Federal Register in January of each year. The National Park Service (NPS) is responsible for preparing, publishing, and distributing the notice. This notice:

(i) Sets forth the annual schedule for identifying and preparing U.S. nominations to the World Heritage List, including specific deadlines for receipt of suggestions and comments;

(ii) Solicits suggestions of properties for consideration as potential U.S. nominations; and

(iii) Identifies any special requirements that properties must satisfy to be considered for possible nomination.

The notice provides at least 60 days for interested parties to provide suggestions before any decisions are made regarding potential U.S. nominations.

(2) *Requirements.* In order for a U.S. property to be considered for possible nomination to the World Heritage List, it must satisfy the following requirements:

(i) The property must have previously been determined to be of national significance (16 U.S.C. 470a-1). For the purposes of these rules, "national significance," refers to properties designated as National Historic Landmarks (36 CFR Part 65) or National Natural Landmarks (36 CFR Part 62) by the Secretary of the Interior under provisions of the 1935 Historic Sites Act (Pub. L. 74-292; 49 Stat. 666; 16 U.S.C. 461 et seq.), or areas of national significance established by the Congress of the United States;

(ii) The property's owner(s) must concur in writing to the nomination (16 U.S.C. 470a-1). In the case of properties owned or controlled by Federal, State, and/or local governments, a letter from the owner(s) would demonstrate concurrence. In the case of properties owned or controlled by private parties, the protection agreement outlined in § 73.13(c) would demonstrate concurrence; and

(iii) The nomination document must include evidence of such legal protections as may be necessary to ensure the preservation of the property and its environment (16 U.S.C. 470a-1). The protection requirements for public and private properties are identified in § 73.13.

(3) *Inventory.* The National Park Service compiles and maintains an indicative inventory of cultural and natural properties located within the

United States which may be considered for future nomination to the World Heritage List. The inventory is a tentative list of properties that the United States may nominate at some point in the future. However, inclusion of a property on the inventory does not commit the Department to nominate it. Properties included on this inventory are drawn from the suggestions received from any interested party and from the Department's own sources. This inventory provides a broad context within which the outstanding universal value of a property may be evaluated. The Assistant Secretary transmits a copy of the inventory of possible U.S. nominations, including documentation on each property's location and significance, to the World Heritage Committee for use in its evaluation of nominations, as requested by Article 11 of the Convention.

(4) *Selection of Potential Nominations.* After the notice's suggestion period has expired, the National Park Service compiles all suggestions received, and determines whether the suggested properties satisfy the requirements set forth in paragraph (b)(2) of this section. Using the suggestions received and drawing on its own sources, the Assistant Secretary identifies a list of potential U.S. nominations for a given year, in cooperation with the Federal Interagency Panel for World Heritage, as appropriate. Considerations in the selection of potential nominations include:

- (i) How well the property satisfies the World Heritage criteria (§ 73.9);
- (ii) How well the particular type of property (i.e., theme) is already represented on the World Heritage List;
- (iii) Whether the property satisfies the requirements set forth in paragraph (b)(2) of this section;
- (iv) The balance between cultural and natural properties already included on the List and those currently under consideration;
- (v) The opportunities afforded by the property for public visitation, interpretation, and education; and
- (vi) Other factors, including public interest and awareness of the area, potential threats to the property's integrity, or its current state of preservation.

Following selection of potential U.S. nominations, the NPS publishes this list in the *Federal Register* and solicits comments on the potential nominations for a period of not less than 30 days.

(5) *Selection of Proposed Nominations.* Following completion of the comment period in paragraph (b)(4)

of this section, the NPS compiles all comments received on the potential nominations. The Assistant Secretary prepares a final list of proposed nominations, in cooperation with the Federal Interagency Panel for World Heritage. The comments received, along with the factors identified in paragraph (b)(4) of this section, are used in evaluating each of the potential nominations. Selection of a property as a proposed nomination indicates that a detailed nomination document will be prepared for the property. The decision to nominate a property is made at a later point in the process. (See paragraph (f) of this section.)

(c) *Notification.* Following selection of the final proposed U.S. nominations, the Assistant Secretary publishes the list in the *Federal Register*. In addition, the Assistant Secretary notifies the following parties in writing:

- (1) The property's owner(s); and
- (2) The Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate.

The notice advises the recipients of the proposed action, references these rules, and sets forth the process that will be followed in preparing the nominations.

(d) *Nomination Preparation.* Following selection of the final proposed nomination(s), the NPS coordinates arrangements for the preparation of a detailed nomination document for each property. The owner(s) of the proposed property, in cooperation with the NPS, is responsible for preparing draft nomination documents and for gathering necessary documentation in support of the nomination. The NPS oversees the nomination preparation process, including professional evaluation of all documents, prior to the final selection of properties for nomination. In addition, the NPS ensures that the procedural guidelines set forth by the World Heritage Committee and contained in these rules are satisfied. Each nomination is prepared according to the format and requirements established by the World Heritage Committee, and according to the schedule set forth in the annual January *Federal Register* notice ((b)(1)).

(e) *Nomination Evaluation.* Following completion of the draft nomination document(s), the NPS coordinates their review and evaluation. The NPS distributes copies to all representatives on the Panel, with a request for comments regarding the adequacy of the nomination document and the significance of the property being nominated. The NPS compiles the

recommendations and comments of the Panel.

(f) *Nomination.* The Assistant Secretary, based on his/her evaluation and the recommendations of the Panel, nominates properties which appear to possess outstanding universal value to the World Heritage Committee on behalf of the United States. The Assistant Secretary transmits the nomination(s), through the Department of State, to UNESCO. The nomination(s) should be transmitted so that they are received by UNESCO no later than December 30 of a given year.

(g) *Notification.* Prior to transmitting the nomination, as in paragraph (f) of this section, the Assistant Secretary publishes notice of this action in the *Federal Register*. In addition, the Assistant Secretary notifies the following parties, in writing, of the nomination(s):

- (1) The property's owner(s); and
- (2) The Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate.

§ 73.9 World Heritage criteria.

The World Heritage Committee has adopted the following criteria which it uses to evaluate the World Heritage potential of cultural and natural properties nominated to it:

(a) *Criteria for the inclusion of cultural properties on the World Heritage List.* (1) A monument, group of buildings or site—as defined in Article I of the Convention—which is nominated for inclusion in the World Heritage List will be considered to be of outstanding universal value for the purposes of the Convention when the Committee finds that it meets one or more of the following criteria and the test of authenticity. Each property nominated should therefore:

- (i) Represent a unique artistic achievement, a masterpiece of the creative genius; or
- (ii) Have exerted great influence, over a span of time or within a cultural area of the world, on developments in architecture, monumental arts or townplanning and landscaping; or
- (iii) Bear a unique or at least exceptional testimony to a civilization which has disappeared; or
- (iv) Be an outstanding example of a type of structure which illustrates a significant stage in history; or
- (v) Be an outstanding example of a traditional human settlement which is representative of a culture and which has become vulnerable under the impact of irreversible change; or

(vi) Be directly or tangibly associated with events or with ideas or beliefs of outstanding universal significance (The Committee considered that this criterion should justify inclusion in the List only in exceptional circumstances or in conjunction with other criteria); and In addition, the property must meet the test of authenticity in design, materials, workmanship or setting. (The Committee stressed that construction is only acceptable if it is carried out on the basis of complete and detailed documentation on the original and to no extent on conjecture).

(2) The following additional factors will be kept in mind by the Committee in deciding on the eligibility of a cultural property for inclusion on the List: (i) the property, including its state of preservation, should be evaluated relatively, that is, it should be compared with other property of the same type dating from the same period, both inside and outside the country's borders; and (ii) nominations of immovable property which is likely to become movable will not be considered.

(b) *Criteria for the inclusion of natural properties on the World Heritage List.* (1) A natural heritage property—as defined in Article 2 of the Convention—which is submitted for inclusion in the World Heritage List will be considered to be of outstanding universal value for the purposes of the Convention when the Committee finds that it meets one or more of the following criteria and fulfills the conditions of integrity set out below. Properties nominated should therefore:

(i) Be outstanding examples representing the major stages of the earth's evolutionary history; or
(ii) Be outstanding examples representing significant ongoing geological processes, biological evolution, and man's interaction with his natural environment; as distinct from the periods of the earth's development, this focuses upon ongoing processes in the development of communities, of plants and animals, landforms, and marine and fresh water bodies; or

(iii) Contain superlative natural phenomena, formations or features or areas of exceptional natural beauty, such as superlative examples of the most important ecosystems, natural features, spectacles presented by great concentrations of animals, sweeping vistas covered by natural vegetation and exceptional combinations of natural and cultural elements; or

(iv) Contain the most important and significant natural habitats where threatened species of animals or plants

of outstanding universal value from the point of view of science or conservation still survive.

(2) In addition to the above criteria, the sites should also fulfill the conditions of integrity:

(i) The areas described in paragraph (b)(1)(i) of this section should contain all or most of the key interrelated and interdependent elements in their natural relationships: for example, an "ice age" area would be expected to include the snow field, the glacier itself and samples of cutting patterns, deposition and colonization (striations, moraines, pioneer stages of plant succession, etc.).

(ii) The areas described in paragraph (b)(1)(ii) of this section should have sufficient size and contain the necessary elements to demonstrate the key aspects of the process and to be self-pertaining. For example, an area of "tropical rain forest" may be expected to include some variation in elevation above sea level, changes in topography and soil types, river banks or oxbow lakes, to demonstrate the diversity and complexity of the system.

(iii) The areas described in paragraph (b)(1)(iii) of this section should contain those ecosystem components required for the continuity of the species or of the objects to be conserved. This will vary according to individual cases; for example, the protected area of a waterfall would include all, or as much as possible, of the supporting upstream watershed; or a coral reef area would be provided with control over siltation or pollution through the stream flow or ocean currents which provide its nutrients.

(iv) The area containing threatened species as described in paragraph (b)(1)(iv) of this paragraph should be of sufficient size and contain necessary habitat requirements for the survival of the species.

(v) In the case of migratory species, seasonal sites necessary for their survival, wherever they are located, should be adequately protected. The Committee must receive assurances that the necessary measures be taken to ensure that the species are adequately protected throughout their full life cycle. Agreements made in this connection, either through adherence to international conventions or in the form of other multilateral or bilateral arrangements, would provide this assurance.

(3) The property should be evaluated relatively, that is, it should be compared with other properties of the same type, both inside and outside the country's borders, within a biogeographic province, or migratory pattern.

§ 73.11 Federal Interagency Panel for World Heritage.

(a) *Responsibilities.* The Federal Interagency Panel for World Heritage is established to advise the Department of the Interior on a variety of World Heritage matters, including:

(1) The development of policy and procedures for effectively implementing the Convention in the United States;
(2) The evaluation of draft U.S. nominations to the World Heritage List;
(3) The approval of draft U.S. nominations;
(4) The dissemination of information on the Convention within other Federal agencies; and

(5) The promotion of increased awareness and understanding of the importance of heritage conservation.

(b) *Composition.* (1) The Federal Interagency Panel for World Heritage is composed of representatives, named by their respective agencies, from the following agencies and offices:

(i) The Office of the Assistant Secretary for Fish and Wildlife and Parks;

(ii) The National Park Service, Department of the Interior;

(iii) The U.S. Fish and Wildlife Service, Department of the Interior;

(iv) The President's Council on Environmental Quality;

(v) The Smithsonian Institution;

(vi) The Advisory Council on Historic Preservation; and

(vii) The Department of State.

(2) The Assistant Secretary, or his/her designee, chairs the Panel, and sets its agenda and schedule. The NPS provides staff support to the Panel.

§ 73.13 Protection of U.S. World Heritage Properties.

(a) *Requirements.* (1) Article 5 of the Convention mandates that each participating nation shall take, insofar as possible, the appropriate legal, scientific, technical, administrative, and financial measures necessary for the identification, protection, conservation, presentation, and rehabilitation of properties of outstanding universal value; and

(2) Title IV of Pub. L. 96-515 requires that no non-Federal property may be nominated to the World Heritage List unless the owner concurs in writing to such nomination. The nomination document for each property must include evidence of such legal protections as may be necessary to ensure preservation of the property and its environment, including, for example, restrictive covenants, easements, and other forms of protection (16 U.S.C. 470a-1).

(b) *Protection Measures for Public Properties.* For properties owned or controlled by Federal, State, and/or local governments, the following items satisfy the protection requirements outlined in paragraph (a) of this section:

(1) Written concurrence by the owner prior to nomination;

(2) The nomination document must include reference to:

(i) All legislation establishing or preserving the area; and

(ii) All existing and proposed administrative measures that would ensure continued satisfactory maintenance of the property and its environment; and

(3) A written statement by the owner that such protection measures satisfy the requirements outlined in paragraph (a) of this section.

(c) *Protection measures for private properties.* For properties owned or controlled by private organizations or individuals, the following items satisfy the protection requirements outlined in paragraph (a) of this section:

(1) A written covenant executed by the owner(s) prohibiting, in perpetuity, any use that is not consistent with, or which threatens or damages the property's universally significant values, or other trust or legal arrangement that has that effect; and

(2) The opinion of counsel on the legal status and enforcement of such a prohibition, including, but not limited to,

enforceability by the Federal government or by interested third parties; and

(3) A right of first refusal for the Federal government to acquire the property in the event of any proposed sale, succession, voluntary or involuntary transfer, or in the event that the covenant in paragraph (c)(1) of this section proves to be inadequate to ensure the preservation of the property's outstanding universal values.

§ 73.15 International World Heritage activities.

(a) The Assistant Secretary, and other officials as appropriate, may represent the United States at meetings of the World Heritage Committee, the Bureau of the World Heritage Committee, or other international organizations or agencies which have activities that relate to World Heritage.

(b) The Secretary or his designee, may develop and make available to other nations and international organizations training in, and information concerning, professional methods and techniques for the preservation of historic properties. (16 U.S.C. 470d)

(c) NPS staff, in cooperation with the Federal Interagency Panel for World Heritage, provide support for the Assistant Secretary's international activities, including the preparation of documentation, briefing papers, and position statements.

(d) The Assistant Secretary responds, on behalf of the United States, to requests from the World Heritage Committee, international heritage conservation organizations, or other nations regarding United States participation in the World Heritage Convention.

§ 73.17 Public information and education activities.

(a) To the extent that time and resources permit, owners of U.S. properties approved for inclusion on the World Heritage List are encouraged to publicize the status of the property, through appropriate signs, plaques, brochures, or interpretive displays or programs.

(b) The Department, through the NPS, may provide guidance to owners of U.S. World Heritage properties in developing publicity, educational and/or interpretive programs.

(c) The NPS is responsible for developing and distributing general informational materials on the World Heritage Convention, including brochures, slideshows, lectures, or other presentations.

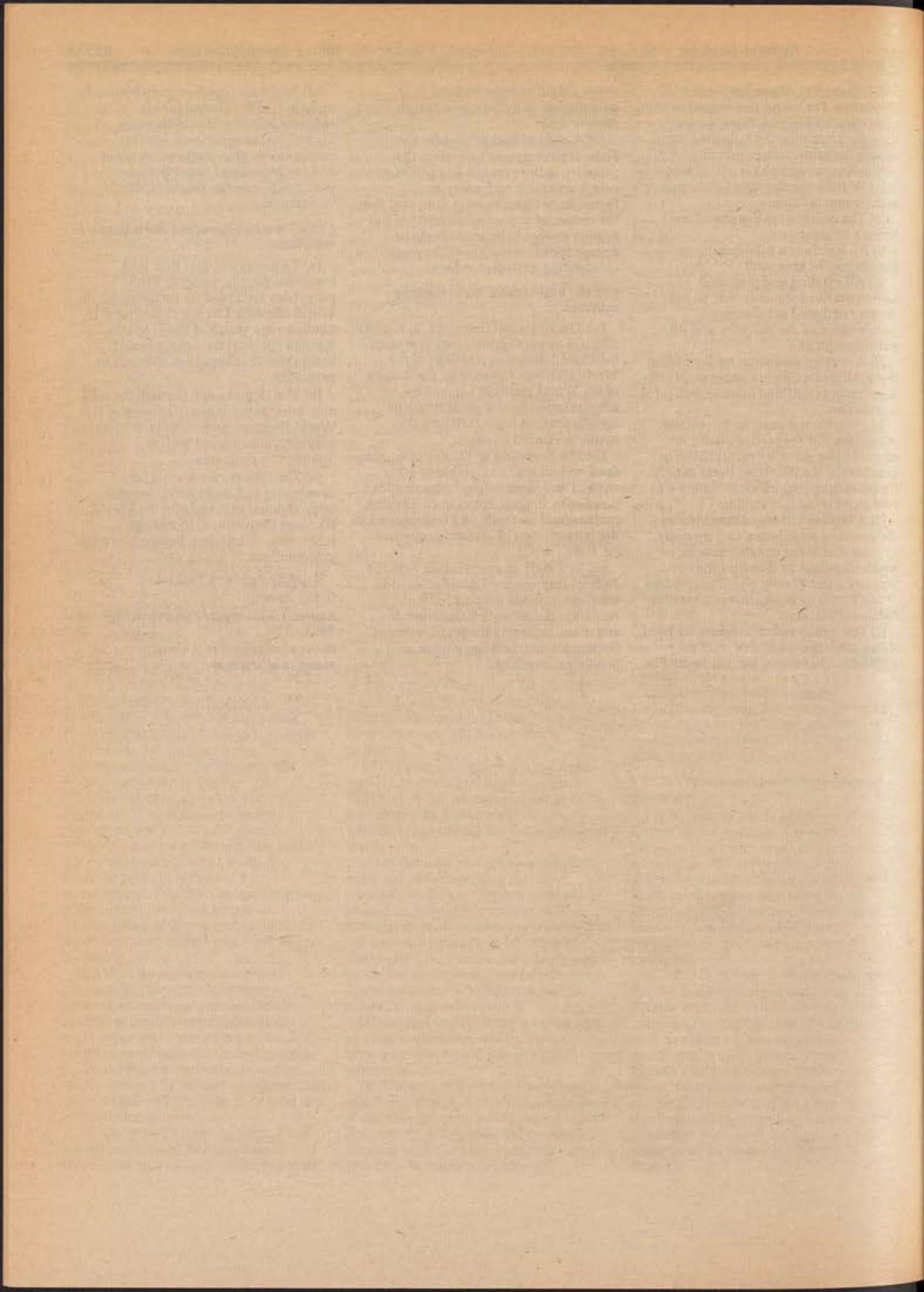
Dated: September 3, 1981.

