

Federal Register

Friday
January 8, 1982

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Highlights

- 1063 **Claims Against Iran** State reports on developments at the most recent session of the Iran-United States Claims Tribunal.
- 940 **Aliens** Justice/INS institutes procedure for creation of records of lawful permanent residence.
- 1072, 1101 **Continental Shelf—Oil and Gas Leasing** Interior/BLM identifies bidding systems and designates tracts for sale no. 67 in the Gulf of Mexico. (Part II of this issue) (2 documents)
- 972 **Air Pollution Control** EPA requests comments on waiver of 1981 model year carbon monoxide emission standard for light-duty motor vehicles.
- 950 **EPA** revises priority list of categories of stationary sources for which standards are to be developed.
- 973 **Hazardous Materials** EPA initiates rulemaking to require testing of certain phenylenediamines (PDA's) for toxic effects on human health and the environment.
- 1017 **EPA** approves testing of chlorinated paraffins by consortium of manufacturers.
- 943 **Banks, Banking** FDIC amends regulations on interest charge on delinquent assessment payments and assessment overpayments.

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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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- 953 Television** FCC reallocates a specific frequency band to Broadcast Auxiliary Service for television pickup use on a secondary basis.
- 985 Radio and Television** FCC proposes to eliminate "three year rule" for applications for voluntary assignments or transfers of control.
- 1022 Radio** FCC requests comments on draft proposals for 1983 World Administrative Radio Conference for Mobile Telecommunications.
- 937 Loan Programs—Agriculture** USDA/ASCS amends Agricultural and Emergency Conservation Program regulations.
- 963 Fruit Juices** HHS/FDA considers amending standard of identity for frozen concentrated orange juice.
- 944 Imports** Treasury/Customs amends regulations on certain fresh, chilled or frozen beef.
- 1050, 1054 ITC** issues determinations on hot-rolled carbon steel plate from Belgium, Brazil and Romania and hot-rolled carbon steel sheet from France. (2 documents)
- 1066 Trade Representative** announces adjustment of restraint levels on color television receivers from Republic of Korea.
- 992, 993 Antidumping** Commerce/ITA issues final results of administrative reviews of findings on acrylic sheet from Japan and clear sheet glass from Italy. (2 documents)
- 936 Political Activities (Government Employees)** MSPB clarifies penalties for Hatch Act violations.
- 958 Government Employees** OPM proposes to revise regulations on regularly scheduled workweeks and premium pay.
- 935 OPM** amends training regulations.
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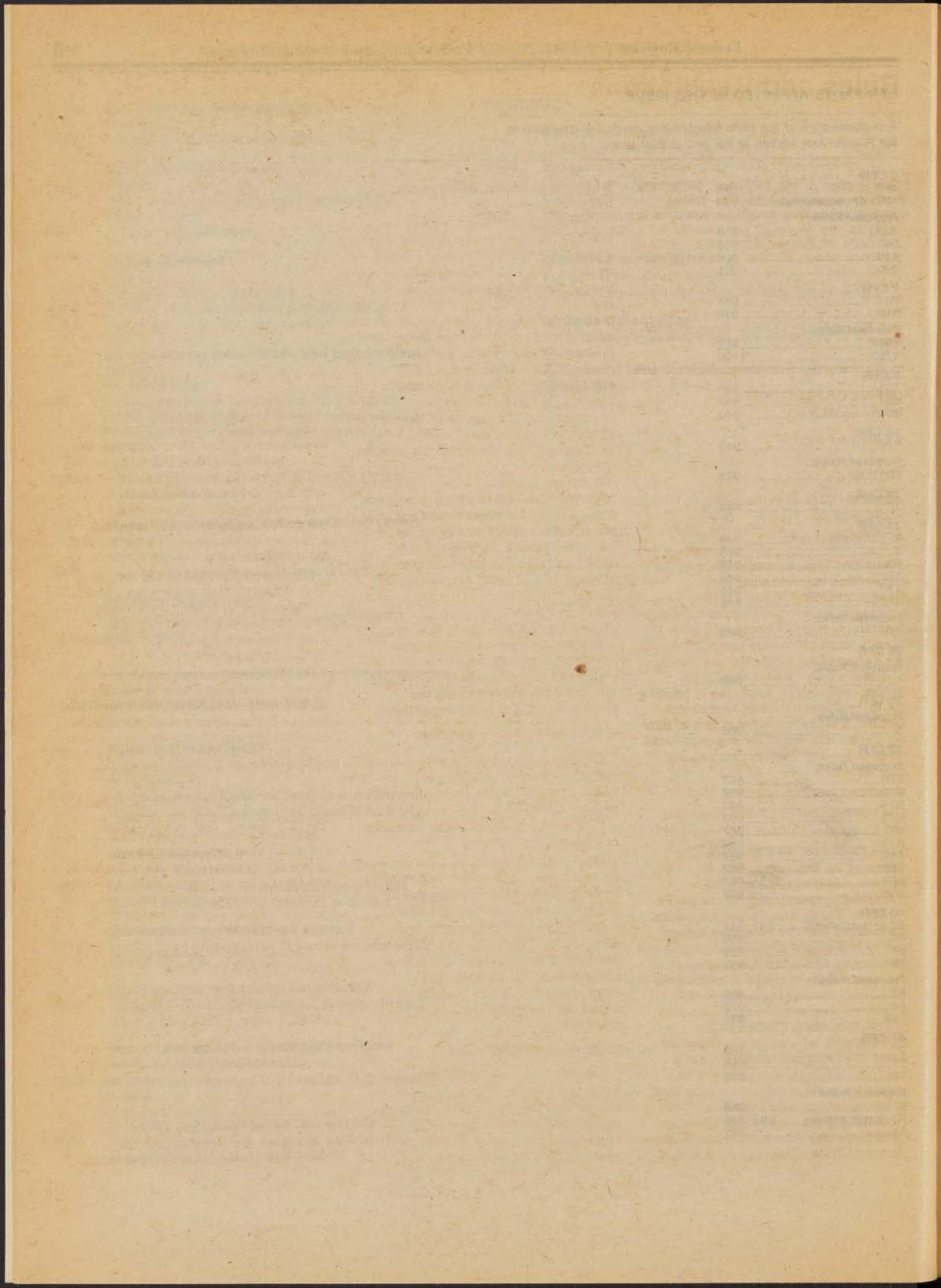
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Rules and Regulations