G. Ray Arnett,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 81-30241 Filed 10-19-81; 8:45 am]

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federal register

Tuesday
October 20, 1981

Part V

**Office of Personnel
Management**

Procurement Regulations

**OFFICE OF PERSONNEL
MANAGEMENT**

41 CFR Ch. 16

Procurement Regulations

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: These procurement regulations apply to the administration and negotiation of contracts between OPM and carriers for Federal Employees Health Benefits (FEHB) plans. The regulations provide direction and uniformity in the agency's procurement of health benefits plans and will also enable the health benefits carriers and other interested parties to understand the application of the Federal Procurement Regulations (41 CFR Chapter 1) to the FEHB Program contracts. **THE REGULATIONS ARE BEING PUBLISHED WITHOUT FINAL CLEARANCE FROM THE OFFICE OF MANAGEMENT AND BUDGET UNDER THE EXEMPTION IN SECTION 8 OF E.O. 12291 FOR COURT ORDERED DOCUMENTS.**

EFFECTIVE DATE: November 19, 1981.

FOR FURTHER INFORMATION CONTACT: Mary Ann Mercer, 202-832-4634.

SUPPLEMENTARY INFORMATION: On July 10, 1981, the Office of Personnel Management published proposed rules in the *Federal Register* [46 FR 35688-35702] with a request for comments from interested parties before publication as final regulations. Fourteen formal responses from agencies, health benefits carriers and underwriters were received. The three responses received from government agencies (one agency represented 12 constituent bureaus) reported favorably. Eight health benefits carriers reported favorably, with specific reservations, and two health benefits carriers reported generally unfavorably. One of the letters from the carriers that reported unfavorably contained signatures of representatives from six other health benefits carriers.

For ease in understanding the discussion of the complicated issues involved, we have separated the responses into two distinct groups relating to the two different types of FEHB plan contracts, community rated and experience rated.

Community Rated

Three comments concerned the status of portions of the Federal Procurement Regulations (FPR) which OPM might apply in the future to FEHB contracts. The OPM Procurement Regulations (OPMPR) do not contain a statement

that portions of the FPR not discussed or referenced in OPMPR are inapplicable to the FEHB contracts. The FPR's apply to Federal agency procurement contracts, even though portions of the FPR may have no practical application at this time to the FEHB contracts. Carriers may be assured that OPM will not implement portions of the FPR excluded from its procurement regulations without formally publishing proposed regulations to amend the OPMPR in the *Federal Register* for public comment. This point has been clarified in the final regulations.

Two comments which concern § 16-1.601 (Debarred, Suspended and Ineligible Bidders) stated that OPM should specifically state whether or not its intention in applying the section is to expand OPM's ability to terminate or refuse to renew an existing contract. In addition, the respondents requested clarification concerning the hearing requirements vis-a-vis the hearing requirements set forth at 5 CFR 890.205.

Since the FPR has been applied in the past to the FEHB contracts, OPM's statement in the OPMPR as to the applicability of FPR 1-1.6 merely confirms the ability which OPM has had in the past, and continues to have, to temporarily disqualify or exclude debarred, suspended and ineligible carriers from Government contracting. It does not rule out, but is not intended to require, termination of an existing contract. The hearing provisions are those found at 5 CFR 890.205, and this point has been clarified in the OPMPR.

Two responses concerned the description of "subscription rate" as a "community rate" and requested that OPM clarify the term "community rate" to recognize adjustments (loadings) allowed under the FEHB Program. OPM has included this clarification in the final rules. Along this same line, the carriers were concerned that the penalty of requiring carriers whose community rate has been found defective to experience rate without an opportunity to correct the community rate was extreme. They recommended that if the subscription rate, subject to recognized adjustments, is not a true community rate, the Government should be entitled to an adjustment of the price so that it is a true community rate. However, if the carrier cannot or refuses to determine a community rate, OPM may then require the carrier to experience rate the contract. This suggestion has been adopted by OPM.

Two of the carriers raised the question of "effectivity." The issue of effectivity is described as follows. Some health benefits plans have one yearly community rate which remains the same

from January 1 through December 31. Groups renewing their contracts during the year—regardless of the effective date—will begin with, and keep to the end of their contract year, the same rate. On the other hand, many community-rated plans grade their rates so that, during periods of rising costs, groups who renew their contracts later in the year pay slightly more than those who renew early, thus equalizing the weight carried by each plan. In OPM's view, when a plan has yearly rather than graded rates, and all contracts do not renew on January 1, those who renew on January 1 subsidize those who renew later in the year. The carriers believe that OPMPR 16-3.807-50(b) requires graded rates. This paragraph was not meant to place any mandatory requirements on community rated carriers for graded rates, but was merely meant to give general background information as an introduction to service charges. We have eliminated the questionable language to avoid confusion; however, since a requirement for graded rates could reduce Program costs if carriers can adapt their accounting systems to handle it, the issue is one that OPM will address with the carriers before the next rate-setting season in calendar year 1982.

The definition of community rate has been changed to reflect carrier concerns and to accommodate a recent amendment to the HMO law (Public Law 97-35, enacted August 13, 1981). The new law permits the rate of payment to be determined without regard to the differences among the subscriber groups in actual or projected utilization of health care services, except that rates may be determined for individuals and families by classes if such rates are equivalent across all subscriber groups for all individuals in the same class and for all families of similar composition in the same class. The above definition is intended to conform to the HMO Act, as amended.

Two comments concerned the application of OPMPR 16-7.502-6, requiring the insertion of a "Pricing of Adjustments" clause, in community rated contracts. The "Pricing of Adjustments" clause is appropriate for FEHB community rated contracts because costs can become a factor in adjusting loadings and in making adjustments for a defective community rate. Although the clause does not become operative for community rated contracts unless there is a price adjustment, it should be inserted in all contracts.

Two comments were received from community rated plans concerning the

possibility of a gross premium or similar tax being enacted by a state and imposed on a carrier during a contract period. OPM has added a provision permitting payment from the contingency reserve of any such tax imposed upon the carrier limited to the portion of tax attributable to the contract.

Experience rated

Several experience rated carriers were concerned that OPM was not clear in stating which types of subcontracts would be reviewed for approval in accordance with OPMPR 16-3.903-2. The carriers were concerned that OPM is intending to review hundreds of agreements pursuant to which the health benefits are offered. OPM seeks to review only those subcontracts which have an immediate and substantial impact on FEHB plans, and therefore OPM has revised the provision to make it clear that only those subcontracts which directly provide for FEHB Program administration for such services as enrollment and eligibility determinations, adjudication and payment of benefits and/or underwriting, and which exceed \$25,000, will be reviewed. This will be in accordance with the requirements of the FPR, while minimizing the need for carriers to submit all subcontracts for review.

The carriers were further concerned about the requirement for inclusion of cost or pricing data from "prospective subcontractors" in support of each subcontract cost estimate in the contractor's submission. By more narrowly defining the subcontractors to which cost or pricing data requirements would apply, OPM will minimize this concern. OPM believes that this change is in the interest of good Program administration.

Some carriers stated that the submission of cost or pricing data should not be required of FEHB carriers, since substantial competition among carriers at the consumer level provides adequate limitations on the subscription rates charged. However, cost or pricing data is historical or actuarial. To the extent that a carrier's estimate is not based on accurate, current and complete data, a price reduction for defective cost or pricing data is appropriate. OPM is aware that actuarial predictions are only estimates and that actual experience during an upcoming contract year may differ from actuarial predictions based upon previous experience and historical data. So long as the carrier provides accurate, current and complete data based on the best information it can obtain at the

time, no price adjustment would be required. OPM has the obligation to protect FEHB interest and has preserved that right.

A number of carriers stated that OPM should not apply the Cost Accounting Standards contained in the FPR to the extent that they conflict with insurance industry practice; the commenters did not explain why the standards conflict with insurance industry practices. OPM does not see any difficulty in applying the relevant Cost Accounting Standards required by the FPR to the FEHB pricing procedure, nor does OPM perceive any conflict between the Cost Accounting Standards and insurance industry practice. CAS 401 (FPR 1-3.1220-1, Consistency in estimating, accumulating and reporting costs) and CAS 402 (FPR 1-3.1220-2, Consistency in allocating costs incurred for the same purpose) are the only Cost Accounting Standards which apply to the FEHB contracts. Both standards relate to the accumulation and reporting of costs among all lines of business. These two Cost Accounting Standards are simply good cost accounting practices to be used in the course of operating a business, regardless of the particular type of business.

Accordingly, OPM does not understand how or why these practices should be modified in FEHB contracts with the insurance industry.

Several underwriters of FEHB plans suggested that the regulations permit the use of an acceptable formula in determining a portion of the administrative expenses of the home office which cannot be readily inventoried. Such formulas are subject to state regulation and are recognized as a proper method of allocation of expenses to experience rated contracts. OPM has no objections to the use of a formula or other uniform method of allocating the costs across all lines of business in determining an underwriter's non-inventoriable cost of its home office. The procedure is permitted by the FPR, so long as costs disallowed in Part 1-15 of the FPR are accounted for separately.

Cost Principles. Numerous experience rated carriers objected to the application of the "cost principles" (set forth in subpart 1-15.2 of the FPR) to the administrative expenses in experience rated contracts. This subpart disallows certain expenses as chargeable against the Government contract; among the expenses explicitly disallowed are advertising and interest expense. OPM, historically, has disallowed advertising and interest, citing the FPR as its authority to do so. However, many

experience rated carriers have argued repeatedly that these expenses should be allowed in view of the distinctive nature of the FEHB contracts. OPM has determined that it will continue to apply FPR subpart 1-15.2 to the experience rated FEHB contracts for the reasons set forth below.

Advertising. The traditional argument against allowing advertising as a charge to government contracts is that the Federal Government does not purchase goods and services on the basis of advertising. However, the carriers contend that in contracting for health benefits under the FEHB, OPM does not purchase services for the Federal Government. They assert that, instead, Federal employees, not the Government, are the purchasers. Every carrier is competing for enrollment; employees may choose among a multitude of health plans, and the traditional means of informing the employee, and influencing his choice, is by advertising. According to the carriers, denial of charges for advertising is a denial of a unique feature of the FEHB—head to head carrier competition. Accordingly, the carriers claim that advertising is a legitimate business expense which is charged to all other contracts in the health insurance industry. They further contend that advertising increases enrollment and results in a savings to enrollees by lowering administrative costs. In addition, community rated plans build advertising into their premium structure as marketing expenses and, because of the nature of the community rate, these expenses are not audited. The experience rated carriers contend that the disparate treatment of these two different contract types is inequitable.

OPM has concluded that it will continue to disallow advertising expense. OPM believes that there is a strong Government wide policy against allowing this expense. In years of debate by Government contracting policy authorities over the issue of advertising, the FPR policy of disallowing advertising charges has always prevailed. OPM believes that it is not in a position to contravene such well established policy, particularly in view of the fact that FEHB enrollees would experience an increase in premium charges if carrier advertising were suddenly permitted as an allowable charge against the contract.

Furthermore, OPM itself undertakes an intensive campaign to disseminate information among Federal employees about the features of the various plans open to them. Thus, the employees already have sufficient information to

make Government and employees pay for carrier advertising which would duplicate information already in the hands of employees. Also, while it is true that the disallowance of advertising expense applies only to experience rated carriers, and not to community rated carriers, OPM believes that this disparity is appropriate under the two rating concepts and that any inequity which results is of minimal impact in the context of this Program. The average community rated carrier has only 3,800 Federal enrollees. The two largest community rated carriers have only 72,000 and 53,000 Federal enrollees respectively. These are modest numbers in comparison with the larger experience rated plans. Further, the community rate is more sensitive to open market competition within the community than to competition within the FEHB Program. Consequently, the overall rate is more apt to reflect the restraints of competition, irrespective of the individual elements of cost that make up the rate.

Nevertheless, while the FPR prohibits advertising, it does not prohibit costs of messages of an educational nature to be charged to Government contracts, so long as the messages benefit the plan by, for example, helping enrollees reduce the cost of health care services utilized under the plan, and do not draw favorable attention to the carrier for the purpose of enhancing its overall image to sell its health plan. Educational messages include cost containment messages and preventive health care messages. So long as a carrier promotes these interests, without calling favorable attention to itself for the purpose of enhancing its overall image to sell its health plan, the charge would be allowed. This clarification should provide some satisfaction to the carriers who argue that their media messages do not promote the sale of their health plan but, rather, promote cost containment, preventive health care, and information to subscribers on how to obtain benefits.

Interest. The OPMPR contains the FPR cost principle which disallows the cost of interest on funds borrowed by a contractor. Many FEHBP carriers have objected to OPM's intransigence in following FPR policy on this point. The carriers argue that borrowing of funds is used to enhance the carrier's program and is, therefore, a legitimate business expense. In today's money market, interest on borrowings is becoming an increasing cost of doing business. They further argue that interest is built into community rated plans' premium structure, because of the nature of community rating, and community rated

plans' interest costs are not disallowed. The experience rated carriers contend that the disparate treatment of these two different contract types is inequitable.

The Government has, historically, disallowed interest charged on borrowed funds because the contractor's compensation for capital employed for business purposes comes through profit or fee. To allow interest as a contract expense without a downward adjustment of profit or fee would result in rewarding a contractor who had large borrowings and penalizing a contractor who invested with its own funds. With interest rates as high as they now are, the Federal Government is encouraging equity financing on the part of its contractors.

Recently, the Office of Federal Procurement Policy (OFPP) prescribed a Government wide policy of allowing as an expense the imputed cost of capital employed in facilities used in performance of a contract. OFPP Policy Letter 80-7, "Policies for Establishing the Profit or Fee Pre-negotiation Objective", 45 FR 82593, which is incorporated into the FPR effective with the 1982 contract year, FPR Temp. Reg. 61, 46 FR 27645, provides a means of allocating to individual contracts an imputed cost of facilities capital. OPM believes that this approach is superior to a piecemeal approach of allowing interest expense; the OFPP method treats contractors on an equal basis, regardless of whether they finance their operations through equity capital or borrowing. Because of this consideration and the strong Government policy against the allowability of interest expense, OPM has retained the FPR cost principle regarding unallowability of interest on borrowings.

While many carriers objected, generally, to the application of other cost principles to FEHBP contracts, OPM does not believe that an exception from FPR policy is warranted and OPM has not departed from that policy. OPM believes that it has followed to the maximum feasible extent the norms and standards of the private insurance industry in managing the FEHBP since the Program's inception. Where practices and standards of the insurance industry are significantly different from those of other industries which deal with the Federal Government, the OPMPR have attempted to take these differences into account. For example, in most industries each contract requirement is priced separately and gains or losses on one contract are not made up on subsequent contracts. However, in the FEHBP, gains and

losses are made up through adjustments to the special reserve in subsequent year rate setting. In other cases, such as advertising and interest expenses, the practice and standards of the insurance industry are not significantly different than those of other industries. In these cases, the distinction is between the industry's commercial business and its Government business, and OPM has followed traditional Federal procurement policies. While OPM wishes to accommodate industry practice as much as possible, OPM does not believe that it is required by law or public policy to modify long-established relevant Government procurement policies to conform to industry practice.

A number of responses concerned the non-specificity of the factors used in determining the service charge. OPM is in the process of developing a structured weighted-guidelines approach for determining the service charge for FEHBP contracts, in compliance with the Office of Federal Procurement Policy (OFPP) Policy Letter 80-7 on December 8, 1980. The policy letter requires that each Federal agency develop, and publish for public comment, a structured approach for the 1982 contract year for determining the profit or fee portion of the Government pre-negotiation objective in acquisitions requiring cost analysis. OPM's structured approach was not completed in time for publication in the final OPMPR. As soon as it is completed, carriers will be notified of its publication in the Federal Register and will be given an opportunity to comment before the guidelines are incorporated into the OPMPR. In the interim, the factors enumerated in the OPMPR, which follow the format specified in the FPR, will be used.

A few carriers objected to OPM's requirement that a carrier pay interest on amounts charged as administrative expenses in good faith to the FEHBP by the carrier when such charges are subsequently disallowed as the result of audit findings. In other types of Government contracting, interest is charged from the date of final audit decision until payment is made. OPM's requirement in the proposed regulations stipulated that interest be paid from the date it is first incurred. To bring OPM's requirement in line with other Government agencies, in view of the fact that the audit process may not be completed until some years after the charge, the final regulations require that lost investment income be paid by the carrier only from the date of the contracting officer's final decision. However, when the carrier has failed to

invest all FEHBP funds on hand which are in excess of the funds needed to promptly discharge the obligations incurred under the contract, interest income shall continue to be due for the period from the date the carrier failed to invest the funds until the date the carrier invests such funds.

Comments relating to all contracts

It was pointed out that the "Confidentiality of Records" clause did not provide for the use of medical records for the administration of the contract, or for bona fide medical research and education. All three are legitimate uses of medical records. Accordingly, the "Confidentiality of Records" clause has been amended to reflect these uses of medical records. To ensure that subscribers are aware that a plan's medical records may be used for these purposes, a requirement has been added to the contract clause that carriers using medical records for these purposes shall so state in the plan's health benefits brochure.

One comment was received concerning the apparent reluctance on the part of OPM to adequately provide for greater privacy controls in the health benefits contracts. The respondent is particularly concerned that the Social Security number should not be used as a universal means of identifying enrollees. It has been well established that section (m) of the Privacy Act does not apply to FEHBP contracts since the section applies only to an agency's system of records operated on by the contractor to accomplish an agency function. The insurance company records on individuals are not part of OPM's system of records, but serve the companies' own commercial function of paying health benefits claims in return for premiums paid by the Government and the federal employees. We believe that the provision in the FEHBP contracts restricting use of personal data on employees and annuitants provided by government agencies and OPM, including Social Security numbers, to only those routine uses stipulated for the data and published annually in the *Federal Register* as a part of OPM's notice of systems of records adequately protects the privacy of Federal enrollees. Further, the requirement that use of medical records for administration of the contract, bona fide medical research or education be published in the plan brochure will alert potential subscribers that their medical records may be used for these purposes.

Other Changes

In addition to the specific preceding changes, OPM has made numerous

technical changes to the OPMPR for clarity. One of the technical changes which OPM has made constitutes a change in the "Investment Income" clause, OPMPR 16-7.503-6, to provide a method for determination of lost investment income. It was unclear as to how to determine the contractor's "annual rate of earnings reflected in the FEHBP Annual Accounting Statement" as provided in the proposed regulations. The use of the semiannual rate determinations by the Secretary of the Treasury, as provided for in the final rules, reflects the current interest rate and is consistent with other interest rate procedures used in the FPR.

Because of the strict time limitation placed on OPM for issuing the OPMPR, we regret that we were unable to address every issue raised in the responses which we received. We have attempted to focus on issues of significance to the majority of the carriers. We want to assure the carriers that we will be open to continued dialogue with them, and would like to thank all commenters for their efforts in assisting OPM in its endeavor. Adoption of many of their comments has made significant improvements in this product.