Federal Register

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

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

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 410

Training

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This document changes the regulations implementing the Government Employees Training Act relating to situations in which selection for training must be consistent with agency merit promotion procedures and the nature of appropriate consideration of already fully trained employees before assigning an employee to training by, in, or through a non-Government facility. It also eliminates an out-of-date regulation relating to the organizational level necessary to authorize training over 40 hours.

EFFECTIVE DATE: February 8, 1982.

FOR FURTHER INFORMATION CONTACT: Ms. Constance Guitian, (202) 653-6171.

SUPPLEMENTARY INFORMATION: On February 20, 1981, the Office of Personnel Management (OPM) published proposed regulations (46 FR 13222) to clarify when merit promotion procedures must be used in selecting career and career conditional employees for training and when it is necessary to determine if there are other employees who could assume the function for which training in a non-Government facility is needed. Section 5 CFR 410.302(b)(1), which specifies how far down in the organization an agency head may delegate the authority to approve non-Government training over 40 hours, is eliminated. Section 5 CFR 410.302(b)(2) is being retained because OPM finds that its retention reinforces a planned Office of Management and

Budget directive on attendance at overseas conferences.

Comments were invited from the public. One agency submitted in writing a proposal that exemptions be provided so that 5 CFR 410.302(a) would not apply to selections for training to facilitate certain kinds of special promotions. The promotions mentioned are the kinds that agencies may exclude from their merit promotion procedures. We have changed the amendment to 5 CFR 410.302(a) to show that it applies to an agency's selections for training associated with a promotion covered by the agency's merit promotion procedures. This change eliminates the need for exemption language for career-ladder promotions or other special kinds of promotions. Two written comments noted that the changes would enhance the effectiveness of managing the training function. Several agencies called and two wrote in reference to the changes in 5 CFR 410.302, asking for clarification of when in the process of selection for training competition should occur. That section has been changed to eliminate the confusion. The three comments received from unions expressed general considerations and identified no problems with the proposed changes in the regulations.

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

I certify 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 government jurisdictions.

Office of Personnel Management.

Donald J. Devine,

Director.

PART 410—TRAINING

Accordingly, the Office of Personnel Management amends 5 CFR Part 410 as follows:

1. Section 410.302 is revised to read as follows:

§ 410.302 Selection and assignment of trainees.

(a)(1) Except as provided by paragraph (a)(2) of this section, an agency must follow its merit promotion procedures when selecting a career or career-conditional employee for training which is: (i) Part of an authorized training agreement; (ii) part of a promotion program; or (iii) required before an employee may be considered for a promotion.

(2) Paragraph (a)(1) of this section does not apply if (i) the agency's merit promotion procedures have already been applied or (ii) the training is associated with a promotion not covered by those procedures.

(b) With respect to selection and assignment of employees to training by, in, or through non-Government facilities, the head of an agency shall provide that each assignment of an employee who is stationed within the continental limits of the United States to training outside these limits be approved by a specifically designated official at the headquarters level of the agency.

(c) The head of an agency shall prescribe such procedures as are necessary to assure that the selection of employees for training is made without regard to race, color, religion, sex, national origin, age, or other factors unrelated to the need for training.

2. Section 410.503 paragraph (e) is revised to read as follows:

§ 410.503 General prohibitions, training through non-Government facilities.

(e) When training by, in, or through a non-Government facility exceeds 120 hours in a single program, or is used to prepare an employee for a different occupational series, the head of the agency must determine, before authorizing the training, that the functions for which the training would

be needed cannot be assumed by other employees.

(5 U.S.C. 4101 *et seq.*)

[FR Doc. 82-458 Filed 1-7-82; 8:45 am]

BILLING CODE 6325-01-M

MERIT SYSTEMS PROTECTION BOARD

5 CFR Part 1201

Practices and Procedures

AGENCY: Merit Systems Protection Board.

ACTION: Final rule.

SUMMARY: On August 11, 1981, the Merit Systems Protection Board ("the Board") published a notice of proposed rulemaking to amend 5 CFR 1201.126 to distinguish the penalties the Board may impose for Hatch Act violation under 5 U.S.C. 7325 from the range of penalties available in other disciplinary actions under 5 U.S.C. 1207(b) and to add a citation to the United States Code. (46 FR 40703) The period for public comments is now closed, the Board has considered the single comment it received and publishes these amendments for immediate effect.

EFFECTIVE DATE: January 8, 1982.

FOR FURTHER INFORMATION CONTACT: Alan Greenwald, (202) 653-7111.