Pursuant to section 553(d)(3) of title 5 of the United States Code, the Director finds that good cause exists to make this amendment effective in less than 30 days. The regulation is being made effective immediately to comply with an order issued by the United States District Court for the District of Columbia in Civil Action No. 75-2173, September 18, 1980. E. O. 12291, Federal Regulation.

OPM has determined that this is not a major rule for the purposes of E. O. 12291, Federal Regulation, because it will not result in:

- (1) An annual effect on the economy of \$100 million or more;
- (2) A major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or
- (3) Significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Regulatory Flexibility Act

The Director, Office of Personnel Management, certifies that this regulation will not have a significant economic impact on a substantial number of small entities, including small business, small organizational units and small governmental jurisdictions.

Office of Personnel Management.

Donald J. Devine,

Director.

Accordingly, the Office of Personnel Management is adding Chapter 16 to Title 41, Code of Federal Regulations, to read as follows:

SUBTITLE A—FEDERAL PROCUREMENT REGULATIONS SYSTEM

CHAPTER 16—OFFICE OF PERSONNEL MANAGEMENT

Part

- 16-1 General.
- 16-3 Procurement by negotiation.
- 16-4 Special types and methods of procurement.
- 16-7 Contract clauses.
- 16-8 Termination of contracts.
- 16-11 Federal, State and local taxes.
- 16-12 Labor.
- 16-15 Contract cost principles and procedures.
- 16-20 Retention requirements for contractor and subcontractor records.
- 16-28 Contract modifications.

PART 16-1—GENERAL

Sec.

- 16-1.000 Scope of part.
- Subpart 16-1.1—Regulation System**
- 16-1.101 Scope of subpart.
- 16-1.102 Purpose.
- 16-1.103 Authority.
- 16-1.104 Relationship of Chapter 16 to the FPR.
- 16-1.106 Issuance.
- 16-1.107 Arrangement.
- 16-1.107-1 General plan.
- 16-1.107-2 Numbering.
- 16-1.107-3 Citation.
- 16-1.107-4 Cross references.
- 16-1.108 Implementation.
- 16-1.109 Deviation.
- 16-1.109-1 Description.
- 16-1.109-2 Procedure.
- 16-1.150 Use of designees.

Subpart 16-1.2—Definition of Terms

- 16-1.250 Definitions.

Subpart 16-1.3—General Policies

- 16-1.301 Method of procurement.
- 16-1.301-3 Negotiation.
- 16-1.302 Procurement sources.
- 16-1.302-1 Who may contract.
- 16-1.302-3 Contracts between the Government and Government employees or business concerns substantially owned or controlled by Government employees.
- 16-1.303 Approval signatures.
- 16-1.313 Records of contract actions.
- 16-1.318 Disputes.
- 16-1.320 Subcontractor gifts and kickbacks.
- 16-1.323 Preference for U.S. Flag Air Carriers.
- 16-1.328 Fraudulent claims.
- 16-1.341 Reporting Contract Actions [Federal Procurement Data System].

Subpart 16-1.4—Procurement Responsibility and Authority

Sec.

- 16-1.400 Scope of subpart.
 16-1.401 Responsibility of the Director, Office of Personnel Management.
 16-1.402 Authority of the FEHBP contracting officer.
 16-1.403 Requirements to be met before entering into contracts.
 16-1.405 Ratification of unauthorized contract awards.
 16-1.406 Cost accounting standards.

Subpart 16-1.5—Contingent Fees

- 16-1.500 Scope of subpart.

Subpart 16-1.6—Debarred, Suspended, and Ineligible Carriers

- 16-1.600 Scope of subpart.
 16-1.601 Applicability.

Subpart 16-1.9—Reporting Possible Antitrust Violations

- 16-1.901 General policy.

Subpart 16-1.10—Publicizing Procurement Actions

- 16-1.1001 General policy.
 16-1.1003 Synopses of proposed procurements.
 16-1.1004 Synopses of contract awards.

Subpart 16-1.12—Responsible Prospective Contractors

- 16-1.1200 Scope of subpart.
 16-1.1201 Applicability.

Subpart 16-1.23—Environmental Protection

- 16-1.2300 Scope of subpart.
 Authority: 40 U.S.C. 486(c); 5 U.S.C. 8913.

§ 16-1.000 Scope of part.

This part describes the method by which the Office of Personnel Management (OPM) implements, supplements and deviates from the Federal Procurement Regulations (FPR) (41 CFR Chapter 1) through the establishment of the OPM Procurement Regulations (Chapter 16), which prescribe the Office procurement policies and procedures for the Federal Employees Health Benefits Program (FEHBP) contracts. Policies and procedures governing the award and administration of FEHBP contracts are contained in Part 4 of this Chapter, "Special Types and Methods of Procurement."

Subpart 16-1.1—Regulation System**§ 16-1.101 Scope of subpart.**

This subpart sets forth introductory information pertaining to Chapter 16, explains its purpose, authority under which it is issued, its relationship to the FPR System, applicability, method of issuance, and arrangement. It also provides procedures for implementing and supplementing the FPR and Chapter 16 and sets forth deviation procedures.

§ 16-1.102 Purpose.

Chapter 16 is prescribed by the Director, Office of Personnel Management to provide direction and uniformity in the agency's procurement of health coverage under the FEHB Program.

§ 16-1.103 Authority.

Chapter 16 is issued under the authority of 5 U.S.C. Chapter 89 and 40 U.S.C. 486(c).

§ 16-1.104 Relationship of Chapter 16 to the FPR.

(a) The Federal Procurement Regulations set forth in Chapter 1, title 41, of the Code of Federal Regulations are applicable to contracts between the Office of Personnel Management (OPM) and health benefits carriers which establish health benefits plans for Federal employees and annuitants. Chapter 16 provides guidance to the contracting officer, health benefit carriers and other interested parties for implementing, supplementing and in certain instances, deviating from the FPR. Except as necessary to assure continuity or understanding, material published in the FPR will not be repeated, paraphrased, or otherwise restated in Chapter 16.

(b) Implementing material is that which expands upon related FPR material. Supplementing material is that for which there is no counterpart in the FPR.

(c) Material in Chapter 16 may supersede the FPR as when a deviation (see OPMPR 16-1.109-1) is authorized, but only when the deviation contains an explicit cross reference to the FPR.

(d) In order to make FEHBP carriers fully aware of which portions of the FPR are applicable to contracts with FEHBP, and to establish official OPM policy for internal contract evaluations, all parts of 41 CFR Chapter 1 which are deemed to have practical application to the administration of FEHBP contracts are specifically dealt with in this Chapter 16. Any portions of the FPR which, because of a change in the contracting procedure under the Program, become practical to apply at a future date will be published in the Federal Register prior to implementation by OPM.

§ 16-1.106 Issuance.

(a) Policies and procedures which are issued in this Chapter will be published in the Federal Register as Chapter 16 of Title 41 of the Code of Federal Regulations.

(b) The Federal Register and Title 41 of the Code of Federal Regulations may be purchased by the public from the Superintendent of Documents,

Government Printing Office, Washington, D.C. 20402.

§ 16-1.107 Arrangement.**§ 16-1.107-1 General plan.**

Chapter 16 conforms with the FPR system with respect to divisional arrangements into parts, subparts, sections, subsections, and further subdivisions as necessary.

§ 16-1.107-2 Numbering.

(a) Generally, the numbering system used in Chapter 16 conforms to that of Chapter 1 (see FPR 1-1.007-2). Thus, a particular procurement policy or procedure is identified by the same number in both Chapter 1 and Chapter 16, except that the first number in Chapter 1 will be 1 rather than 16.

(b) Where Chapter 16 implements a part, subpart, section or subsection of the FPR, the implementing part, subpart, section or subsection of Chapter 16 is numbered to correspond to the FPR part, subpart, section or subsection, e.g., § 16-3.807-3 implements § 1-3.807-3 of the FPR. Paragraph and subparagraph designations of Chapter 16, however, are independently developed and do not necessarily correspond to a paragraph or subparagraph of the FPR.

(c) Where Chapter 16 supplements the FPR and thus deals with subject matter not contained in the FPR, the numbers in the group 50 through 99 are assigned to the respective supplementing parts, subparts or sections.

(d) Where the subject matter contained in the part, subpart, section or subsection of the FPR has no practical application at this time to FEHBP contracts, this Chapter 16 contains no corresponding part, subpart, section or subsection. Thus, there are gaps in the Chapter 16 series of part, subpart, section and subsection numbers.

§ 16-1.107-3 Citation.

(a) In formal documents, such as legal briefs, citation of Chapter 16 material which has been published in the Federal Register will be to Title 41 of the Code of Federal Regulations.

(b) Any section of Chapter 16, for purpose of brevity, may be informally identified as "OPMPR" followed by section number. For example, this paragraph would be identified in a memorandum as "OPMPR 16-1.107-3(b)".

§ 16-1.107-4 Cross references.

(a) Within Chapter 16, cross references to the FPR will be made in the same manner as used within the FPR. Illustration of cross references to the FPR are:

(1) Part 1-3.

(2) Subpart 1-3.8.

(3) Section 1-3.807-50(a). The word "section" or its symbol (§) is used in making a cross reference even though the reference may be to a subsection, paragraph or subparagraph. For example, this reference is actually to a paragraph.

(b) Within Chapter 16, cross reference to parts, subparts and sections of Chapter 16 will be in a manner generally similar to that used in making references to the FPR. For example, this paragraph would be referred to as § 16-1.107-4(b).

§ 16-1.108 Implementation.

As portions of the FPR are prescribed, procurement policies and procedures which have practical application to the FPR will be issued in Chapter 16 by the Director, Office of Personnel Management.

§ 16-1.109 Deviation.

§ 16-1.109-1 Description.

(a) The term "deviation" as used in Chapter 16 is defined in the same manner as described in FPR 1-1.009-1.

(b) In order to maintain uniformity to the greatest extent feasible, deviation from the FPR will be kept to a minimum.

§ 16-1.109-2 Procedure.

(a) In individual cases, when the contracting officer considers it necessary to deviate from the policies set forth in the FPR, a request for authority to do so will be submitted to the Director, Office of Personnel Management. The request will clearly set forth the circumstances warranting the deviation and the nature of the deviation.

(b) Deviations in classes of cases shall be in accordance with FPR 1-1.009-2(c). Class deviations will be set forth in this Chapter 16 as provided in § 16-1.104(c).

§ 16-1.150 Use of designees.

Throughout the regulations in Chapter 16, responsibilities and duties are assigned to certain individuals by position title, and, in many instances, the submission of reports to and by these individuals is also prescribed. Whenever these titles are used, the individual occupying these positions may, unless otherwise restricted by law or the regulations in 5 CFR Part 890 or this Chapter 16, designate a subordinate to act for him or her.

Subpart 16-1.2—Definition of Terms

§ 16-1.250 Definitions.

Definitions pertaining to this Chapter 16 are contained in Part 16-4, "Special Types and Methods of Procurement."

Subpart 16-1.3—General Policies

§ 16-1.301 Method of procurement.

§ 16-1.301-3 Negotiation.

Use of formal advertising in connection with the award of FEHBP contracts is determined not to be feasible or practicable. Pub. L. 86-382, as amended and codified at 5 U.S.C. Chapter 89, authorizes the negotiation of FEHBP contracts. FEHBP contracts, accordingly, will be negotiated pursuant to the provisions of FPR 1-3.215 and the authority in 41 U.S.C. 252(c)(15) which permits the negotiation of contracts "otherwise authorized by law."

§ 16-1.302 Procurement sources.

§ 16-1.302-1 Who may contract.

The OPM may contract with health benefits carriers for plans meeting the requirements of 5 U.S.C. Chapter 89, 5 CFR Part 890, and this Chapter 16 for the provision of health coverage.

§ 16-1.302-3 Contracts between the Government and Government employees or business concerns substantially owned or controlled by Government employees.

FPR 1-1.302-3 is applicable to the administration of the FEHBP contracts. Except where OPM is directed by statute to contract with Government employees.

§ 16-1.303 Approval signatures.

FPR 1-1.303 is applicable to the administration of the FEHBP contracts.

§ 16-1.313 Records of contract actions.

FPR 1-1.313 is applicable to the administration of the FEHBP contracts.

§ 16-1.318 Disputes.

FPR 1-1.318 is applicable to FEHBP contracts and a clause conforming in substance to the Disputes clause set forth in OPMPR 16-7.502-2 shall be included in all FEHBP contracts.

§ 16-1.320 Subcontractor gifts and kickbacks.

FPR 1-1.320 is applicable to the administration of the FEHBP contracts.

§ 16-1.323 Preference for U.S. Flag Air Carriers.

FPR 1-1.323 is applicable to the administration of the FEHBP contracts.

§ 16-1.328 Fraudulent claims.

FPR 1-1.328 is applicable to the administration of the FEHBP contracts.

§ 16-1.341 Reporting Contract Actions (Federal Procurement Data System).

(a) The contracting officer shall comply with FPR 1-1.341 set out in Temporary Regulation 48 by submitting Standard Form 279, "Federal

Procurement Data Systems Individual Contract Action Report (Over \$10,000)" or Standard Form 281, "Federal Procurement Data System Sum of Contract Actions of \$10,000 or Less and Subcontract Data on Selected Prime Contracts", as appropriate, to the Administrative Services Division, Acquisition Branch, for each procurement action.

(b) Costs under FEHB contracts include those for (1) carrier's administrative expenses, (2) a service charge for carriers and (3) benefit costs. The first two categories of costs reflect the costs for operating the Program under contract and shall be reported on Standard Form 279. Benefit costs are compensation expenses of an employer/employee relationship and shall be reported by OPM as a part of its annual reports on Federal employee compensation.

(c) FEHBP contract awards take place only during the first quarter of the calendar year. Dollar values reported on Standard Form 279 shall be the amounts of such costs estimated for the coming year during the rate setting process for experience rated carriers. For community rated carriers, such costs shall be actuarially estimated as a percentage of total subscription income.

Subpart 16-1.4—Procurement Responsibility and Authority

§ 16-1.400 Scope of subpart.

This subpart sets forth the authority of the Director, Office of Personnel Management and the FEHBP contracting officer.

§ 16-1.401 Responsibility of the Director, Office of Personnel Management.

The director is responsible for approval of the basic policies affecting the administration of the FEHB law and issuance of regulations implementing these policies.

§ 16-1.402 Authority of the FEHBP contracting officer.

The FEHBP contracting officer is authorized to enter into and administer FEHBP contracts on behalf of the Government and make related findings and determinations within the limitations of his or her prescribed duties and authority. In the exercise of such authority, the FEHBP contracting officer is subject to the requirements in FPR 1-1.403 and any further requirements, consistent with the Federal Procurement Regulations, imposed by OPM.

§ 16-1.403 Requirements to be met before entering into contracts.

No contract shall be entered into unless all applicable requirements of law, Executive Orders and regulations have been met. The term "regulations" includes those issued by any regulatory agency whether or not incorporated or referenced in the Federal Procurement Regulations.

§ 16-1.405 Ratification of unauthorized contract awards.

FPR 1-1.405 is applicable to the administration of the FEHBP contracts.

§ 16-1.406 Cost accounting standards.

FPR 1-1.406 is applicable to the administration of the FEHBP contracts (see OPMR 16-3.12).

Subpart 16-1.5—Contingent Fees

§ 16-1.500 Scope of subpart.

FPR 1-1.5 is applicable to the administration of FEHBP contracts.

Subpart 16-1.6—Debarred, Suspended, and Ineligible Carriers

§ 16-1.600 Scope of subpart.

This subpart sets forth OPM's policy with regard to the debarment, suspension and ineligibility of carriers.

§ 16-1.601 Applicability.

OPM shall enforce the provisions of FPR 1-1.6 with respect to health insurance carriers and shall maintain a consolidated list of concerns to whom contracts will not be awarded. Hearing provisions shall be those set forth at 5 CFR 890.205.

Subpart 16-1.9—Reporting Possible Antitrust Violations

§ 16-1.901 General policy.

Where proposals received in FEHBP procurements evidence violations of the antitrust laws, the procedures in FPR 1-1.9 may be used in referring such proposals to the Attorney General.

Subpart 16-1.10—Publicizing Procurement Actions

§ 16-1.1001 General policy.

FPR 1-1.10 is applicable to the administration of FEHBP contracts. In addition, OPM will implement the following sections in the manner prescribed below.

§ 16-1.1003 Synopses of proposed procurements.

At least 60 days prior to the beginning of the annual negotiation process for new FEHBP contracts, OPM shall publish a notice of its proposed procurement action in the Department of

Commerce Synopsis. Interested carriers shall be directed to OPM for information concerning submission of applications for participation.

§ 16-1.1004 Synopses of contract awards.

At the close of the negotiation period, OPM shall publish in the Department of Commerce Synopsis a list of all carriers approved for participation in the FEHBP during the next contract year.

Subpart 16-1.12—Responsible Prospective Contractors

§ 16-1.1200 Scope of subpart.

This subpart prescribes the policies concerning the responsibility of prospective carriers.

§ 16-1.1201 Applicability.

FPR subpart 1-1.12 is applicable to the administration of FEHBP contracts. In addition, carriers must meet the requirements of 5 U.S.C. Chapter 89, and 5 CFR Part 890, and this Chapter 16.

Subpart 16-1.23—Environmental Protection

§ 16-1.2300 Scope of subpart.

FPR subpart 1-1.23 is applicable to the administration of the FEHBP contracts.

PART 16-3—PROCUREMENT BY NEGOTIATION

Sec.

16-3.000 Scope of part.

Subpart 16-3.1—Use of Negotiation

16-3.100 Scope of subpart.

16-3.101 General requirements for negotiation.

16-3.102 Factors to be considered in negotiating contracts.

16-3.104 Disclosure of mistakes after award.

Subpart 16-3.2—Circumstances Permitting Negotiation

16-3.200 Scope of subpart.

16-3.215 Otherwise authorized by law.

Subpart 16-3.3—Determinations, Findings, and Authorities

16-3.301 General.

Subpart 16-3.4—Types of Contracts

16-3.400 Scope of subpart.

16-3.401 Types of health benefits plan contracts.

Subpart 16-3.8—Price Negotiation Policies and Techniques

16-3.800 Scope of subpart.

16-3.801 Basic policy.

16-3.802 Preparation for negotiation.

16-3.803 Type of contract.

16-3.804 Conduct of negotiations.

16-3.805 Selection of offerors for negotiation and award.

16-3.806 Cost, profit, and price relationship.

16-3.807 Pricing techniques.

16-3.807-1 General.

Sec.

16-3.807-2 Requirements for price or cost analysis.

16-3.807-3 Cost or pricing data.

16-3.807-4 Certificate of current cost or pricing data.

16-3.807-5 Defective cost or pricing data.

16-3.807-6 Refusal to provide cost or pricing data.

16-3.807-7 Unacceptable substitutes for pricing negotiations.

16-3.807-8 Evaluation and pricing of individual contracts.

16-3.807-9 Specified contingencies.

16-3.807-10 Subcontracting considerations in cost analysis.

16-3.807-11 Overhead rate consideration.

16-3.807-50 Certificate of community rating.

16-3.808 Service charge.

16-3.808-50 Additional factors and considerations for determining the service charge.

16-3.809 Contract audit as a pricing aid.

16-3.810 Exchange of information.

16-3.811 Record of price negotiation.

16-3.812 Disposition of postaward audits.

16-3.813 Startup and other nonrecurring costs.

16-3.814 Contract clauses.

16-3.814-50 Price reduction for defective certificate of community rating.

Subpart 16-3.9—Subcontracting Policies and Procedures

16-3.903-2 Review and approval of subcontracts.

16-3.903-50 Subcontract clause.

Subpart 16-3.12—Cost Accounting Standards

16-3.1200 Scope of subpart.

Authority: 40 U.S.C. 486(c); 5 U.S.C. 8913.

§ 16-3.000 Scope of part.

This part prescribes policies and procedures which shall be observed by OPM in connection with procurement by negotiation under the Federal Employees Health Benefits Program (FEHBP).

Subpart 16-3.1—Use of Negotiation

§ 16-3.100 Scope of subpart.

This subpart deals with the nature and use of negotiation in the award of contracts under the Federal Employees Health Benefits Program (FEHBP).

§ 16-3.101 General requirements for negotiation.

No contract shall be entered into as a result of negotiation unless or until the following requirements have been satisfied:

(a) any necessary determinations and findings have been made (see subpart 16-3.3);

(b) such clearances or approvals as is prescribed in applicable agency procedures have been obtained; and

(c) the prospective contractor has been determined to be responsible in accordance with subpart 16-1.12.

§ 16-3.102 Factors to be considered in negotiating contracts.

FPR 1-3.102 is applicable to the administration of the FEHBP contracts. Additional factors to be considered are provided in 5 CFR 890.201 and 890.202.

§ 16-3.104 Disclosure of mistakes after award.

FPR 1-3.104 is applicable to the administration of FEHBP contracts.

Subpart 16-3.2—Circumstances Permitting Negotiation**§ 16-3.200 Scope of subpart.**

FPR 1-3.200 is applicable to the administration of the FEHBP contracts.

§ 16-3.215 Otherwise authorized by law.

(a) Pursuant to the authority of section 302(c)(15) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 252(c)(15)) purchases and contracts may be negotiated without formal advertising if "otherwise authorized by law." This provision preserves the authority to negotiate contracts conferred by other legislation.

(b) Contracts between OPM and health benefits carriers are contracted for "without regard to section 5 of title 41 or other statute requiring competitive bidding." [5 U.S.C. 8902] This statutory authority is construed to authorize negotiation pursuant to section 302(c)(15) of the Act and without regard to the advertising requirements of sections 302(c) and 303 of the Act (see FPR 1-3.215(c)).

Subpart 16-3.3—Determinations, Findings, and Authorities**§ 16-3.301 General.**

The following sections regarding determinations, findings, and authorities are applicable to the administration of the FEHBP contracts.

FPR 1-3.302(e)

FPR 1-3.305

FPR 1-3.308 (a), (b), and (d)

Subpart 16-3.4—Types of Contracts**§ 16-3.400 Scope of subpart.**

This subpart (a) describes and defines the types of contracts used in the Federal Employees Health Benefits Program; (b) defines the areas of applicability in which each type of contract may be used appropriately and sets forth considerations and policies governing the choice of type of contract; and (c) imposes conditions on the use of certain of the available contract types.

§ 16-3.401 Type of health benefits plan contracts.

(a) The Federal Employees Health Benefits Act provides that the Office of

Personnel Management may contract with qualified carriers. The Act provides that rates charged under these health benefit plans shall reasonably and equitably reflect the cost of the benefits provided. Two types of contracts are used in the FEHBP, experience rated and community rated. Definitions and explanations of these two contract types are contained in Part 4, of this Chapter 16, "Special Types and Methods of Procurement."

(b) Other contract types or combination of types which will promote the best interest of the Government, subject to the restrictions in FPR 1-3.401(b) or in 5 U.S.C. 8902(i), may be negotiated if appropriate in the circumstance. To the extent that a contract type other than experience rated or community rated is selected, the relevant subsection of FPR Subpart 1-3.4 would apply. However, the cost-plus-a-percentage-of-cost contract shall not be used.

Subpart 16-3.8—Price Negotiation Policies and Techniques**§ 16-3.800 Scope of subpart.**

FPR 1-3.800 is applicable to the administration of the FEHBP contracts. The renegotiation of rates or benefits in an FEHBP contract constitutes a modification as that term is used in FPR 1-3.800.

§ 16-3.801 Basic policy.

FPR 1-3.801 is applicable to the administration of the FEHBP contracts and is supplemented as follows: The FEHBP contract pricing team specified in FPR 1-3.801-3(b)(1) may include an actuary.

§ 16-3.802 Preparation for negotiation.

The provisions of FPR 1-3.802(a) should be adapted to the FEHBP procedures and requirements as specified in Part 4 of this Chapter 16, "Special Types and Methods of Procurement" and 5 CFR 890.203.

§ 16-3.803 Type of contract.

FPR 1-3.803 is applicable to the administration of the FEHBP contracts.

§ 16-3.804 Conduct of negotiations.

FPR 1-3.804 is applicable to the administration of the FEHBP contracts.

§ 16-3.805 Selection of offerors for negotiation and award.

Application for approval of, and proposal of amendments to, health benefits plans should be made according to the procedures set out in 5 CFR Part 890.

§ 16-3.806 Cost, profit, and price relationship.

FPR 1-3.806 is applicable to the administration of the FEHBP contracts.

§ 16-3.807 Pricing techniques.**§ 16-3.807-1 General.**

FPR 1-3.807-1 (a) and (b)(2) are applicable to the administration of the FEHBP contracts.

§ 16-3.807-2 Requirements for price or cost analysis.

FPR 1-3.807-2 is applicable to the administration of FEHBP contracts.

§ 16-3.807-3 Cost or pricing data.

(a) FPR 1-3.807-3 is applicable to the administration of FEHBP contracts. To clarify implementation of the cost or pricing data requirement on the FEHBP, the following supplementary information is provided:

(1) A community rated contract (see OPMPR 16-4.152-1(a)) meets the exception cited in FPR 1-3.807-3(b)(1)(ii). Consequently, the contracting officer need not apply FPR 1-3.807-3(a) to carriers offering community rated plan contracts. The contracting officer may, however, require the carrier of a community rated plan to demonstrate that the community rate is in fact a community rate. In any event, the carrier shall be required to submit a certificate in accordance with OPMPR 16-3.807-50 certifying that the proposed rates are in fact a community rate as defined by OPMPR 16-4.151-2.

Cost and pricing data may be required for any portion of the proposed rate that is not a part of the community rate if that portion is otherwise in accordance with the dollar criteria of FPR 1-3.807-3.

(2) Since cost or pricing data is not required for a community rated contract, subcontract cost and pricing data as referred to in FPR 1-3.807-3(d)(1) need not be requested by the contracting officer.

(3) The contracting officer shall require carriers offering experience rated plan contracts to submit written cost or pricing data in accordance with FPR 1-3.807-3. Generally, each experience rated plan shall be required to submit, with its rate proposal, a projection of its operations for completion of the current year and for succeeding contract year(s), and to explain the derivation of each item in the projection. Data supplied by the carrier will be checked against reports filed by the carrier showing monthly paid claims incurred by quarter of each year. The data in these reports will also be verified by comparison to the carrier's annual accounting statement

filed with OPM. The Office of Actuary will review the information filed by the carrier and compare the carrier's data with an independent projection developed by the actuary.

(4) A carrier offering an experience rated plan which is required to submit and certify cost or pricing data in accordance with FPR 1-3.807-3 shall be required along with its own submission to submit, or arrange for the submission of, cost or pricing data from its subcontractors as stated in FPR 1-3.807-3(d). See OPMPR 16-4.151-13 for definition of subcontractor.

(b) [Reserved]

§ 16-3.807-4 Certificate of current cost or pricing data.

Where a certificate of cost or pricing data is required in accordance with FPR 1-3.807-3, a certificate in the form specified in FPR 1-3.807-4 shall be submitted as soon as practicable after agreement is reached on the contract subscription rates.

§ 16-3.807-5 Defective cost or pricing data.

FPR 1-3.807-5 is applicable to the administration of the FEHBP contracts.

§ 16-3.807-6 Refusal to provide cost or pricing data.

FPR 1-3.807-6 is applicable to the administration of the FEHBP contracts.

§ 16-3.807-7 Unacceptable substitutes for pricing negotiations.

FPR 1-3.807-7 is applicable to the administration of the FEHBP contracts.

§ 16-3.807-8 Evaluation and pricing of individual contracts.

FPR 1-3.807-8 is applicable to the administration of the FEHBP contracts. Application of this paragraph should not be confused with the readjustment of rates on an experience rated contract. Surpluses or deficits in reserves in the preceding year on experience rated contracts may be considered in the adjustment of rates upon the renewal of contracts.

§ 16-3.807-9 Specified contingencies.

FPR 1-3.807-9 is applicable to the administration of the FEHBP contracts.

§ 16-3.807-10 Subcontracting considerations in cost analysis.

FPR 1-3.807-10 is applicable to the administration of the FEHBP contracts. See OPMPR 16-4.151-13 for definition of subcontractor.

§ 16-3.807-11 Overhead rate consideration.

FPR 1-3.807-11 is applicable to the administration of the FEHBP contracts. In FEHBP, overhead (indirect) costs are

components of administrative expenses in the FEHBP.

§ 16-3.807-50 Certificate of community rating.

(a) Each carrier proposing a community rate shall submit the following certification with its proposal:

Certificate of Community Rating

This is to certify that the proposed subscription rate, subject to recognized adjustments allowed by OPMPR 16-4.152-1(a)(2), is a community rate in accordance with OPMPR 16-4.151-2.

(b) If it is determined that the subscription rate (subject to the adjustments allowed by OPMPR 16-4.152-1(a)) is not a community rate as defined by OPMPR 16-4.151-2, the Government shall be entitled to an adjustment of the price so that it is a true community rate. If the price of the adjusted rate is lower than the subscription rate, the Government will be entitled to a price reduction. If the carrier cannot or refuses to determine a true community rate, the Government may require the carrier to experience rate the contract and if the price for an experience rated contract is less than the original contract price, the Government is entitled to a price reduction. The clause set forth in OPMPR 16-3.814-50 shall be inserted in each community rated contract.

§ 16-3.808 Service charge.

FPR 1-3.808-1 is applicable in the administration of FEHBP contracts. In determining the service charge.

FEHBP carriers shall apply the principles set out in FPR Temporary Regulation 61, 46 FR 27645-27649, dated May 21, 1981 in the administration of FEHBP contracts.

§ 16-3.808-50 Factors and considerations for determining the service charge.

(a) In the construction of a subscription rate, the insurance industry includes a charge known as "retentions". Retentions represent the excess of premiums over benefit claim expenses and subscriber dividends. Retentions specifically include administrative expenses, a return to stockholders, if any, on their capital investments, and a contribution to reserves. In large group contracts, total retention may be established as a result of negotiation and/or direct competition among carriers seeking the employer's account.

(b) In FEHBP community rated contracts, the community rate is assumed to include an adequate and competitive retention charge. Under FEHBP experience rated contracts, administrative expenses (see OPMPR 16-4.153(b)) are determined on the basis

of actual costs incurred and the balance of the retention charge is a negotiated sum. The part that is negotiated, i.e., return to stockholders and contributions to reserves, is not unlike "profit" or "fee". However, this negotiated sum in the FEHBP is known as the "service charge".

(c) The carrier may propose a service charge for a variety of reasons, such as, providing a return to stockholders and/or a contribution to reserves. However, the carrier's basis for determining a service charge may differ from OPM's basis for determining the reasonableness of a proposed service charge.

(d) The service charge is a negotiated amount which may or may not be proposed by an experience rated carrier in the FEHBP. If proposed, the contracting officer shall evaluate the reasonableness of the proposed service charge on the basis of the following factors which are directly pertinent to FEHBP experience rated contracts. These factors are solely for the purpose of analysis by the contracting officer and do not represent a basis for which a carrier may claim a service charge.

(1) *Underwriting risk.* The degree of risk assumed by the carrier should influence the amount of the service charge. Although the carrier underwrites the contract, that is, assumes the risk of loss in any one contract year, experience rating aims to allow the loss in any one contract year to be recovered in future years. In effect, the contract is redetermined on the basis of actual costs incurred. Consequently, a loss on the contract can only result if the contract is terminated in a year in which the contract has a cumulative deficit or if the administrative cost ceiling is exceeded. In the first situation, the contract might provide for some additional indemnification. The amount of service charge for underwriting risk in this case would be relatively less. However, circumstances in a particular situation may warrant a greater consideration.

(2) *Conversions.* The FEHBP law provides that for an employee whose enrollment is ended, except by cancellation, the carrier must offer the employee the option to convert, without evidence of good health, to a nongroup contract providing health benefits. [5 U.S.C. 8902(g)] The potential conversions of persons with preexisting conditions represent an underwriting risk that is fully assumed by the carrier and the service charge should be influenced accordingly.

(3) *Extent of financial assistance.* Generally, the FEHBP contracts are

intended to be self-supporting. The premiums are paid to the carrier semi-monthly and are set so as to recover all projected costs, including a reserve for unpaid, but incurred claims. Consequently, premiums paid from the Federal Employees Health Benefits Fund generally finance the cost of the contract. Because of its underwriting responsibilities, however, the carrier may have to finance contract operations during periods of underwriting losses that deplete contract reserves until a time when premiums can be adjusted to restore them. When contract funds finance FEHBP costs, the service charge should not include a factor for financing. When, due to underwriting losses, the carrier must finance FEHBP costs, the service charge should include a factor for financing. This condition can be recognized in the determination of subscription rates when the condition actually exists.

(4) *Carrier's performance.* The contracting officer may consider performance elements, such as, quality of service to subscribers, timeliness and accuracy in processing benefit claims, health care cost containment, and timeliness and accuracy of reports required by OPM. Where the carrier has consistently achieved excellent results in the foregoing areas, this performance merits a proportionately greater opportunity for service charges. Conversely, a poor record in this regard may have a negative influence on the amount of the service charge.

(5) *Subcontracting.* Carriers provide health benefits plans for the FEHBP through a wide variety of organizational structures and contractual arrangements. In some instances, a significant portion of the performance of a health benefits plan is subcontracted so that only a minimum amount of responsibility or risk remains with the FEHBP carrier. The contracting officer shall ensure that in these instances there is no unreasonable pyramiding of the service charge. The service charge for each organizational component of the contract shall be evaluated as to its reasonableness with respect to the services performed.

(6) *Other considerations.* In renegotiating a service charge during contract renewals, the contracting officer may also consider any significant changes in the health plan's enrollment and changes in the consumer price index.

§ 16-3.809 Contract audit as a pricing aid.

Each health benefits plan is audited by the Audits Division, Compensation Group, OPM, on a periodic basis according to a schedule determined by

the Audits Division in consultation with the contracting officer. The Audits Division prepares audit reports which are supplied to the contracting officer and the Office of the Actuary. The contracting officer utilizes these audit reports in evaluating the validity and accuracy of data submitted by the carriers, in conducting negotiations on rates proposed by carriers, and in evaluating the efficiency and effectiveness of carrier operations. The audit function as stated in FPR 1-3.809 is generally applicable to the administration of FEHBP contracts. However, due to the distinctive nature of the FEHBP contracts, the contracting officer need not make a specific request for an audit review of revised subscription rates on experience rated contract renewals. The evaluation of projections and trends in estimating health insurance subscription rates requires the expertise of an actuary. The subscription rate estimates are, consequently, reviewed by the Office of the Actuary. One component of the estimated subscription rate is the balance of the Special Reserve, that is, the contract surplus or deficit (see 5 CFR 890.201(8)). The Audits Division conducts periodic audits on an historical basis of carrier costs and thereby verifies the propriety of the reported Special Reserve balance. Although these reviews are not labeled as precontract audits, they amount to audits of the costs upon which future subscription rates are predicated. Therefore, in the context of the FEHBP, a post-contract audit is the functional equivalent of the precontract audit required by FPR 1-3.809.

§ 16-3.810 Exchange of information.

FPR 1-3.810 is applicable to the administration of FEHBP contracts.

§ 16-3.811 Record of price negotiation.

FPR 1-3.811 is applicable to the administration of FEHBP contracts.

§ 16-3.812 Disposition of postaward audits.

FPR 1-3.812 is applicable to the administration of FEHBP contracts.

§ 16-3.813 Startup and other nonrecurring costs.

In order for a new carrier to provide benefits on the effective date of the FEHBP contract, a certain amount of start-up costs are necessary. For experience rated contracts, the contracting officer shall determine whether it is the carrier's intention to absorb these precontract costs or to recover them from the contract. When the carrier has conveyed its intention to absorb any portion of the start-up cost,

there shall be an express contractual provision that such portion will not be charged to the contract.

§ 16-3.814 Contract clauses.

The appropriate contract clause specified in FPR 1-3.814 shall be included in each experience rated FEHBP contract.

§ 16-3.814-50 Price reduction for defective certificate of community rating.

The following clause shall be included in all contracts where the subscription rate was established on the basis of a community rate:

Price Reduction For Defective Certificate Of Community Rating

If it is determined that the subscription rate (Subject to the adjustments allowed by OPMPR 16-4.152-1(a)) is not a community rate as defined by OPMPR 16-4.151-2, the Government will be entitled to an adjustment of the price so that it is a true community rate. If the carrier cannot or refuses to determine a true community rate, the Government may require the carrier to experience rate the contract. The experience rated price shall be determined on the basis of actual costs incurred in accord with 41 CFR 1-15.2, including a fair and reasonable service charge. If the price of the adjusted community rate, or if there is no community rate, the experience rate, is less than the original subscription price, the price of this contract shall be reduced accordingly. Refunds due the Government shall be used to reduce future FEHBP subscription charges of the carrier.

Subpart 16-3.9—Subcontracting Policies and Procedures

§ 16-3.903-2 Review and approval of subcontracts.