SUPPLEMENTARY INFORMATION: The Merit Systems Protection Board proposed to amend 5 CFR 1201.126 by adding a new paragraph (f) which specifies the penalties the Board may impose in accordance with 5 U.S.C. 7325, and by removing from § 1201.126(c) its reference to Hatch Act enforcement actions. The Board also proposed to amend § 1201.126(e) only to add the statutory citation for the Board's authority to impose penalties under the Federal Employees Flexible and Compressed Work Schedule Act.

The only comment received by the Board on the proposed amendment asserted that passage of the Civil Service Reform Act of 1978 (CSRA), which placed Hatch Act enforcement authority in the Special Counsel of the Board, superseded the minimum penalty provisions of 5 U.S.C. 7325. The Board has concluded that this is not the case. The penalty section of the Hatch Act, 5 U.S.C. 7325 was amended on August 14, 1979, some ten months after the passage of the CSRA. Pub. L. 96-54 section 2(a)(44). Congress, in that amendment, substituted the Merit Systems Protection Board for the Civil Service Commission in the following sentence: "However, if the Merit Systems Protection Board

finds by unanimous vote that the violation does not warrant removal, a penalty of not less than 30 days' suspension without pay shall be imposed by direction of the Board." The Congress recognized the Board as the appropriate forum for adjudicating Hatch Act disciplinary actions but continued in effect the limits on what penalties may be imposed in those actions.

PART 1201—PRACTICES AND PROCEDURES

Accordingly, the Merit Systems Protection Board, pursuant to the authority contained in 5 U.S.C. 1205(g), permitting the Board to "prescribe such regulations as may be necessary for the performance of its functions," revises 5 CFR 1201.126 to read as follows:

§ 1201.126 Final Orders of the Board.

(a) In any action seeking correction of a prohibited personnel practice, the Board may order such corrective actions as it considers appropriate after providing an opportunity for comment by the agency and OPM (5 U.S.C. 1206(c)(1)(B)).

(b) In any action seeking correction of a pattern of prohibited personnel practices not otherwise appealable to the Board, the Board may order an agency or employee to take whatever measures the board may determine to be necessary or appropriate (5 U.S.C. 1206(h)).

(c) In any action to discipline an employee except as provided in paragraphs (e) and (f) of this section, the Board may order a removal, reduction in grade, debarment (not to exceed five years), suspension, reprimand, or an assessment of civil penalty not to exceed \$1,000 (5 U.S.C. 1207).

(d) In any action seeking the withholding of Federal funds under 5 U.S.C. 1506(a)(2) in which a State or local employee has engaged in prohibited political activities, the Board may order the Federal agency administering loans or grants to a State or local agency that reappoints the offending employee within a period of 18 months to withhold a sum not to exceed two years' pay of the offending employee at the rate he/she was receiving at the time of the violation.

(e) In any action to discipline an employee under the Federal Employees Flexible and Compressed Work Schedule Act, 5 U.S.C. 6101 Note, a final order of the Board may impose disciplinary action consisting of:

(1) Removal from Federal employment for any period of time the Board may prescribe;

(2) Suspension; or

(3) Such other discipline as the Board shall deem appropriate.

(f) In any action to discipline an employee for violation of 5 U.S.C. 7324, the Board shall order the employee's removal, unless it finds by unanimous vote that the violation does not warrant removal and imposes instead a penalty of not less than 30 days suspension without pay.

For The Board.

Ersa H. Poston,

Vice Chair.

December 18, 1981.

[FR Doc. 82-437 Filed 1-7-82; 8:45 am]

BILLING CODE 7400-01-M

5 CFR Part 1201

Practices and Procedures

AGENCY: Merit Systems Protection Board.

ACTION: Interim regulation; request for comment.

SUMMARY: This regulation establishes procedures for the adjudication by the Merit Systems Protection Board of appeals of personnel actions filed by Board employees with the Board. In addition, the Board requests comments on these regulations.

EFFECTIVE DATE: January 8, 1982. Comments should be submitted in writing on or before February 8, 1982.

ADDRESS: Comments should be submitted in writing and addressed to Robert E. Taylor, Secretary, Merit Systems Protection Board, 1120 Vermont Avenue, N.W., Washington, D.C. 20419.

FOR FURTHER INFORMATION CONTACT: Bruce L. Moyer (202) 653-7171.

SUPPLEMENTARY INFORMATION: The Board believes that the interests of its employees are best served by the limitation of the direct involvement of Board members in the adjudication of appeals filed with the Board by Board employees. Therefore, the Board will assign such appeals to its administrative law judges for adjudication pursuant to the Board's procedures for the hearing of appellate cases, found at 5 CFR Part 1201, Subpart B.

The initial decision of the administrative law judge in such cases will not be disturbed by the Board, except in cases of demonstrated harmful procedural irregularity in the proceedings before the administrative law judge or clear error of law. In addition, the Board will defer ruling on any interlocutory appeals or motions to disqualify the administrative law judge

assigned to the case until the initial decision has been issued.

Adoption of this regulation will promote rather than diminish the rights of Board employees by ensuring an impartial decisionmaker and avoid even the appearance of conflict of interest. Assignment of the appeals of Board employees to administrative law judges, together with existing rights to judicial review, will adequately protect the due process rights of the employees.

Inasmuch as this regulation pertains to Board practice and procedure, and inasmuch as the rights of appellants in pending cases make delay impracticable and contrary to the public interest, the Board finds that there is good cause for the immediate adoption of this regulation.