FPR 1-2.903-2 is applicable to the administration of the FEHBP contracts. Under experience rated FEHBP contracts, advance approval shall be required on all subcontracts or modifications to subcontracts the price of which exceeds \$25,000 and which provide for administration of the carrier's FEHB plan. Administration is defined as enrollment and eligibility determinations, adjudication and payment of benefits, and/or underwriting. The subcontract clause specified in OPMPR 16-3.903-50 shall be included in each experience rated contract.

§ 16-3.903-50 Subcontract clause.

Subcontracts

(a) The Contractor shall notify the Contracting Officer reasonably in advance of entering into any subcontract or subcontract modification if the subcontract exceeds \$25,000 and provides for administration of the carrier's FEHB plan. Administration is defined as enrollment and eligibility

determinations, adjudication and payment of benefits, and/or underwriting.

(b) The advance notification required by paragraph (a) above shall include:

(i) A description of the services to be called for by the subcontract;

(ii) Identification of the proposed subcontractor and an explanation of why and how the proposed subcontractor was selected;

(iii) The proposed subcontract price, together with the Contractor's cost or price analysis thereof;

(iv) The subcontractor's current, complete, and accurate cost or pricing data and Certificate of Current Cost or Pricing Data, when such data and certificates are required by other provisions of this contract to be obtained from the subcontractor;

(v) Identification of the type of subcontract to be used;

(vi) A memorandum of negotiation which sets forth the principal elements of the subcontract price negotiations. A copy of this memorandum shall be retained in the Contractor's file for the use of Government reviewing authorities. The memorandum shall be in sufficient detail to reflect the most significant considerations controlling the establishment of initial or revised prices. The memorandum should include an explanation of why cost or pricing data was, or was not, required and, if it was not required in the case of any price negotiation in excess of \$100,000, a statement of the basis for determining that the price resulted from or was based on adequate price competition, established catalog or market prices of commercial items sold in substantial quantities to the general public, or prices set by law or regulation. If cost or pricing data was submitted and a certificate of cost or pricing data was required, the memorandum shall reflect the extent to which reliance was not placed upon the factual cost or pricing data submitted and the extent to which this data was not used by the Contractor in determining the total price objective and in negotiating the final price. The memorandum shall also reflect the extent to which it was recognized in the negotiation that any cost or pricing data submitted by the subcontractor was not accurate, complete, or current; the action taken by the Contractor and the subcontractor as a result; and the effect, if any, of such defective data on the total price negotiated. Where the total price negotiated differs significantly from the Contractor's total price objective, the memorandum shall explain this difference;

(vii) When incentives are used, the memorandum of negotiation shall contain an explanation of the incentive fee profit plan identifying each critical performance element, management decisions used to quantify each incentive element, reasons for incentives on particular performance characteristics, and a brief summary of trade-off possibilities considered as to cost, performance, and time; and

(viii) The Subcontractor's Disclosure Statement or Certificate relating to Cost Accounting Standards when such data are required by other provisions of this contract to be obtained from the subcontractor.

(c) The Contractor shall not enter into any subcontract for which advance notification to

the Contracting Officer is required by this clause, without the prior written consent of the Contracting Officer; Provided, that the Contracting Officer in his discretion, may ratify in writing any subcontract. Such ratification shall constitute the consent of the Contracting Officer required by this paragraph.

(d) Consent by the Contracting Officer to any subcontract or any provisions thereof shall not be construed to be a determination of the acceptability of any subcontract price or of any amount paid under any subcontract or to relieve the Contractor of any responsibility for performing this contract, unless such approval or consent specifically provides otherwise.

(e) The Contractor agrees that no subcontract placed under this contract shall provide for payment on a cost-plus-a-percentage-of-cost basis.

Subpart 16-3.12—Cost Accounting Standards

§ 16-3.1200 Scope of subpart.

The portions of FPR 1-3.12 applicable to the administration of FEHBP contracts are summarized as follows:

(a) Disclosure statements are not required under FEHBP contracts (FPR 1-3.1203-1)

(b) Cost Accounting Standards are applicable to FEHBP contracts which will usually meet the criteria for the modified contract clause (FPR 1-3.1204-2(b)) except that the following FEHBP contracts would be exempt from CAS coverage in accordance with FPR 1-3.1203-2(c):

- (1) Community rated contracts,
- (2) Small business concern contracts,
- (3) Contracts under \$500,000 unless the carrier is performing CAS covered contracts, in which case the FEHBP contract would be exempt if the amount of the contract is under \$100,000.

PART 16-4—SPECIAL TYPES AND METHODS OF PROCUREMENT

Subpart 16-4.1—Federal Employees Health Benefits Contracts

Sec.

16-4.150 Scope and applicability of part.

16-4.151 Definition of terms.

16-4.151-1 Carrier.

16-4.151-2 Community rate.

16-4.151-3 Contractor.

16-4.151-4 Contract modification.

16-4.151-5 Contracting officer.

16-4.151-6 Director.

16-4.151-7 Experience rate.

16-4.151-8 FEHBP.

16-4.151-9 Government-wide plans.

16-4.151-10 Health benefits plan.

16-4.151-11 Negotiation.

16-4.151-12 OPM.

16-4.151-13 Subcontractor.

16-4.152 Policies and procedures.

16-4.152-1 Types of health benefits plan contracts.

16-4.152-2 Types of health plans.

Sec.

16-4.152-3 Applications to participate in the FEHBP Program.

16-4.152-4 Proposals of existing FEHBP carriers.

16-4.152-5 Program requirements—information required of participating FEHBP plans.

16-4.153 Cost of benefits provided under experience rated contracts.

Authority: 40 U.S.C. 486(c); 5 U.S.C. 8913.

Subpart 16-4.1—Federal Employees Health Benefits Contracts

§ 16-4.150 Scope and applicability of part.

This part describes the principal types of FEHBP contracts and sets forth policies and procedures used in connection with the procurement of health insurance coverage under the Federal Employees Health Benefits Program.

§ 16-4.151 Definition of terms.

For the purposes of this chapter, and unless otherwise indicated, the following terms have the meaning set forth in this subpart.

§ 16-4.151-1 Carrier.

"Carrier" means a voluntary association, corporation, partnership, or other nongovernmental organization which is lawfully engaged in providing, paying for, or reimbursing the cost of, health services under group insurance policies or contracts, medical or hospital service agreements, membership or subscription contracts, or similar group arrangements, in consideration of premiums or other periodic charges payable to the carrier, including a health benefits plan duly sponsored or underwritten by an employee organization. (5 U.S.C. 8901(7))

§ 16-4.151-2 Community rate.

"Community rate" means a rate of payment which is equivalent to that charged on the effective date to all subscriber groups of the carrier for the same contract period for the same level of health benefits. The rate of payment will be determined without regard to the differences among the subscriber groups in actual or projected utilization of health care services, except that rates may be determined for individuals and families by classes if such rates are equivalent across all subscriber groups for all individuals in the same class and for all families of similar composition in the same class.

§ 16-4.151-3 Contractor.

"Contractor" means carrier.

§ 16-4.151-4 Contract modification.

"Contract modification" means any written alteration in the requirements,

rates, or other contract provisions of an existing contract, whether accomplished by unilateral action in accordance with a contract provision or by mutual action of the carrier and OPM.

§ 16-4.151-5 Contracting officer.

"Contracting officer" means an official designated to enter into or administer contracts and make related determinations and findings.

§ 16-4.151-6 Director.

"Director" means the Director, Office of Personnel Management.

§ 16-4.151-7 Experience rate.

"Experience rate" means a rate for a given group which is the product of that group's actual paid claims, administrative expenses, retentions, and estimated claims incurred but not reported, adjusted for benefit modifications, utilization trends, and trends in the economy.

§ 16-4.151-8 FEHBP.

"FEHBP" means the Federal Employees Health Benefits Program.

§ 16-4.151-9 Government-wide plans.

"Government-wide plans" means the service benefit plan and the indemnity benefit plan as referred to in 5 U.S.C. 8903 (1) and (2).

§ 16-4.151-10 Health benefits plan.

"Health benefits plan" means a group insurance policy or contract, medical or hospital service agreement, membership or subscription contract, or similar group arrangements provided by a carrier for the purpose of providing, paying for, or reimbursing expenses for health services. (5 U.S.C. 8901(6))

§ 16-4.151-11 Negotiation.

"Negotiation" means the procedure for making contracts without formal advertising.

§ 16-4.151-12 OPM.

"OPM" means the Office of Personnel Management.

§ 16-4.151-13 Subcontractor.

"Subcontractor" means one who performs for and takes from the prime contractor a specific part of the original requirements of the prime contract. In a contract for health insurance, original requirements comprise administration of the carrier's FEHB plan. Administration is defined as enrollment and eligibility determinations, adjudication and payment of benefits and/or underwriting. In a contract for health services, as in a comprehensive plan group practice type arrangement, original requirements comprise the

provision of medical services through groups of physicians as defined by 5 U.S.C. 8903(4)(A) and administration of the carrier's FEHB plan. Administration is defined as enrollment and eligibility determinations, adjudication and payment of benefits, and/or underwriting.

§ 16-4.152 Policies and procedures.

§ 16-4.152-1 Types of health benefits plan contracts.

Chapter 89, Title 5, United States Code, authorizes the Office of Personnel Management to enter into contracts with health benefits carriers to provide health benefits coverage for Federal employees and annuitants. Contracts between OPM and health benefits carriers are of two principal types, community rated and experience rated.

(a) *Community rated contract.* In a community rated contract:

(1) The subscription charge per subscriber is fixed for the term of the contract and is not subject to redetermination;

(2) The subscription charge consists of the community rate as defined in OPMPR 16-4.151-2, subject to recognized adjustments allowed by this paragraph. The adjustments represent (i) certain additional benefits above the basic package may be provided to Federal subscribers (the costs of these benefits are referred to as "benefit loadings"); and (ii) minor adjustments from the community rate may be made in the rate charged to Federal subscribers to cover unique requirements of the Federal Employees Health Benefits Program (these adjustments are referred to as "standard loadings" and in some cases may be cost reductions (negative loadings)). Where, because of lead-time requirements in rate negotiations, an estimated community rate is used, and subsequently the actual community rate turns out to differ from the estimated rate, some readjustment may be made.

(b) *Experience rated contract.* (1) In an experienced rated contract, the subscription charge per subscriber is fixed at the beginning of the contract term, but is subject to redetermination based upon actual cost incurred. [See OPMPR 16-4.153]

(2) If upon redetermination there is a surplus of the subscription charges collected by the carrier over the cost of providing the benefits, the surplus is carried forward to the next contract term as a positive balance in an account called the "special reserve." Conversely, if the cost of providing the benefits exceeds the subscription charges collected, the deficit is carried forward

to the next contract term as a negative special reserve balance. The special reserve balance becomes a factor in determining subscription charges for the next contract term.

(3) Subscription charges held by the carrier which are in excess of the funds needed to discharge promptly the obligations incurred under the FEHBP contract must be invested and the income derived from the invested funds must be credited to the special reserve. [See 5 CFR 890.201(a)(8)]

§ 16-4.152-2 Types of health plans.

OPM contracts for the following health benefits plans:

- (a) Service Benefit Plan
- (b) Indemnity Benefit Plan
- (c) Employee Organization Plans
- (d) Comprehensive Medical Plans

A description of these plans is set out at 5 U.S.C. 8903.

§ 16-4.152-3 Applications to participate in the FEHB Program.

By regulation [5 CFR 890.203], applications from carriers for participation in the FEHBP shall be accepted only for comprehensive medical plans and shall be submitted by March 31 preceding the contract year to which they refer. In its solicitation for new plans, OPM shall request detailed information of each carrier expressing interest in participating in the FEHBP. The Office of the Assistant Director for Insurance Programs shall evaluate the information received as set out in 5 U.S.C. Chapter 89, 5 CFR Part 890, and this Chapter 16, and the contracting officer shall notify carriers meeting these requirements of their approval to participate in the FEHBP during the following contract year. Since each application is considered on its own merits, there is no competition between offerors as is the case in other types of procurements. Negotiation for benefits and rates shall be completed no later than September 30 preceding the contract year to which they apply.

§ 16-4.152-4 Proposals of existing FEHBP carriers.

For plans which are under contract with OPM, a "call letter" shall be issued to the carrier on or about March 1 of each year soliciting benefits and rate proposals. Negotiation for new benefits shall begin on May 1, and all benefit and rate negotiations shall be completed no later than September 30 preceding the contract year to which they apply.

**§ 16-4.152-5 Program requirements—
information required of participating
FEHBP carriers.**

(a) At the times and in the form specified by OPM, participating carriers shall submit the following: enrollment data, utilization data, and a statement of program financial operations including the corresponding Certified Public Accountant's statement on carrier operations.

(b) The Office of the Assistant Director for Insurance shall review the data to evaluate the management of financial and other resources. Information obtained in the analysis of these reports shall be used in determining the carrier's continuing ability to meet the statutory and regulatory requirements of 5 U.S.C. Chapter 89, 5 CFR Part 890, and the requirements of this Chapter 16.

**§ 16-4.153 Cost of benefits provided
under experience rated contracts.**

In an experience rated contract, the cost of benefits provided represents the actual costs incurred under the contract. The actual costs of the contract consist of the benefit payments made or accrued, plus administrative expenses incurred in adjudicating benefit claims and in the general operations of the carrier, plus the service charge and less investment income earned. In the absence of specific contract terms to the contrary, contract costs will be classified in accordance with the following criteria:

(a) *Benefits.* Benefit costs consist of payments made and liabilities incurred for covered health care services on the behalf of FEHBP subscribers, less any refunds, rebates, allowances or other credits received. If the FEHBP benefit costs must be determined on an indirect basis, the cost shall be determined in accordance with FPR 1-15.203.

(b) *Administrative expenses.* Administrative expenses consist of all allocable, allowable and reasonable expenses incurred in the adjudication of subscriber benefit claims or incurred in the carrier's overall operation of the business. Unless otherwise stated in the contract, administrative expenses include, in part: all taxes including premium taxes, insurance and reinsurance premiums, medical and dental consultants used in the adjudication process, concurrent care review when not billed by a health care provider and other forms of utilization review, the cost of maintaining eligibility files, and legal expenses incurred in the litigation of benefit payments. The amounts charged to the contract shall be actual, necessary expenses incurred in connection with

administration of the contract, determined on an equitable and reasonable basis, with proper justification and accounting support, and in accordance with FPR 1-15.2. Administrative expenses exclude the cost of carrier personnel, equipment, and facilities directly used in the delivery of health care services, which are benefit costs, and the expense of managing the FEHBP investment program which is a reduction of investment income earned.

(c) *Investment income.* The carrier is required to invest and reinvest all funds on hand, including any in the special reserve or any attributable to the reserve for incurred but unpaid claims, which are in excess of the funds needed to discharge promptly the obligations incurred under the contract. Investment income represents the net amount earned by the carrier after deducting investment expenses as a result of investing the FEHBP funds. Consequently, the contracting officer shall insert the clause at OPMPR 16-7.503-6. The direct or allocable indirect expenses incurred in managing the investment program, such as, consultant or management fees are chargeable against the investment income earned. It is possible that a negative investment income earned figure can result if the costs of managing the investment program exceed the investment income earned.

(d) *Service charge.* The service charge is a negotiated sum (see OPMPR 16-3.808).

(e) *Other items.* (1) *Mandatory statutory reserves.* Charges for mandatory statutory reserves are not allowable unless specifically provided for in the contract. When the term "mandatory statutory reserve" is specifically identified as an allowable contract charge without further definition or explanation, it means a requirement imposed by State law upon the carrier to set aside a specific amount or rate of funds into a restricted reserve that is accounted for separately from all other reserves and surpluses of the carrier and which may be used only with the specific approval of the State official designated by law to make such approvals. The amount chargeable to the contract may not exceed an allocable portion of the amount actually set aside. If the statutory reserve is no longer required for the purpose for which it was created, and these funds become available for the general use of the carrier, a pro rata share based upon FEHBP's contribution to the total carrier's set aside shall be returned to the FEHBP in accordance with FPR 1-15.201-5.

(2) *Premium taxes.* When the term "premium taxes" is used in the contract without further definition or explanation, it means a tax imposed by State or local statutes upon the carrier's gross or net premiums received.

PART 16.7—CONTRACT CLAUSES

Subpart 16-7.50—FEHBP Contract Clauses

- Sec.
- 16-7.500 Scope of subpart.
 - 16-7.502 Required clauses.
 - 16-7.502-1 Definitions.
 - 16-7.502-2 Disputes.
 - 16-7.502-3 Equal opportunity.
 - 16-7.502-4 Officials not to benefit.
 - 16-7.502-5 Covenant against contingent fees.
 - 16-7.502-6 Pricing of adjustments.
 - 16-7.502-7 Employment of the handicapped.
 - 16-7.502-8 Clean air and water.
 - 16-7.502-9 Examination of records by the Comptroller General.
 - 16-7.502-10 Confidentiality of records.
 - 16-7.502-11 Convict labor.
 - 16-7.502-12 Listing of employment openings.
 - 16-7.502-13 Preference for U.S. flag air carriers.
 - 16-7.503 Clauses to be used in experience rated contracts.
 - 16-7.503-1 Price reduction for defective cost or pricing data.
 - 16-7.503-2 Audit and records.
 - 16-7.503-3 Subcontractor cost and pricing data.
 - 16-7.503-4 Cost accounting standards.
 - 16-7.503-5 Subcontracts.
 - 16-7.503-6 Investment income.
 - 16-7.504 Clauses to be used in community rated contracts.
 - 16-7.504-1 Price reduction for defective certificate of community rating.
 - 16-7.504-2 Audit and records.
- Authority: 40 U.S.C. 486(c); 5 U.S.C. 8913.

Subpart 16-7.50—FEHBP Contract Clauses

§ 16-7.500 Scope of subpart.

This subpart sets forth contract clauses for use in all FEHBP contracts.

§ 16-7.502 Required clauses.

The clauses set forth in this § 16-7.502 shall be attached, included in, or incorporated by reference in all FEHBP contracts.

§ 16-7.502-1 Definitions.

Insert the clauses set forth in FPR 1-7.102-1.

§ 16-7.502-2 Disputes.

Insert a clause conforming in substance to the following clause as set forth in Temporary Regulation 55, 45 FR 35815, dated May 28, 1980:

Disputes Clause

(a) This contract is subject to the Contract Disputes Act of 1978 (Pub. L. 95-563).

(b) Except as provided in the Act, all disputes arising under or relating to this contract shall be resolved in accordance with this clause.

(c)(i) As used herein, "claim" means a written demand or assertion by one of the parties seeking as a legal right, the payment of money, adjustment or interpretation of contract terms, or other relief, arising under or relating to this contract.

(ii) A voucher, invoice, or request for payment that is not in dispute when submitted is not a claim for the purposes of the Act. However, where such submission is subsequently not acted upon in a reasonable time, or disputed either as to liability or amount, it may be converted to a claim pursuant to the Act.

(iii) A claim by the contractor shall be made in writing and submitted to the contracting officer for decision. A claim by the Government against the contractor shall be subject to a decision by the Contracting Officer.

(d) For contractor claims of more than \$50,000 the contractor shall submit with the claim a certification that the claim is made in good faith; the supporting data are accurate and complete to the best of the contractor's knowledge and belief; and the amount requested accurately reflects the contract adjustment for which the contractor believes the Government is liable. The certification shall be executed by the contractor if an individual. When the contractor is not an individual, the certification shall be executed by a senior official in charge at the contractor's plan or location involved, or by having overall responsibility for the conduct of the contractor's affairs.

(e) For contractor claims of \$50,000 or less, the Contracting Officer must render a decision within 60 days. For contractor claims in excess of \$50,000 the Contracting Officer must decide the claim within 60 days or notify the contractor of the date when the decision will be made.

(f) The Contracting Officer's decision shall be final unless the contractor appeals or files a suit as provided in the Act.

(g) The authority of the Contracting Officer under the Act does not extend to claims or disputes which by statute or regulation other agencies are expressly authorized to decide.

(h) Interest on the amount found due on a contractor claim shall be paid from the date the claim is received by the Contracting Officer until the date of payment.

(i) Except as the parties may otherwise agree, pending final resolution of a claim by the contractor arising under the contract, the contractor shall proceed diligently with the performance of the contract in accordance with the contracting officer's decision.

§ 16-7.502-3 Equal opportunity.

Insert the clause set forth in FPR 1-12.803-2.

§ 16-7.502-4 Officials not to benefit.

Insert the clause set forth in FPR 1-7.102-17.

§ 16-7.502-5 Covenant against contingent fees.

Insert the clause set forth in FPR 1-1.503.

§ 16-7.502-6 Pricing of adjustments.

Insert the clause set forth in FPR 1-7.102-20.

§ 16-7.502-7 Employment of the handicapped.

Insert the clause set forth in FPR 60-741.4 (Temporary Regulation 38, 41 FR 22817, dated June 7, 1976) in all contracts and subcontracts of \$2,500 or more:

Employment of the Handicapped

(a) The contractor will not discriminate against any employee or applicant for employment because of physical or mental handicap in regard to any position for which the employee or applicant for employment is qualified. The Contractor agrees to take affirmative action to employ, advance in employment, and otherwise treat qualified handicapped individuals without discrimination based upon their physical or mental handicap in all employment practices such as the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising; layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.

(b) The contractor agrees to comply with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the Rehabilitation Act of 1973, as amended.

(c) In the event of the contractor's noncompliance with the requirements of this clause, actions for noncompliance may be taken in accordance with the rules, regulations and relevant orders of the Secretary of Labor issued pursuant to the Act.

(d) The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices in a form to be prescribed by the Director, Office of Federal Contract Compliance Programs, Department of Labor, provided by or through the contracting officer. Such notices shall state the contractor's obligation under the law to take affirmative action to employ and advance in employment qualified handicapped employees and applicants for employment, and the rights of applicants and employees.

(e) The contractor will notify each labor union or representative of workers with which it has a collective bargaining agreement or other contract understanding, that the contractor is bound by the terms of section 503 of the Act and is committed to take affirmative action to employ and advance in employment physically and mentally handicapped individuals.

(f) The contractor will include the provisions of this clause in every subcontract or purchase order of \$2,500 or more unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 503 of the Act, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action

with respect to any subcontractor or purchase order as the Director, Office of Federal Contract Compliance Programs, may direct to enforce such provisions, including action for noncompliance.

§ 16-7.502-8 Clean air and water.

Insert the clause prescribed by FPR 1-1.2302-2.

§ 16-7.502-9 Examination of records by the Comptroller General.

Insert the clause set forth in FPR 1-7.103-3.

§ 16-7.502-10 Confidentiality of records.

Insert the following clause in all FEHBP contracts.

Confidentiality of Records

(a) The Carrier shall use the personal data on employees and annuitants which is provided it by Agencies and OPM, including social security numbers, for only those routine uses stipulated for the data and published annually in the Federal Register as a part of OPM's notice of systems of records.

(b) The Carrier shall also hold all medical records, and information relating thereto, of Federal subscribers and family members confidential except as follows:

(1) As may be reasonably necessary for the administration of this contract;

(2) As authorized by the patient or guardian;

(3) As disclosure is necessary to permit government officials having authority to investigate and prosecute alleged criminal actions;

(4) To make audits of the contract;

(5) As necessary to carry out the coordination of benefits provisions of this contract;

(6) For bona fide medical research or educational purposes.

If the carrier uses medical records for the administration of the contract, or for bona fide medical research or educational purposes, it shall so state in the plan's brochure.

§ 16-7.502-11 Convict labor.

Insert the clause set forth in FPR 1-12.204.

§ 16-7.502-12 Listing of employment openings.

Insert the clause set forth in Temporary Regulation 39 (41 FR 33265-33267 dated August 9, 1976).

§ 16-7.502-13 Preference for U.S. flag air carriers.

Insert the clause set forth in FPR 1-1.323-2.

§ 16-7.503 Clauses to be used in experience rated contracts.

The clauses set forth in this 16-7.503 shall be attached, included in, or incorporated by reference in all experience rated contracts.

§ 16-7.503-1 Price reduction for defective cost or pricing data.

Insert the clause set forth in FPR 1-3.814-1(a).

§ 16-7.503-2 Audit and records.

Insert the clause set forth in FPR 1-3.814-2.

§ 16-7.503-3 Subcontractor cost and pricing data.

Insert the clause set forth in FPR 1-3.814-3 in all subcontracts specified in OPMPR 16-4.151-13.

§ 16-7.503-4 Cost accounting standards.

Insert the appropriate contract clause set forth in FPR 1-3.1204-2.

§ 16-7.503-5 Subcontracts.

Insert the clause set forth in OPMPR 16-3.903-50 as specified in OPMPR 16-3.903.2.

§ 16-7.503-6 Investment income.

Insert the following clause:

Investment Income

(a) The carrier shall invest and reinvest all FEHBP funds on hand which are in excess of the funds needed to promptly discharge the obligations incurred under this contract. The carrier shall seek to maximize investment income with due consideration to the safety and liquidity of investments.

(b) All investment income earned on FEHBP funds shall be credited to the Special Reserve on behalf of the FEHBP.

(c) Where the Contracting Officer concludes that the carrier has failed to comply with paragraph (a) above, the Contracting Officer may direct the carrier to credit the Special Reserve for investment income that would have been earned had it not been for the carrier's lack of compliance. Failure to comply with paragraph (a) means failure to place excess funds in income producing investments and accounts.

Interest income shall be due for the period from the date the Contractor failed to invest the funds until the date the Contractor invests such funds.

(d) On charges for administrative expenses made by the Contractor which are subsequently determined to be unallowable, interest shall be charged from the date of the Contracting Officer's final decision.

(e) If directed, the carrier shall credit the Special Reserve for income due in accordance with this clause. In calculating the amount of the interest credit due FEHBP, the semiannual rate determinations by the Secretary of the Treasury under authority of the Renegotiation Act of 1951 (50 U.S.C. App., para. 1211 et seq.) applicable to the period of noncompliance shall be used.

§ 16-7.504 Clauses to be used in community rated contracts.

The clauses set forth in this § 16-7.504 shall be attached, included in, or incorporated by reference in all community rated contracts.

§ 16-7.504-1 Price reduction for defective certificate of community rating.

Insert the clause set forth in OPMPR 16-3.814-50.

§ 16-7.504-2 Audit and records.

The following clause shall be included in all community rated contracts:

Audit and Records

(a) The Carrier agrees to permit the OPM to examine the records of the Carrier under this contract as may be necessary to carry out the purposes of the Act, Regulations and this contract. The Carrier agrees that it will preserve records relating to a contract period for five (5) years after the close of the contract period to which the records relate.

(b) The Carrier shall insert paragraph (a) in all subcontracts.

PART 16-8—TERMINATION OF CONTRACTS**Subpart 16-8.1—Definition of Terms****Sec.**

16-8.101 Definition.

Subpart 16-8.2—General Principles Applicable to Withdrawal of Approval of Health Benefits Carriers and Settlement of FEHBP Contracts

16-8.250 Provisions for withdrawal of approval.

Subpart 16-8.7—Clauses

16-8.700 Applicability of subpart.

Authority: 40 U.S.C. 486(c); 5 U.S.C. 8913.

Subpart 16-8.1—Definition of Terms**§ 16-8.101 Definition.**

For purposes of this part, "termination for default" and "termination for convenience" means "withdrawal of approval."

Subpart 16-8.2—General Principles Applicable to Withdrawal of Approval of Health Benefits Carriers and Settlement of FEHBP Contracts

§ 16-8.250 Provisions for withdrawal of approval.

(a) Section 8902(e), title 5, United States Code, provides as follows: "Approval of a plan may be withdrawn only after notice and opportunity for hearing to the carrier concerned without regard to subchapter II of chapter 5 and chapter 7 of this title." Within the limitations of this statute, the provisions of FPR 1-8.2 and 1-8.3 shall be applied.

(b) Participating carriers which do not exhibit continuing ability to meet the requirements set out at 5 U.S.C. Chapter 89, 5 CFR Part 890, and this Chapter 16, shall be notified by the contracting officer of their deficiency. Within 10 days of the receipt of such notification, the nonconforming carrier shall provide OPM with evidence concerning the

asserted deficiency. If the carrier fails to provide evidence satisfactory to OPM of its ability to meet its obligations under the contract, OPM shall require the carrier to present detailed plans, in a form prescribed by the OPM, for correcting the asserted deficiency. The carrier shall submit the plans within 20 days following receipt of notification. Pending submission or implementation of plans required under this section, the OPM may institute action as it deems necessary to protect the interests of enrollees, including, but not limited to: (1) suspending new enrollments under the contract; (2) advising enrollees of the asserted deficiencies and providing them an opportunity to transfer to another health plan. Failure to submit or to diligently implement plans which are required under this section shall constitute sufficient grounds for withdrawal of the approval of the health benefits plan in accordance with the provisions for withdrawal of approval of health benefits plans set out at 5 CFR 890.205. Upon withdrawal of approval, the Contracting Officer will terminate the contract.

(c) Prior to withdrawal of approval of the health benefits plan, the contracting officer shall seek to enter into an agreement with the carrier that provides for a procedure which includes, but is not limited to: (1) the settlement of benefit claims incurred during the period of the contract and the administrative costs incurred in settling claims; (2) the transfer of subscribers to another FEHBP carrier, and the administrative costs related to transferring such subscribers; and (3) the immediate disposition of excess funds in the special reserve of experience rated contracts.

Subpart 16-8.7—Clauses

§ 16-8.700 Applicability of subpart.

Termination for default and/or convenience of the government clauses set out in FPR 1-8.7 are not consistent with the provisions of 5 U.S.C. 8902(e) pertaining to the withdrawal of approval of FEHBP plans and, accordingly, have no practical application to the FEHBP contracts.

PART 16-11—FEDERAL, STATE, AND LOCAL TAXES**Subpart 16-11.50—Tax Treatment of FEHBP Contracts****Sec.**

16-11.5000 Taxes in connection with the performance of community rated contracts.

Sec.
16-11.5001 Taxes in connection with the performance of experience rated contracts.
Authority: 40 U.S.C. 486(c); 5 U.S.C. 8913.

Subpart 16-11.50—Tax Treatment of FEHB Contracts

§ 16-11.5000 Taxes in connection with the performance of community rated contracts.

Taxes to which community rated plans are subject at the time the community rate is set are reflected in the community rate which is fixed for the term of the contract and is not subject to redetermination. However, a state may impose a tax upon a community rated carrier during a contract period, the cost of which would not be reflected in the community rate. Accordingly, OPM may pay to the carrier from the contingency reserve the amount of any tax imposed during a contract period upon the carrier which is measured by the amount of subscription charges or by carrier's gross receipts, or any portion of either, limited to the portion of tax attributable to the contract.

§ 16-11.5001 Taxes in connection with the performance of experience rated contracts.

Federal, state and local taxes on experience rated contracts present solely a question of allowability of costs and are treated in FPR 1-15.

PART 16-12—LABOR

Subpart 16-12.1—Basic Labor Policies

Sec.
16-12.100 General.

Subpart 16-12.2—Convict Labor

16-12.201 General.
16-12.204 Contract clause.

Subpart 16-12.7—Fair Labor Standards Act of 1938

16-12.700 General.

Subpart 16-12.8—Equal Opportunity in Employment

16-12.801 General.

Subpart 16-12.10—Nondiscrimination Because of Age

16-12.1001 Policy.

Subpart 16-12.12—Williams-Steiger Occupational Safety and Health Act of 1970

16-12.1200 Policy.

Authority: 40 U.S.C. 486(c); 5 U.S.C. 8913.

Subpart 16-12.1—Basic Labor Policies

§ 16-12.100 General.

FPR Subpart 1-12.1 is applicable to

the administration of the FEHBP contracts.

Subpart 16-12.2—Convict Labor

§ 16-12.201 General.

FPR Subpart 1-12.2 is applicable to the administration of the FEHBP contracts.

§ 16-12.204 Contract clause.

The Convict Labor clause contained in FPR 1-12.204 shall be included in all FEHBP contracts.

Subpart 16-12.7—Fair Labor Standards Act of 1938

§ 16-12.700 General.

FPR Subpart 1-12.7 is applicable to the administration of the FEHBP contracts.

Subpart 16-12.8—Equal Opportunity in Employment

§ 16-12.801 General.

FPR subpart 1-12.8 is applicable to the administration of FEHBP contracts and all FEHBP contracts shall contain the Equal Opportunity clause contained in FPR 1-12.803-2.

Subpart 16-12.10—Nondiscrimination Because of Age

§ 16-12.1001 Policy.

OPM shall support the enforcement of Executive Order No. 11141 of February 12, 1964 which prescribes the public policy against discrimination on the basis of age by applying the provisions of FPR 1-12.10 in the administration of the FEHBP contracts.

Subpart 16-12.12—Williams-Steiger Occupational Safety and Health Act of 1970

§ 16-12.1200 Policy.

OPM shall support the enforcement of the Williams-Steiger Occupational and Health Act of 1970 (29 U.S.C. 651-678) by complying with the provisions of FPR 1-12.12 in the administration of the FEHBP contracts.

PART 16-15—CONTRACT COST PRINCIPLES AND PROCEDURES

Sec.
16-15.000 Scope of part.

Subpart 16-15.1—Applicability

16-15.101 Scope of subpart.

Subpart 16-15.2—Contracts with FEHBP Carriers

16-15.200 Scope of subpart.
16-15.201 Basic considerations.
16-15.201-5 Credits.

Sec.
16-15.203 Indirect costs.
16-15.205 Selected costs.
16-15.205-1 Advertising.
16-15.205-2 Bad debts.
16-15.205-6 Compensation for personal services.

Authority: 40 U.S.C. 486(c); 5 U.S.C. 8913.

§ 16-15.000 Scope of part.

This part contains the general cost principles and procedures for the negotiation and administration of FEHBP contracts.

Subpart 16-15.1—Applicability

§ 16-15.101 Scope of subpart.

FPR 1-15.1 is applicable to the administration of FEHBP contracts. In accordance with FPR 1-15.106, Part 1-15 will be used whenever cost analysis is performed and whenever a fixed-price type contract clause requires the determination or negotiation of costs. Consequently, costs for an experience rated contract shall be determined in accordance with FPR 1-15.2. The cost principles of FPR 1-15 are not applicable to that portion of a community rated contract that does not require cost analysis and/or the determination or negotiation of costs.

Subpart 16-15.2—Contracts with FEHBP Carriers

§ 16-15.200 Scope of subpart.

FPR 1-15.2 is applicable in its entirety to FEHBP contracts that require cost analysis and/or the determination or negotiation of costs. As the need arises, OPM will publish guidelines in this chapter 16 to be used for interpreting the application of FPR 1-15.2 to the FEHBP contracts. These guidelines are not intended as a deviation from or a substitute for the FPR 1-15 unless specifically stated. The guidelines are as follows:

§ 16-15.201 Basic considerations.

In the absence of specific contract terms to the contrary, FEHBP costs will be classified and defined in accordance with OPMPR 16-4.153.

§ 16-15.201-5 Credits.

The provisions of 1-15.201-5 shall apply to income, rebates, allowances and other credits resulting from benefit payments which include, but are not limited to, coordination of benefit refunds, hospital year-end settlements, uncashed checks, utilization review refunds, and refunds attributable to litigation with subscribers or providers of health services.

§ 16-15.203 Indirect costs.

The provisions of FPR 1-15.203 apply to the allocation of general and administrative type costs by means of a "dividend formula".

§ 16-15.205 Selected costs.**§ 16-15.205-1 Advertising.**

(a) In applying the provisions of FPR 1-15.205-1 to charges for media messages, the cost of those announcements, the primary effect of which is to disseminate information on health care cost containment or preventive health care, will be allowable, subject to advance approval by the Contracting Officer as to the total amount per year, insofar as the costs of the messages are allocated to all underwritten and non-underwritten lines of business. However, cost of messages which are intended to, or which have the primary effect of, calling favorable attention to the contractor (or subcontractor) for the purpose of enhancing its overall image, or to sell its health plan, will be disallowed.

(b) The cost of media messages which are directed at advising current FEHBP subscribers on *how to obtain benefits* shall be an allowable expense within the meaning of FPR 1-15.205-1 since this service is directly related to performance of the FEHBP contract. If there is any question regarding the allowability of such a cost, the carrier

may request an advance approval regarding the content and cost of the message.

§ 16-15.205-2 Bad debts.

The chargeability of erroneous benefit payments, overpayments and duplicate payments directly attributable to performance of the FEHBP contract shall be determined in accordance with the specific terms of the FEHBP contract. These erroneous benefit payments do not come within the intent of FPR 1-15.205-2.

§ 16-15.205-6 Compensation for personal services.

Overtime on an FEHBP contract would normally meet the condition specified in FPR 1-12.102-5; consequently, premiums for overtime, extra-pay shifts, and multi-shifts meeting the specified conditions shall be allowable without prior approval.

PART 16-20—RETENTION REQUIREMENTS FOR CONTRACTOR AND SUBCONTRACTOR RECORDS**Subpart 16-20.1—Purpose and Applicability**

Sec.
16-20.102 Applicability.