Regulatory Flexibility Act

The Vice Chair, Merit Systems Protection Board, certifies that the Board is not required to prepare an initial or final regulatory analysis of this proposed rule, pursuant to section 603 or 604 of the Regulatory Flexibility Act, because of her determination that this rule would not have a significant economic impact on a substantial number of small entities, including small businesses, small organizational units and small governmental jurisdictions.

PART 1201—PRACTICES AND PROCEDURES

5 CFR Part 1201, Subpart B is amended by revising the first sentence of § 1201.11 and adding § 1201.13 to provide as follows:

§ 1201.11 Scope and policy.

The rules in this subpart apply to appellate proceedings of the Board except as otherwise provided in § 1201.13. * * *

§ 1201.13 Internal appeals of Board employees.

Appeals of actions taken against Board employees will be assigned to administrative law judges for adjudication pursuant to this subchapter, provided, however, that the policy of the Board will be to insulate such adjudications from agency involvement insofar as possible. Accordingly, initial decisions in such cases shall not be disturbed by the Board except in cases of demonstrated harmful procedural irregularity in the proceedings before the administrative law judge or clear error of law. In addition, the Board, as a matter of policy, will defer ruling on any interlocutory appeals or motions to disqualify the administrative law judge

assigned to such cases until the initial decision has been issued.

Dated: December 22, 1981.

For the Board.

Ersa H. Poston,

Vice Chair.

[FR Doc. 82-301 Filed 1-7-82; 8:45 am]

BILLING CODE 7400-01-M

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

7 CFR Part 701

Conservation and Environmental Programs

AGENCY: Agricultural Stabilization and Conservation Service (ASCS), USDA.

ACTION: Final rule.

SUMMARY: This final rule will amend the existing regulations to carry out the Agricultural Conservation Program (ACP) and the Emergency Conservation Program (ECP). The regulations governing the ACP are amended to: (1) Provide that practices cost-shared under the ACP must be approved by the county ASC committees before on-site work is begun to carry out the practice; (2) reduce the maximum cost-share level from 90 percent to 75 percent of the cost of performing the practices under the ACP, except that a higher level may be authorized by ASCS; (3) change the maximum cost-share rate under the ACP for farmers determined to be low-income farmers from 90 percent to 80 percent of the cost of performing the practice; and (4) authorize conservation practices under the ACP that have significant energy conservation benefits. This final rule also amends the existing regulations governing the ECP to provide assistance at a decreased level of cost-sharing so that cost-sharing may be provided to as many producers as possible within available funds and to provide for a maximum cost-share limitation.

EFFECTIVE DATE: December 31, 1981.

FOR FURTHER INFORMATION CONTACT:

Director, Conservation and Environmental Protection Division, (CEPD), ASCS, USDA, P.O. Box 2415, Washington, D.C. 20013, telephone 202-447-6221. The Final Regulatory Impact Analysis describing the options considered in developing this final rule and the impact of implementing each option is available on request from the Director, CEPD.

SUPPLEMENTARY INFORMATION: This final action has been reviewed for

compliance with Executive Order 12291 Secretary Memorandum No. 1512-1 and has been classified as "not major," it has been determined that these program provisions 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, individuals, industries, Federal, State or local government agencies or geographic regions; or (3) cause 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 titles and numbers of the Federal Assistance Program that this notice applies to are: Title—Agricultural Conservation Program; Number—10.063; Title—Emergency Conservation Program, Number—10.054; 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 by OMB Circular A-95 was not used to assure that units of local governments are informed of this action.

It has been determined that the Regulatory Flexibility Act is not applicable to this final rule since ASCS is not required to publish a notice of proposed rulemaking pursuant to 5 U.S.C. 553 or any other provision of law with respect to the subject matter of this rule.

The ACP is authorized generally by Sections 7-17 of the Soil Conservation and Domestic Allotment Act of 1936, as amended (16 U.S.C. 590h(b) *et seq.*). The ACP provides financial incentives and technical assistance to encourage eligible agricultural producers to voluntarily perform soil and water conservation and pollution abatement measures. The Emergency Conservation Program (ECP) is authorized by the Agricultural Credit Act of 1978 (Pub. L. 95-334, 92 Stat. 433). This program is designed to provide cost-share funds for emergency assistance to meet only the critical needs of agricultural producers due to severe drought or other natural disaster.

Notice of proposed rulemaking was published in the Federal Register on July 31, 1981 at 46 FR 39163, with respect to the changes ASCS intended to make in the administration of the ACP and ECP. ASCS received eight responses with respect to this proposed rule. However, none of the comments were of such significance to require that ASCS make major changes from the proposed regulation. All letters received are on file and available for public inspection

in Room 3608, South Building, 14th & Independence Avenue, S.W., Washington, D.C.

The following is a summary of the comments received and actions taken:

Comment

Three respondents commented that including authority for cost-sharing for energy conservation measures under ACP would tend to direct funds away from the primary soil and water objective of the program.

Response

The Energy Security Act of 1980 (Pub. L. 96-294, 94 Stat. 611, approved June 30, 1980) authorizes the Secretary to provide for cost-sharing and technical assistance under the ACP to farmers to encourage energy conservation. While certain references to this discretionary authority for cost-sharing for energy conservation practices is being added to the regulations, it has been determined that the program will not be expanded at this time to include cost-sharing for practices that are primarily for energy conservation because of limited funding.