Subpart 16-20.2—General Provisions

16-20.202 Other record retention requirements.

Authority: 40 U.S.C. 486(c); 5 U.S.C. 8913.

Subpart 16-20.1—Purpose and Applicability**§ 16-20.102 Applicability.**

The contracting officer shall require FEHBP carriers to retain contract records as specified in OPMPR 16-20.202.

Subpart 16-20.2—General Provisions**§ 16-20.202 Other record retention requirements.**

FEHBP carriers will be required to retain the materials described in paragraphs (b) and (c) of the contract clause "Audit" set forth in FPR 1-3.814-2(a) for five years after the end of the contract year to which they relate, except that claims benefits records shall be maintained for 3 years after the end of the contract year to which they relate.

PART 16-26—CONTRACT MODIFICATIONS**Subpart 16-26.4—Novation and Change of Name Agreements**

Sec.
16-26.401 General.
Authority: 40 U.S.C. 486(c); 5 U.S.C. 8913.

Subpart 16-26.4—Novation and Change of Name Agreements**§ 16-26.401 General.**

The provisions of FPR 1-26 are applicable to the administration of FEHBP contracts.

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Part VI

**Department of the
Treasury**

Internal Revenue Service

**Certain Savings Certificates; Exclusion of
Interest**

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 5c

[T.D. 7789]

Temporary Income Tax Regulations Under the Economic Recovery Tax Act of 1981; Exclusion of Interest on Certain Savings Certificates

AGENCY: Internal Revenue Service, Treasury.

ACTION: Temporary regulations.

SUMMARY: This document provides a temporary regulation relating to the exclusion from gross income of interest on certain savings certificates (All-Savers Certificates). The exclusion was established by the Economic Recovery Tax Act of 1981. The temporary regulation provides guidance to taxpayers who are entitled to exclude interest on All-Savers Certificates and to the depository institutions that will issue the certificates. In addition, the text of the temporary regulation set forth in this document also serves as the text of the proposed regulations cross-referenced in the Notice of Proposed Rulemaking in the Proposed Rules section of this issue of the Federal Register.

DATE: The regulation applies to taxable years ending after September 30, 1981.

FOR FURTHER INFORMATION CONTACT: Stephen J. Small of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224 Attention: CC:LR:T, 202-566-3238, not a toll-free call.

SUPPLEMENTARY INFORMATION:**Background**

This document provides a temporary income tax regulation under section 128 of the Internal Revenue Code of 1954 (Code), as added by section 301 of the Economic Recovery Tax Act of 1981 (Pub. L. 97-34; 95 Stat. 267). The temporary regulation provided by this document will remain in effect until superseded by final regulations on this subject. By a separate document appearing elsewhere in this issue of the Federal Register, the regulation promulgated in this document is also proposed to be prescribed as a Notice of Proposed Rulemaking under section 128 of the Code.

Provisions of the Regulation

Section 128 of the Code provides an exclusion from gross income for an aggregate of \$1,000 (\$2,000 on a joint return) of interest received on "All-

Savers Certificates." These certificates are 1-year obligations and may be issued after September 30, 1981, and before January 1, 1983, by qualified depository institutions (banks, thrift institutions, and credit unions). The certificates must have an investment yield equal to 70 percent of the average investment yield for the most recent auction (before the week in which the certificate is purchased) of United States Treasury bills with maturities of 52 weeks. The regulation provides rules, where necessary, for the implementation of these statutory provisions. The regulations also make clear that there is a denial of the deduction for interest paid on indebtedness incurred to purchase or carry All-Savers Certificates.

Section 128(d) requires generally that 75 percent of the proceeds from All-Savers Certificates must be used for residential financing and agricultural loans, except for credit unions which are limited in the amount of savings certificates they may issue. Residential financing includes 2, 3, and 4 family residences and loans on stock of a cooperative housing corporation. The Depository Institutions Deregulation Committee (DIDC) has previously issued regulations, which are published at 12 CFR 1204.116, relating to the financing requirements of section 128(d) for depository institutions other than credit unions. Under § 5c.128-1(d), qualified depository institutions other than credit unions, whether or not under the jurisdiction of the DIDC, will satisfy the requirements of section 128(d) if they comply with the DIDC regulations. Special rules apply in determining whether credit unions meet the requirements of section 128(d). The DIDC rules are also made applicable to the definition of All-Savers Certificates by § 5c.128-1(c)(1).

Drafting Information

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

Waiver of Procedural Requirements of Treasury Directive

There is need for expeditious adoption of the provisions contained in this document because of the need for immediate guidance to taxpayers and to the depository institutions that will issue All-Savers Certificates. For this reason, Roscoe L. Egger, Jr., Commissioner of

Internal Revenue, has determined that the provisions of paragraphs 8 through 14 of Treasury Directive 50-04.F must be waived.

Adoption of Regulations**PART 5c—TEMPORARY INCOME TAX REGULATIONS UNDER THE ECONOMIC RECOVERY ACT OF 1981**

26 CFR Part 5c is amended as follows:

Paragraph 1. There is added in its appropriate place the following new section.

§ 5c.128-1 Exclusion of interest on certain savings certificates.

(a) *In general.* Gross income does not include any amount received by any individual during the taxable year as interest on a depository institution savings certificate (All-Savers Certificate) that meets the requirements of this section.

(b) *Maximum dollar amounts—(1) In general.* The aggregate amount excludable under paragraph (a) of this section for any taxable year shall not exceed the excess of—

- (i) \$1,000 (\$2,000 in the case of a joint return under section 6013), over
- (ii) The aggregate amount received by the taxpayer which was excludable under paragraph (a) of this section for any prior taxable year.

(2) *Special rules.* If a taxpayer receives interest in excess of the excludable amount, the first interest received is the interest eligible for exclusion. For purposes of paragraph (b)(1) of this section, one-half of the amount excluded under paragraph (a) of this section on any prior joint return shall be treated as received by each spouse. A joint return authorized under section 6013(a)(3), relating to joint returns of decedents, constitutes a joint return for purposes of this section. A return of a surviving spouse that is treated as a joint return under § 1.2-2 is not a joint return for purposes of this section. For the effect of a redemption by one spouse in a taxable year in which separate returns are filed following a year in which a joint return was filed, see Example (3) of paragraph (e)(3) of this section.

(3) *Examples.* The provisions of paragraphs (b) (1) and (2) of this section may be illustrated by the following examples.

Example (1). In 1982, A, a single individual, receives \$1,000 of interest on an All-Savers Certificate. In 1983, A marries B. B has not previously received any interest on an All-Savers Certificate and has not excluded any interest on any return under section 128. A receives \$2,000 of interest on an All-Savers

Certificate in 1983. The maximum amount that can be excluded on A's and B's joint return for 1983 is \$1,000 (\$2,000 reduced by the amount treated as received by each spouse for prior taxable years).

Example (2). In 1982, C receives \$2,000 of interest on an All-Savers Certificate. C and D, filing jointly, exclude that \$2,000 on their 1982 return. In 1983, C dies and D marries E. E has not previously received any interest on an All-Savers Certificate and has not excluded any interest on any return under section 128. D and E receive \$2,000 of interest on an All-Savers Certificate in 1983. The maximum amount that can be excluded on D's and E's joint return for 1983 is \$1,000 (\$2,000 reduced by the amount treated as received by D in 1982).

Example (3). In 1982, F, a single individual, receives \$600 of interest on an All-Savers Certificate. Even though the interest qualifies for the exclusion under this section, F reports the interest as taxable on F's 1982 return and pays tax on the interest. In 1983, F receives an additional \$800 of interest on an All-Savers Certificate. On F's 1983 return, F may exclude only \$400 of the All-Savers interest received in 1983, that is, the excess of \$1,000 over \$600 (the aggregate amount excludable under paragraph (b)(1) of this section for any prior taxable year). F is entitled to file a claim for a refund of 1982 taxes attributable to interest on the All-Savers Certificate.

(c) Depository institution tax-exempt savings certificate—(1) In general. The term "depository institution tax-exempt savings certificate" means any certificate—

(i) which is issued by a qualified institution after September 30, 1981, and before January 1, 1983,

(ii) which has a maturity of 1 year,

(iii) which has an investment yield equal to 70 percent of the average investment yield for the most recent auction (before the week in which the certificate is issued) of United States Treasury bills with maturities of 52 weeks, and

(iv) which is made available in denominations of \$500.

(2) Special rules—(i) If the end of the 1-year maturity period of a certificate falls on a day on which the issuing institution is not open for business, the 1-year maturity period will be deemed to be satisfied if the funds may be withdrawn by the certificate holder on the next business day of the institution. Section 7503, relating to time for performance of acts where last day falls on Saturday, Sunday, or legal holiday, does not apply. Interest paid by a depository institution on an All-Savers Certificate for the period (referred to in the first sentence of this paragraph) following the 1-year maturity period, or for a nominal period (allowed by the applicable depository institution regulations) after the maturity of the certificate, will not qualify for the interest exclusion under this section.

Such interest, however, will not be taken into account in determining the investment yield of the certificate.

(ii) Whether a certificate meets the investment yield requirement of paragraph (c)(1)(iii) of this section is determined by comparing the yield to maturity on the certificate (including the effect of any compounding of interest) with the yield to maturity on 52-week Treasury bills sold at the last Treasury auction preceding the week in which the certificate is issued. The value of any bonus payment, service, or other benefit (other than an insubstantial bonus payment, service or benefit, such as a nominal premium) that is attributable to the certificate is taken into account in determining the investment yield of the certificate. A bonus payment, service, or other benefit is attributable to an All-Savers Certificate if the purchase of the All-Savers Certificate entitles the purchaser to such bonus payment, service, or other benefit, even though the purchaser could have become entitled to such bonus payment, service, or other benefit by other means.

(iii) The terms of the certificate must comply with the regulations of the Depository Institutions Deregulation Committee (DIDC) at 12 CFR 1204.116, whether or not the qualified institution issuing the certificate is under the jurisdiction of the DIDC.

(3) Examples. The provisions of paragraph (c)(1) of this section may be illustrated by the following examples.

Example (1). On October 1, 1981, A, an individual taxpayer, purchases for \$500 an All-Savers Certificate from a qualified institution. The certificate has a maturity of one year and an investment yield equal to that required by section 128, that is, 70 percent of the average investment yield for the most recent auction (before the week in which the certificate is purchased) of United States Treasury bills with maturities of 52 weeks. At maturity, A will receive all principal and any accrued but unpaid interest on the All-Savers Certificate. The certificate meets the requirements of section 128 and the interest exclusion applies.

Example (2). On September 10, 1981, B, an individual taxpayer, enters into a repurchase agreement with Z, a qualified institution. Generally, a repurchase agreement is an arrangement between a customer and a financial institution under which the customer buys certain securities from the institution that the institution agrees to repurchase from the customer at a higher price on a certain date in the future. The repurchase agreement, which is generally available to the public, provides that Z will repurchase the securities from B at a price which will provide B an annual rate of interest on B's funds of 25 percent until October 1, 1981. The agreement between Z and B also provides that funds from the repurchase agreement will automatically be reinvested on October 1, 1981, in an All-

Savers Certificate or another investment offered by Z, unless B gives instructions to Z at any time prior to that date to remit B's funds on October 1, 1981, without penalty. Because B has a realistic opportunity to have the funds from the repurchase agreement remitted without penalty on October 1, 1981, the benefit of the higher yield repurchase agreement is not attributable to the All-Savers Certificate. Accordingly, the repurchase agreement and All-Savers Certificate are independent investments, the All-Savers Certificate meets the requirements of this section, and the interest exclusion applies.

Example (3). On October 1, 1981, C, an individual taxpayer, enters into a repurchase agreement with Y, a qualified institution. Y's agreement with C provides that Y will repurchase the securities from C at such a price as to provide C an annual rate of interest on C's funds of 15 percent, until November 1, 1981, if C elects on or before November 1, 1981, to reinvest in an All-Savers Certificate. Alternatively, Y's agreement provides that Y will repurchase the securities at such a price as to provide C an annual rate of interest of only 12 percent until November 1, 1981, if C does not elect to reinvest in an All-Savers Certificate. On November 1, 1981, C elects to reinvest in an All-Savers Certificate. On these facts, C can only have the benefit of the higher yield repurchase agreement by agreeing to purchase an All-Savers Certificate. The repurchase agreement and All-Savers Certificate are contractually linked and, for purposes of section 128, are treated as one investment with a maturity in excess of one year and an investment yield in excess of the investment yield required by section 128. The certificate fails to satisfy either the maturity or yield requirements of this section and the interest exclusion does not apply.

Example (4). On August 17, 1981, D, an individual taxpayer, enters into a repurchase agreement with X, a qualified institution. The repurchase agreement provides that X will repurchase the securities from D at such a price as to provide D an annual rate of interest on D's funds of 30 percent until October 1, 1981. X's agreement with D further provides that on October 1, 1981, D's funds will automatically be reinvested in an All-Savers Certificate, without any other investment option being made available to D. X's repurchase agreements that provide an annual rate of interest of 30 percent are not available to taxpayers who do not agree to reinvest automatically in an All-Savers Certificate. On these facts, benefits are made available to purchasers of All-Savers Certificates that are not made available to other individuals, thus linking these benefits to purchase of such certificates. By purchasing the All-Savers Certificate, D receives benefits in excess of the investment yield required by section 128. Further, the investment has a maturity of more than one year. Therefore, the requirements of this section are not met and the interest exclusion does not apply.

Example (5). On October 1, 1981, E, an individual taxpayer, purchases an All-Savers Certificate issued by W, a qualified

institution. W's agreement with E provides that upon maturity of the All-Savers Certificate, the amount on account will, at E's option, either be remitted to E or will be used to enter into a repurchase agreement which will provide interest to E on E's funds at the annual rate of 25 percent for a 60-day period. The option to enter into future repurchase agreements with W providing such a return is not available without charge to taxpayers who do not agree to purchase an All-Savers Certificate. On these facts, benefits are made available to purchasers of All-Savers Certificates that are not made available to other individuals, thus linking these benefits to the purchase of such certificates. By purchasing the All-Savers Certificate, E receives benefits in excess of the investment yield required by section 128. Therefore, the requirements of this section are not met and the interest exclusion does not apply.

Example (6). On October 1, 1981, F, an individual taxpayer, purchases from V, a qualified institution, an All-Savers Certificate and enters into a 30-day repurchase agreement, which will provide a return to F on F's funds at the annual interest rate of 25 percent over the 30-day period. V's repurchase agreements that provide such a return are not available to taxpayers who do not simultaneously purchase an All-Savers Certificate or another investment offered by V. On these facts, the difference between the rate of return on the repurchase agreement and the rate of return obtainable from V without investment in an All-Savers Certificate (or another investment) is a bonus attributable to the All-Savers Certificate. By purchasing an All-Savers Certificate, F receives benefits in excess of the investment yield required by section 128. Therefore, the requirements of this section are not met and the interest exclusion does not apply.

Example (7). On October 1, 1981, G, an individual taxpayer, purchases from U, a qualified institution, an All-Savers Certificate for \$10,000. In advertisements, U has offered to waive certain standard loan organization fees or to charge a reduced rate of interest on consumer or mortgage loans made to purchasers of All-Savers Certificates (or other certificates) in denominations of \$10,000 or more. On these facts, benefits are made available to purchasers of All-Savers Certificates (or other certificates) that are not made available to other individuals, thus linking these benefits to the purchase of such certificates. By purchasing an All-Savers Certificate, G receives benefits in excess of the investment yield required by section 128. Therefore, the requirements of this section are not met and the interest exclusion does not apply.

Example (8). On October 1, 1981, H, an individual taxpayer, purchases from T, a qualified institution, an All-Savers Certificate for \$7,000. In addition, H receives from T a premium, the cost of which to T does not exceed \$20, and a free checking account or a free transaction savings account (e.g., a NOW account). As a matter of administrative convenience, such nominal benefits will not be included in determining the investment yield of All-Savers Certificates. Accordingly, the All-Savers Certificate meets the requirements of this section and the interest exclusion applies.

Example (9). On August 26, 1981, J purchases for \$10,000 a six-month money market certificate with an annual interest rate of 16.104 percent from S, a qualified institution. On October 1, 1981, J converts the principal and accumulated interest from the money market certificate, without penalty, into an All-Savers Certificate. Assume that the annual investment yield on the All-Savers Certificate is 12.61 percent. Under the rules of depository institution regulatory agencies, a conversion from a six-month money market certificate into a deposit contract having a lower or equal interest rate and a longer or equal term does not subject the taxpayer to a penalty. Further, any individual who purchases a six-month money market certificate has the option of holding the certificate to maturity or of converting the certificate without penalty into other deposit contracts under regulatory agency rules of general application. Accordingly, since the two investments are not contractually linked, and since J's purchase of an All-Savers Certificate does not entitle J to benefits not generally available to the public, the All-Savers Certificate meets the requirements of this section and the interest exclusion applies. A different result would follow if less than the entire amount of the money market certificate were converted into an All-Savers Certificate and the balance thereafter earned interest at a rate higher than that ordinarily available for deposits of a similar amount and maturity.

(4) Qualified institution. The term "qualified institution" means—

(i)(A) A bank (as defined in section 581),

(B) A mutual savings bank, cooperative bank, domestic building and loan association, or other savings institution chartered and supervised as a savings and loan or similar institution under Federal or State law, or

(C) A credit union, the deposits or accounts of which are insured under Federal or State law or are protected or guaranteed under State law, or

(ii) An industrial loan association or bank chartered and supervised under Federal or State law in a manner similar to a savings and loan institution.

The term "qualified institution" does not include any foreign branch or international banking facility of an institution described in this section and such a branch or facility shall not be taken into account under subsection (d) of section 128.

(d) **Institutions required to provide residential property financing.** Subsection (d) of section 128 contains various requirements relating to the use of proceeds from All-Savers Certificates. A qualified institution (other than a credit union) must comply with the qualified residential financing requirements of section 128(d)(1). An institution satisfies section 128(d)(1) if it meets the requirements of the regulations at 12 CFR 1204.116, whether

or not the institution is under the jurisdiction of the Depository Institutions Deregulation Committee (DIDC). Qualified institutions (other than credit unions) shall make such certifications and keep such records relating to the qualified residential financing requirement as are required by the DIDC regulations at 12 CFR 1204.116(c). Credit unions must comply with the requirements of section 128(d)(4), including the keeping of records sufficient to establish such compliance. An institution that fails to meet the applicable requirements of section 128(d) as of the close of any calendar quarter may not issue any additional certificates until it meets such requirements.