Comment

Four respondents commented that requiring farmers to receive approval from the county ASC committee before starting practice installation was an excellent change in the program. However, two respondents commented that the process for obtaining practice approval would be hindered as a result of this requirement.

Response

It has been determined that this change in the program would aid in meeting one of the objectives of ACP which is to provide cost-share assistance only for those conservation practices which farmers could not or would not carry out to the needed extent without such assistance. This amendment to the regulations providing that cost-share assistance will not be available for a practice unless formal approval is given by the county ASC committee will give the committees more flexibility in allocating available funds to higher priority, more serious conservation and pollution abatement problems. A definite commitment of funds also provides a more effective method of control for the county ASC committees. Additionally, producer misunderstanding and dissatisfaction with the program should be reduced with closer monitoring of participation requirements.

Comment

Two respondents commented that reducing the ACP maximum cost-share level from 90 percent to 75 percent of the cost of performing a practice under the program would have a negative impact on the program. One respondent feels that while the reduction in the level of cost-sharing would tend to spread limited money to more people, the program should not be directed to this end during times of limited budgets. The other respondent felt that the reduction in the cost-share levels would tend to concentrate participation in the ACP with wealthier farmers. In addition, one respondent, although supporting the change in the levels of cost-sharing under the program, recommended that the \$3500 maximum payment limitation be eliminated.

Response

It has been determined that lowering the maximum of cost-sharing under the ACP for annual practices from 90 percent of the cost of performing a practice to 75 percent of the cost of performing such practice would increase the cost-effectiveness of the program and achieve the maximum conservation benefits possible for large and small farmers alike within present funding limits. The 75 percent cost-share level is also identical to the maximum level required by statute for ACP long-term agreements. It has been determined that a uniform maximum cost-share level for long-term agreements and annual practices of 75 percent would be more desirable and equitable for all participants in the program. Further, cost-share assistance may be provided at a level higher than 75 percent of the cost of performing a practice, if it is determined by the Deputy Administrator, State and County Operations, to be necessary to encourage producers to carry out conservation practices. The requirement for a \$3500 maximum payment limitation for ACP is set forth each year in the appropriations acts which provides for funding for the program.

Comment

Two respondents felt that reducing the ACP maximum cost-share level for low income farmers from 90 percent of the cost of performing the practice to 80 percent would discourage low income farmers from participating in the program because of a lack of capital to invest in conservation practices. As a result, a greater amount of program funding would be directed to larger, more affluent farmers.

Response

It has been determined that providing cost-share assistance at a maximum level of 80 percent of the cost of performing a practice is sufficient to obtain needed participation from low income farmers. ACP needs to encourage more low income farmers to invest in the installation of conservation and pollution abatement measures on their farms and at the same time improve their farm income potential. By limiting the cost-share percentage to 80 percent of cost of performing a practice, a greater amount of funds will be available for more low income farmers. Also many ACP practices are carried out with the farmer's labor and farm equipment accounting for his share of the practice cost. This fact would tend to elevate participation in the program by low income farmers.

Comment

Two respondents commented that decreasing the ECP maximum cost-share level would have a negative impact on the program. One respondent felt that during times of limited funding, the program should not be directed toward spreading limited funding to more participants. The other respondent concluded that by reducing the cost share levels under the ECP, smaller landowners would be forced out of the program because of the greater costs which must be borne by the program participant.

Response

Natural disasters vary considerably in intensity and may result in excessive damage to many conservation practices and acres of agricultural farmland. Restoration of such damaged practices and farmland is often beyond the financial capability of the landowner. ECP funds are used to help restore conservation practices and farmland that have been so severely damaged that restoration of such practices and farmland to productive agriculture use would not occur without Federal assistance. Limiting the amount of Federal assistance available under the ECP to any one landowner would have the desirable effect of allowing a greater number of landowners to participate in the program. Higher levels of landowners participation is necessary in times of limited Federal funding in order to be assured of maximum participation.

Comment

One commentor objected to the proposed \$200,000 maximum payment limitation under the ECP being applicable to the amount of cost-share

payments received by individuals, as well as the total amount of cost-share payments applicable to a pooling agreement. It was argued that such a limitation would tend to discourage pooling agreements.

Response

The \$200,000 maximum payment limitation for ECP applies to the amount of payments each may receive as the result of disaster. This limitation includes amounts that an individual may receive from a pooling agreement. However, the \$200,000 maximum payment limitation is not a limitation on the total amount of cost-share payments which may be applicable to a pooling agreement. The regulations have been modified to clarify this.

PART 701—CONSERVATION AND ENVIRONMENTAL PROGRAMS

Accordingly, the regulations at 7 CFR Part 701 are revised to read as follows:

1. Section 701.3 is amended by adding a new paragraph (b)(8) to read as follows:

§ 701.3 Program objective.

(b) * * *
(8) The types of conservation measures needed that have significant energy conserving benefits.

2. Section 701.9 is amended by adding a new paragraph (i) to read as follows:

§ 701.9 Conservation practices.

(i) Encourage energy conservation practices.

3. Paragraph (b) of § 701.13 is revised to read as follows:

§ 701.13 Level and rate of cost-sharing.

(b) Levels of cost-sharing under annual agreements for each practice shall not be in excess of 75 percent of the average cost of carrying out the practice as determined by the county committee. However, where the Deputy Administrator, State and County Operations, determines a higher level of cost-sharing is necessary to provide adequate incentive for producer to carry out a conservation practice, the Deputy Administrator, State and County Operations, may specifically authorize a higher level. (See § 701.19 for special provision for low-income farmers.)

4. Section 701.14 is revised to read as follows:

§ 701.14 Starting of practices.

Costs will not be shared for practices or components of practices that are started before a formal approval is given by the county committee.

5. Paragraphs (a) and (b) of § 701.19 are revised to read as follows:

§ 701.19 Special provisions for low-income farmers and ranchers.

(a) Except as otherwise provided in § 701.13(c), the county committee may approve, in the case of low-income farmers and ranchers as defined in this section, level of cost-sharing of up to 80 percent of the average cost of performing practices.

(b) A low-income farmer or rancher is one who, as determined by the county committee, is a small producer whose livelihood is largely dependent on the farm or ranch and whose prospective income and financial resources for the current year are such that the farmer or rancher could not reasonably be expected to perform needed conservation practices at levels of cost-sharing applicable to other persons in the county.

6. Section 701.51 is revised to read as follows:

§ 701.51 Extent of cost-sharing.

(a) The maximum cost-share payment which may be made to any person by the Agricultural Stabilization and Conservation Service (ASCS) under the Emergency Conservation Program is limited to \$200,000 per person, per disaster, including the amount of any payment received by such person as the result of the disaster under a pooling agreement.

(b) The levels of cost-sharing for which cost-share payments may be made by ASCS for each practice under the program shall be based upon the following:

(1) The producer must agree to pay for the first twenty percent of the cost of the practice to restore the loss.

(2) With respect to the remainder of the cost of completing the practice to restore the loss, the county committee shall establish levels of cost-sharing for which payments may be made by ASCS as follows:

(i) Not to exceed eighty percent of the first \$50,000 of the cost of the practice(s) to restore the loss;

(ii) Not to exceed fifty percent for the next \$50,000 of the cost of the practice(s) to restore the loss; and

(iii) Not to exceed twenty-five percent of the remaining cost of the practice(s) to restore the loss.

(Pub. L. 74-46, Secs. 7-15, 16(a), 16(f), and 17, 49 Stat. 163, as amended (16 U.S.C. 590g-590, 590p(a), and 590q); Pub. L. 93-86, Secs. 1001-1010, 87 Stat. 241 (16 U.S.C. 1501-1510); Pub. L. 95-334, Secs. 401-402, 404-405, 92 Stat. 433 (16 U.S.C. 2201-2202, 2204-2205))

Signed at Washington, D.C., December 30, 1981.

C. Hoke Leggett,

Acting Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 81-37479 Filed 12-31-81; 11:30 am]

BILLING CODE 3410-05-M

Agricultural Marketing Service

7 CFR Part 910

[Lemon Reg. 341]

Lemons Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of fresh California-Arizona lemons that may be shipped to market during the period January 10-16, 1982. Such action is needed to provide for orderly marketing of fresh lemons for this period due to the marketing situation confronting the lemon industry.

EFFECTIVE DATE: January 10, 1982.

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. This regulation is issued under the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). The action is based upon the recommendations and information submitted by the Lemon Administrative Committee and upon other available information. It is hereby found that this action will tend to effectuate the declared policy of the act.

This action is consistent with the marketing policy for 1981-82. The marketing policy was recommended by the committee following discussion at a public meeting on July 7, 1981. The committee met again publicly on January 5, 1982, at Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of lemons deemed advisable to be handled during the specified week. The committee reports the demand for lemons is easier.

It is further found that 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.

In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3507), the reporting or recordkeeping provisions that are included in this final rule have been submitted for approval to the Office of Management and Budget (OMB). They are not effective until OMB approval has been obtained.

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Section 910.641 is added as follows:

§ 910.641 Lemon regulation 341.

The quantity of lemons grown in California and Arizona which may be handled during the period January 10, 1982, through January 16, 1982, is established at 225,000 cartons.

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

D. S. Kuryloski,

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

[FR Doc. 82-652 Filed 1-6-82; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Parts 101 and 264

Presumption of Lawful Admission; Registration and Fingerprinting of Aliens in the United States; Creation of Records of Lawful Permanent Resident Status for Aliens Eligible for Presumption of Lawful Admission for Permanent Residence and for Individuals Born Under Diplomatic Status in the United States

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: This amendment to the regulations of the Immigration and Naturalization Service is made in order to institute a procedure for creation of records of lawful permanent residence for aliens eligible for presumption of lawful admission for permanent residence and for individuals born in the United States to foreign diplomats.

It has been judicially held that, for naturalization purposes, children born in the United States to foreign diplomats have the status of lawful permanent residents. In addition, two precedent decisions of this Service hold that these children are considered to be permanent residents. Until now, however, there was no procedure for creation of records of their lawful permanent residence. Under the new procedure, they are eligible to apply for creation of records of their permanent residence.

In the interest of consistency, we have also developed a parallel procedure for aliens eligible for presumption of lawful admission for permanent residence even though records of their admission cannot be found. This is a standardization of an existing procedure which will have a negligible effect on the aliens in question.

EFFECTIVE DATE: February 10, 1982.

FOR FURTHER INFORMATION CONTACT:

For general information: Stanley J. Kieszkil, Acting Instructions Officer, Immigration and Naturalization Service, 425 I Street, N.W., Washington, DC 20536. Telephone: (202) 633-3048.