(e) Penalty for early withdrawals—(1) In general. If any portion of a depository institution tax-exempt savings certificate is redeemed or otherwise disposed of (other than a disposition by reason of the holder's death) before the date on which it matures—

(i) Paragraph (a) of this section shall not apply to any interest on such certificate for the taxable year of redemption or disposition and any subsequent taxable year, and

(ii) There shall be included in the gross income of the holder (or holders) for the taxable year of redemption or disposition the amount of any interest on such certificate excluded under paragraph (a) of this section for any preceding taxable year. See example (1) of paragraph (e) (3) of this section.

Amounts that are subject to tax under this paragraph (e)(1) are not taken into account for purposes of the limitations under paragraphs (b)(1) and (2) of this section. Thus, if a holder redeems a certificate and thereafter purchases a new certificate, interest on the new certificate may be excluded under this section without regard to the interest received on the redeemed certificate.

(2) **Certificate pledged as collateral.** For purposes of paragraph (e)(1) of this section, if the taxpayer uses any depository institution tax-exempt savings certificate (or portion thereof) as collateral or security for a loan, the taxpayer shall be treated as having redeemed such certificate.

(3) **Examples.** The provisions of paragraph (e)(1) of this section may be illustrated by the following examples.

Example (1). On October 1, 1981, A and B, two single individuals, each contribute \$7,000 and purchase a single All-Savers Certificate for \$14,000. A and B take title to the certificate as tenants in common. On December 20, 1981, A redeems \$5,000 of A's share of the certificate. None of the interest on the All-Savers Certificate may be

excluded from either A's or B's income under this section for either 1981 or 1982.

Example (2). On February 1, 1982, D, an individual taxpayer, purchases an All-Savers Certificate for \$10,000 from Y, a qualified institution. On December 1, 1982, D deposits an additional \$500 with Y to be added to the certificate, and the term of the certificate is extended through November 30, 1983. Under applicable depository institution regulations, the additional deposit and extension of the certificate are treated as a redemption of the preexisting certificate (without penalty for premature redemption) and a purchase of a new certificate. None of the interest earned on the certificate from February 1, 1982 through November 30, 1982, may be excluded from D's gross income. Interest earned on the new certificate from December 1, 1982 through November 30, 1983 may be excludable under this section.

Example (3). E, a married individual, purchases an All-Savers Certificate in 1982 and receives \$1,200 of interest on the certificate in that year. E and E's spouse, F, exclude that \$1,200 on their 1982 joint return. E prematurely redeems the certificate in 1983, and E and F file separate 1983 returns. The full \$1,200 of interest excluded by E and F on their 1982 joint return is included in E's gross income in 1983 and must be reported on E's 1983 return. None of the interest excluded on the 1982 joint return is included in F's gross income in 1983. Thereafter, the interest excluded on E and F's 1982 joint return is not taken into account by either E or F for purposes of the limitations under paragraphs (b)(1) and (2) of this section.

Example (4). On October 1, 1981, G an individual taxpayer, purchases an All-Savers Certificate. On February 1, 1982, G dies and the certificate passes to G's estate. The transfer of the certificate to G's estate at G's death does not cause any interest from the certificate to be included in the gross income of either G or G's estate. However, if G's estate redeems or disposes of the certificate prior to its maturity, no interest is excludable in the taxable year of the redemption or disposition and all interest previously excluded from gross income by G or G's estate is included in the gross income of G's estate. A distribution of the certificate to a beneficiary (other than a distribution which is treated as a sale or exchange under § 1.661(a)-2(f)) is not treated as a disposition for purposes of paragraph (e) of this section.

(f) *Other special rules—(1) Coordination with section 116.* Section 116, relating to partial exclusion of dividends and interest, shall not apply

to the interest on any depository institution tax-exempt savings certificate, even if the interest on the certificate is not tax exempt because of premature redemption or disposition. Section 116 may apply if interest on a certificate is taxable because the certificate fails to meet the requirements of paragraph (c) of this section.

(2) *Estates.* Except as provided in this paragraph (f)(2), the exclusion provided by section 128 shall not apply to estates. If an estate receives interest on an All-Savers Certificate acquired by reason of the death of the decedent, the exclusion provided by section 128 shall apply and paragraphs (b)(1) and (2) of this section shall be applied as if the estate were the decedent. If an All-Savers Certificate is acquired by or passes to (within the meaning of section 1014) any person other than the purchaser's estate by reason of the death of the purchaser of the certificate, interest on the All-Savers Certificate shall be subject to that person's separate limitation under paragraphs (b)(1) and (2) of this section.

(3) *Trusts.* The exclusion provided by section 128 shall not apply to trusts. If a grantor or other individual is treated as the owner of the interest from an All-Savers Certificate held by a trust by reason of sections 671 through 679, the grantor or other individual treated as the owner of the interest is entitled to the exclusion under section 128(a), subject to the grantor's or other individual's separate limitation under paragraphs (b)(1) and (2) of this section. However, if the trust subsequently becomes treated as the owner of the interest from the All-Savers Certificate, the change in tax status will be treated for purposes of this section as a disposition of the All-Savers Certificate and paragraph (e)(1) of this section shall apply to such disposition (unless such change in tax status is as a result of the death of the individual treated as the owner of the interest).

(4) *Distribution by estate or trust.* Although an estate or trust is not entitled to the exclusion provided by section 128 (except as provided by paragraph (f)(2) of this section), interest received by an estate or trust from an

All-Savers Certificate and distributed to a beneficiary retains its character under section 652(b) and 662(b). Such interest shall be subject to the individual beneficiary's separate limitation under paragraphs (b)(1) and (b)(2) of this section.

(5) *Example.* The provisions of this section may be illustrated by the following example.

Example. In 1982, A, a single individual, earns \$600 of interest on an All-Savers Certificate. A dies in 1983 and A's estate receives an additional \$500 of interest on the certificate during the estate's first taxable year. The estate excludes \$400 of that interest on its income tax return for its first taxable year.

(g) *Reporting requirements.* Issuers of All-Savers Certificates must report on Forms 1096 and 1099-INT or 1099-ASC, in accordance with the instructions for those forms, all payments of interest over \$10, even though the recipient of the interest income may be able to exclude all or part of the interest from income. Failure to file the requisite forms could subject the payer to a penalty under section 6652 (a) (1) for each failure.

(h) *Effective dates.* Section 128 shall apply to taxable years ending after September 30, 1981.

There is a need for immediate guidance with respect to the provisions contained in this Treasury decision. For this reason, it is found impracticable to issue it with notice and public procedure under subsection (b) of section 553 of Title 5 of the United States Code or subject to the effective date limitation of subsection (d) of that section.

This Treasury Decision is issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (90 Stat. 1887, 26 U.S.C. 7805).

Joseph T. Davis,

Acting Commissioner of Internal Revenue.

Approved: October 9, 1981.

John E. Chapoton,

Assistant Secretary of the Treasury.

[FR Doc. 30341 Filed 10-16-81; 10:31 am]

BILLING CODE 4830-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[LR-232-81]

Exclusion of Interest on Certain Savings Certificates

AGENCY: Internal Revenue Service, Treasury.

ACTION: Proposed rulemaking and cross-reference to temporary regulations.

SUMMARY: In the Rules and Regulations portion of this *Federal Register*, the Treasury Department is issuing a temporary regulation regarding the exclusion of interest on certain savings certificates (All-Savers Certificates). The temporary regulation also serves as a first portion of the Notice of Proposed Rulemaking.

In addition to the text of the temporary regulations, this notice document contains other proposed amendments to Part 1 not adopted as temporary regulations. This additional material consist of conforming amendments under other sections of the Internal Revenue Code that incorporate certain rules of section 128 which concern the all-savers certificate.

DATE: Comments are due December 21, 1981.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T (LR-232-81), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: Stephen J. Small of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW, Washington, D.C. 20224, Attention CC:LR:T, 202-566-3238 (not a toll-free number).

SUPPLEMENTARY INFORMATION: The temporary regulation in the Rules and Regulations portion of this issue of the *Federal Register* amends 26 CFR by adding a new section § 5c.128-1 to Part 5c (Temporary Income Tax Regulations under the Economic Recovery Tax Act of 1981). The final regulations which are proposed to be based on the temporary regulation would amend 26 CFR by adding a new § 1.128-1 to Part 1 (Income Tax; Taxable years beginning after December 31, 1953). For the text of the temporary regulation, see FR Doc. 81-30341 [T.D. 7789] published in the Rules and Regulations portion of this issue of the *Federal Register*.

This notice also includes additional conforming amendments under other sections of the Code that incorporate certain rules of section 128 which

concern the all-savers certificate. Comments are solicited on these rules.

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

Paragraph 1. Section 1.265-2 is amended by adding a new paragraph (c) as set forth below.

§ 1.265-2 Interest relating to tax-exempt income.

(c) *Interest relating to depository institution tax-exempt savings certificates.* No amount shall be allowed as a deduction for interest on any indebtedness incurred to purchase or carry a depository institution tax-exempt savings certificate under section 128. The provisions of this paragraph may be illustrated by the following example:

Example. On August 1, 1981, A, a single individual, purchases for \$10,000 a six-month money market certificate from Z, a qualified institution. On October 1, 1981, A converts \$7,000 of the principal from the money market certificate, without penalty, into an All-Savers Certificate. Z also lends to A \$7,000 which is used, along with the \$3,000 remaining in the money market account, to purchase another \$10,000 six-month money market certificate. The \$7,000 loan is secured by the new money market certificate. Because a sufficiently direct relationship may reasonably be inferred between the borrowing and the investment in the All-Savers Certificate, deductions for the payment of interest on the \$7,000 loan will be disallowed under this section.

Par. 2. Paragraph (b)(1) of § 1.584-2 is revised to read as set forth below.

§ 1.584-2 Income of participants in common trust fund.

(b)(1) Each participant's proportionate share in the amount of dividends or interest to which section 116 or section 128 applies that is received by the common trust fund shall be deemed to have been received by such participant as such dividends or interest.

Par. 3. Section 1.643 (a)-7 is revised to read as set forth below.

§ 1.643(a)-7 Dividends and interest.

Dividends and interest excluded from gross income under section 116 (relating to partial exclusion of dividends and interest received) or, when applicable to an estate, section 128 (relating to interest on certain savings certificates) are included in distributable net income. For this purpose, adjustments similar to those required by § 1.643(a)-5 with respect to expenses allocable to tax-exempt income and to income included

in amounts paid or set aside for charitable purposes are not made. See the regulations under section 642(c). For circumstances in which estates may exclude interest under section 128, see section 128(f)(2)(B).

Par. 4. Paragraph (a)(5) of § 1.702-1 is revised to read as set forth below.

§ 1.702-1 Income and credits of partner.

(a) *General rule.* * * *
(5) Each partner shall take into account, as part of the dividends received by him from domestic corporations or as part of the interest he receives, his distributive share of dividends or interest received by the partnership, with respect to which the partner is entitled to an exclusion under section 116 or section 128, or a deduction under Part VIII, subchapter B, Chapter 1 of the Code.

Although this document is a notice of proposed rule-making that solicits public comment, the Internal Revenue Service has concluded that the regulations proposed herein are interpretative and that the notice and public procedure requirements of 5 U.S.C. 553 do not apply. Accordingly, these proposed regulations do not constitute regulations subject to the Regulatory Flexibility Act (5 U.S.C. chapter 6).

Joseph T. Davis,
Acting Commissioner of Internal Revenue.

[FR Doc. 81-30342 Filed 10-16-81; 10:31 am]

BILLING CODE 4830-01-M

26 CFR Part 1

[LR-232-81]

Exclusion of Interest on Certain Savings Certificates; Public Hearing on Proposed Regulations

AGENCY: Internal Revenue Service, Treasury

ACTION: Notice of public hearing on proposed regulations.

SUMMARY: This document provides notice of a public hearing on proposed regulations relating to the exclusion of interest on certain savings certificates (All Savers Certificates).

DATES: The Public hearing will be held on November 23, 1981, beginning at 10:00 a.m. Outlines of oral comments must be delivered or mailed by November 9, 1981.

ADDRESS: The public hearing will be held in the I.R.S. Auditorium, Seventh Floor, 7400 Corridor, Internal Revenue Building, 1111 Constitution Avenue, NW, Washington, D.C. The outlines should be submitted to the Commissioner of

Internal Revenue, Attn: CC:LR:T (LR-232-81), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: Charles Hayden of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW, Washington, D.C. 20224, 202-566-3935, not a toll-free call.

SUPPLEMENTARY INFORMATION: The subject of the public hearing is proposed regulations under section 128 of the Internal Revenue Code of 1954. The proposed regulations are cross-referenced in the proposed rules section and the text appears in T.D. 7789 in the Rules section of this issue.

The rules of §601.601 (a) (3) of the "Statement of Procedural Rules" (26

CFR Part 601) as they pertain to the submission of written comments shall be waived with respect to this particular hearing. Persons who wish to speak at the public hearing need only submit an outline of their oral comments to be presented at the public hearing and the time they wish to devote to each subject by November 9, 1981. Each speaker will be limited to 10 minutes for an oral presentation exclusive of time consumed by questions from the panel for the government and answers to these questions.

Because of controlled access restrictions, attendees cannot be admitted beyond the lobby of the Internal Revenue Building until 9:45 a.m.

An agenda showing the scheduling of the speakers will be made after outlines

are received from the speakers. Copies of the agenda will be available free of charge at the hearing.

This document does not meet the criteria for significant regulations set forth in paragraph 8 of the Treasury Directive for improving government regulations appearing in the **Federal Register** for Wednesday, November 8, 1978.

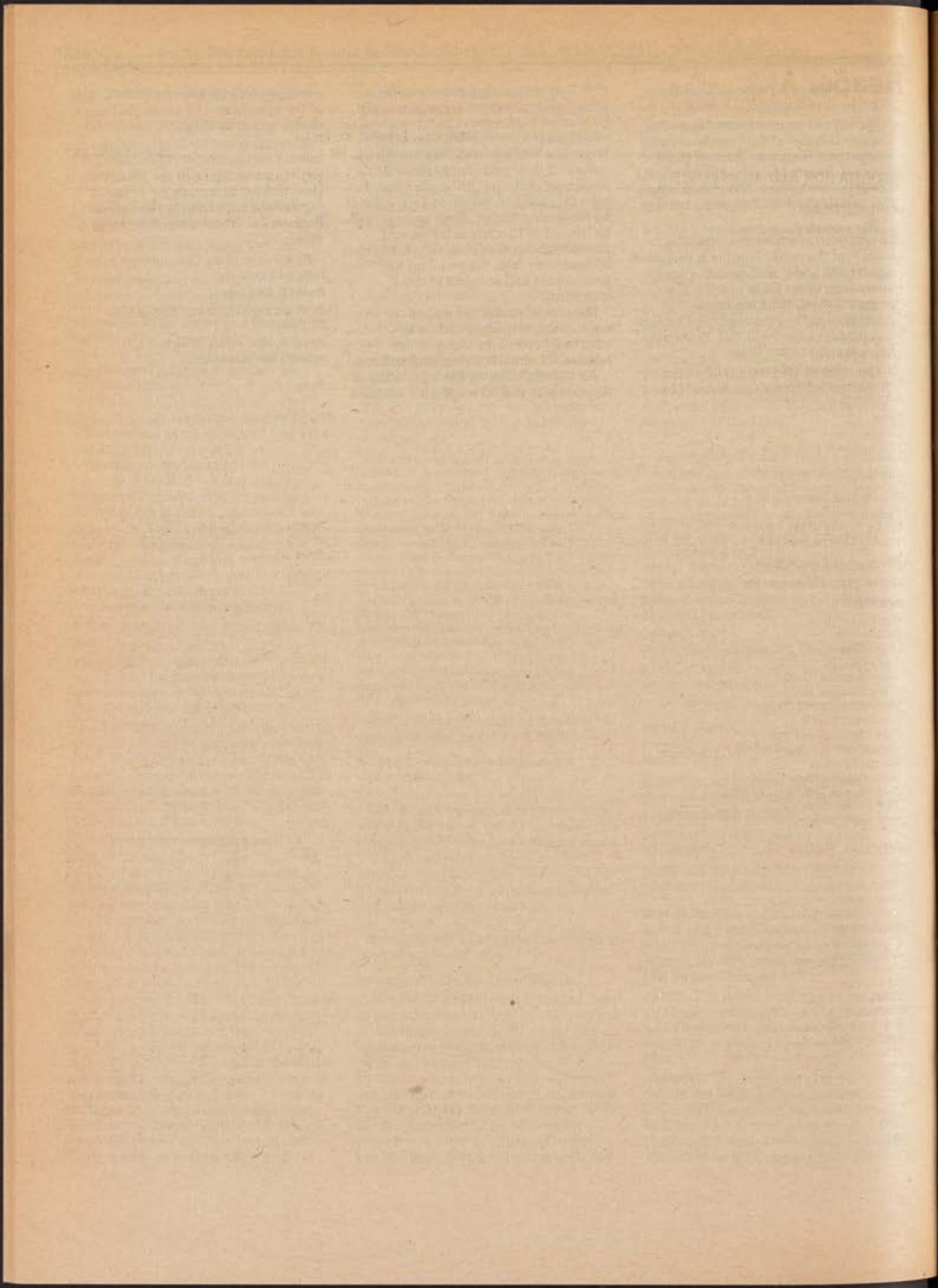
By direction of the Commissioner of Internal Revenue.

David E. Dickinson,

Director, Legislation and Regulations Division.

[FR Doc. 81-30343 Filed 10-16-81; 10:31 am]

BILLING CODE 4820-01-M



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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday).

This is a voluntary program. (See OFR NOTICE 41 FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY	USDA/ASCS		DOT/SECRETARY	USDA/ASCS
DOT/COAST GUARD	USDA/FNS		DOT/COAST GUARD	USDA/FNS
DOT/FAA	USDA/REA		DOT/FAA	USDA/REA
DOT/FHWA	USDA/SCS*		DOT/FHWA	USDA/SCS*
DOT/FRA	MSPB/OPM		DOT/FRA	MSPB/OPM
DOT/MA	LABOR		DOT/MA	LABOR
DOT/NHTSA	HHS/FDA		DOT/NHTSA	HHS/FDA
DOT/RSPA			DOT/RSPA	
DOT/SLSDC			DOT/SLSDC	
DOT/UMTA			DOT/UMTA	
CSA			CSA	

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday. Comments on this program are still invited.

Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

*Note: The Soil Conservation Service will begin Tues./Fri. publication as of Nov. 3, 1981.

List of Public Laws

Last Listing October 19, 1981

This is a continuing list of public bills from the current session of Congress which have become Federal laws. The text of laws is not published in the Federal Register but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 (telephone 202-275-3030).

S. 304 / Pub. L. 97-63 National Tourism Policy Act. (Oct. 16, 1981; 95 Stat. 1011) Price \$1.50.