For specific information: Alice Strickler, Immigration Examiner, Immigration and Naturalization Service, 425 I Street, N.W., Washington, DC 20536. Telephone: (202) 633-5014

SUPPLEMENTARY INFORMATION: Children who are born in the United States to accredited foreign diplomatic officers are not subject to the jurisdiction of the United States. They therefore are not United States citizens under the Fourteenth Amendment to the Constitution. According to an unreported decision, *Petition of Vivienne Yu*, U.S.D.C., Southern District of New York, A-11 537 691 (1965), these children are considered to be lawful permanent residents for purposes of naturalization. In addition, two precedent decisions of this Service, *Matter of Huang*, 11 I. & N. Dec. 190 (1965), and *Matter of Chu*, 14 I. & N. Dec.

241 (1972), hold that these children are considered to be lawful permanent residents.

In view of these decisions, this Service has received requests for Alien Registration Receipt Cards, Forms I-551, documents issued to lawful permanent residents, for individuals born in the United States in diplomatic status. Until now there was no procedure, however, for creation of records of their lawful permanent residence or for issuance of Forms I-551 to them. On January 21, 1981, our Deputy General Counsel advised that it has been the stated Service policy for the past thirty-five years to treat individuals in this category as lawful permanent residents and that they should be issued Forms I-551. Accordingly, we have developed a procedure to create records of permanent residence for and issuance of Forms I-551 to them.

In order to be consistent, we have set up a parallel procedure for aliens eligible for presumption of lawful admission for permanent residence even though records of their admission cannot be found. Existing §§ 101.1 and 101.2 explain the requirements for presumption of lawful admission for permanent residence.

Because these additions to the regulations are purely procedural in nature, and implement existing interpretations, compliance with the provisions of 5 U.S.C. 553 relative to notice of proposed rulemaking is unnecessary.

In accordance with 5 U.S.C. 605(b), the Commissioner certifies that the rule will not have a significant economic impact on a substantial number of small entities. This rule is not a major rule within the meaning of section 1(b) of EO 12291.

For the reasons set out in the preamble, Chapter I of Title 8 of the Code of Federal Regulations is amended as set forth below:

PART 101—PRESUMPTION OF LAWFUL ADMISSION

1. § 101.3 is revised to read as follows:

§ 101.3 Creation of record of lawful permanent resident status for person born under diplomatic status in the United States.

(a) *Person born to foreign diplomat.*
(1) *Status of person.* A person born in the United States to a foreign diplomatic

officer accredited to the United States, as a matter of international law, is not subject to the jurisdiction of the United States. That person is not a United States citizen under the Fourteenth Amendment to the Constitution. Such a person may be considered a lawful permanent resident at birth.

(2) *Definition of foreign diplomatic officer.* "Foreign diplomatic officer" means a person listed in the State Department Diplomatic List, also known as the Blue List. It includes ambassadors, ministers, chargés d'affaires, counselors, secretaries and attachés of embassies and legations as well as members of the Delegation of the Commission of the European Communities. The term also includes individuals with comparable diplomatic status and immunities who are accredited to the United Nations or to the Organization of American States, and other individuals who are also accorded comparable diplomatic status.

(b) *Child born subject to the jurisdiction of the United States.* A child born in the United States is born subject to the jurisdiction of the United States and is a United States citizen if the parent is not a "foreign diplomatic officer" as defined in paragraph (a)(2) of this section. This includes, for example, a child born in the United States to one of the following foreign government officials or employees:

(1) Employees of foreign diplomatic missions whose names appear in the State Department list entitled "Employees of Diplomatic Missions Not Printed in the Diplomatic List," also known as the White List; employees of foreign diplomatic missions accredited to the United Nations or the Organization of American States; or foreign diplomats accredited to other foreign states. The majority of these individuals enjoy certain diplomatic immunities, but they are not "foreign diplomatic officers" as defined in paragraph (a)(2) of this section. The immunities, if any, of their family members are derived from the status of the employees or diplomats.

(2) Foreign government employees with limited or no diplomatic immunity such as consular officials named on the State Department list entitled "Foreign Consular Officers in the United States" and their staffs.

(c) *Voluntary registration as lawful permanent resident of person born to foreign diplomat.* Since a person born in the United States to a foreign diplomatic officer is not subject to the jurisdiction of the United States, his/her registration as a lawful permanent resident of the United States is voluntary. The provisions of section 262 of the Act do

not apply to such a person unless and until that person ceases to have the rights, privileges, exemptions, or immunities which may be claimed by a foreign diplomatic officer.

(d) *Retention of lawful permanent residence.* To be eligible for lawful permanent resident status under paragraph (a) of this section, an alien must establish that he/she has not abandoned his/her residence in the United States. One of the tests for retention of lawful permanent resident status is continuous residence, not continuous physical presence, in the United States. Such a person will not be considered to have abandoned his/her residence in the United States solely by having been admitted to the United States in a nonimmigrant classification under paragraph (15)(A) or (15)(G) of section 101(a) of the Act after a temporary stay in a foreign country or countries on one or several occasions.

2. The following § 101.4 is added:

§ 101.4 Registration procedure.

The procedure for an application for creation of a record of lawful permanent residence and an Alien Registration Receipt Card, Form I-551, for a person eligible for presumption of lawful admission for permanent residence under §§ 101.1 or 101.2 or for lawful permanent residence as a person born in the United States to a foreign diplomatic officer under § 101.3 is described in § 264.2 of this chapter.

PART 264—REGISTRATION AND FINGERPRINTING OF ALIENS IN THE UNITED STATES

3. Part 264 is amended by adding the following new § 264.2 to read as follows:

§ 264.2 Application for creation of record of lawful permanent residence and Alien Registration Receipt Card, Form I-551.

(a) *Jurisdiction.* An applicant who believes that he/she is eligible for presumption of lawful admission for permanent residence under §§ 101.1 or 101.2 of this chapter or for lawful permanent residence as a person born in the United States to a foreign diplomatic officer under § 101.3 of this chapter shall submit his/her application for creation of a record of lawful permanent residence to the Service office having jurisdiction over the applicant's place of residence in the United States. The applicant must be physically present in the United States at the time of submission of his/her application.

(b) *Applicant under eighteen years old.* If the applicant is under eighteen years old, the applicant's parent or legal guardian shall prepare and sign the application in the applicant's behalf.

(c) *Filing application.* (1) *Presumption of lawful admission for permanent residence.* An applicant who believes that he/she is eligible for presumption of lawful admission for permanent residence under §§ 101.1 or 101.2 of this chapter shall submit the following:

- (i) A completed Form I-90, Application by a Lawful Permanent Resident for an Alien Registration Receipt Card, Form I-551, without fee.
- (ii) Form G-325A, Biographic Information.
- (iii) The applicant's fingerprints on Form FD-258.
- (iv) A list of all the applicant's arrivals in and departures from the United States.

(v) A statement signed by the applicant indicating the basis of the applicant's claim to presumption of lawful admission for permanent residence.

(vi) Documentary evidence substantiating the applicant's claim to presumption of lawful admission for permanent residence, including proof of continuous residence in the United States.

(vii) Two photographs prepared in accordance with the specifications outlined in the instructions to Form I-90. The immigration officer to whom the application is submitted, however, may waive the photographs for just cause.

(2) *Lawful permanent residence as a person born in the United States under diplomatic status.* An applicant who believes that he/she is eligible for lawful permanent residence as a person born in the United States to a foreign diplomatic officer under § 101.3 of this chapter shall submit the following:

- (i) A completed Form I-90, Application by a Lawful Permanent Resident for an Alien Registration Receipt Card, Form I-551, without fee.
- (ii) Form G-325A, Biographic Information.

(iii) The applicant's fingerprints on Form FD-258.

(iv) The applicant's birth certificate.

(v) An executed Form I-508, Waiver of Rights, Privileges, Exemptions, and Immunities.

(vi) Official confirmation of the diplomatic classification and occupational title of the applicant's parent(s) at the time of the applicant's birth.

(vii) A list of all the applicant's arrivals in and departures from the United States.

(viii) Proof of continuous residence in the United States.

(ix) Two photographs prepared in accordance with the specifications outlined in the instructions to Form I-90.

The immigration officer to whom the application is submitted, however, may waive the photographs for just cause.

(3) *Applicant under fourteen years old.* An applicant under fourteen years old shall not submit Form G-325A, Biographic Information, or his/her fingerprints on Form FD-258.

(d) *Personal appearance.* Each applicant, including an applicant under eighteen years of age, must submit his/her application in person. This requirement may be waived at the discretion of the immigration officer to whom the application is submitted because of confinement of age, physical infirmity, illiteracy, or other compelling reason.

(e) *Interview.* The applicant may be required to appear in person before an immigration officer prior to adjudication of the application to be interviewed under oath concerning his/her eligibility for creation of a record of lawful permanent residence.

(f) *Decision.* The decision regarding creation of a record of lawful permanent residence for an alien eligible for presumption of lawful admission for permanent residence or for a person born in the United States to a foreign diplomatic officer will be made by the district director having jurisdiction over the applicant's place of residence.

(g) *Date of record of lawful permanent residence.* (1) *Presumption of lawful admission for permanent residence.* If the application is granted, the applicant's permanent residence will be recorded as of the date of the applicant's arrival in the United States under the conditions which caused him/her to be eligible for presumption of lawful admission for permanent residence.

(2) *Lawful permanent residence as a person born in the United States under diplomatic status.* If the application is granted, the applicant's permanent residence will be recorded as of his/her date of birth.

(h) *Denied application.* If the application is denied, the decision may not be appealed.

(Secs. 101(a)(20), 103, 262, 264 of the Immigration and Nationality Act, as amended; 8 U.S.C. 1101(a)(20), 1103, 1302, 1304)

Dated: December 23, 1981.

Doris M. Meissner,
Acting Commissioner of Immigration and Naturalization.

[FR Doc. 82-547 Filed 1-7-82; 8:45 am]

BILLING CODE 4410-01-M

8 CFR Part 204

Petition To Classify Alien as Immediate Relative of a United States Citizen or as a Preference Immigrant; Documents; Certification of Documents

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: This rule adds accredited representatives of recognized nonprofit voluntary agencies to those persons who may certify the authenticity of photo copies of original documents that are submitted in visa petition proceedings. This will allow more petitioners to retain their original documents without fear of loss or access of availability to valuable or sentimental documents. The Service also benefits from a reduction in requests for comparative certifications and a reduction in future requests to return originals from Service files.

EFFECTIVE DATE: January 11, 1982.

FOR FURTHER INFORMATION CONTACT:

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

For Specific Information: Ernest B. Duarte, Jr., Director of Outreach Program, 425 I Street, NW., Room 6244, Washington, D.C. 20536, Telephone (202) 633-4123

SUPPLEMENTARY INFORMATION: The present 8 CFR 204.2(h) allows attorneys to certify the authenticity of copies of original documents in visa petition proceedings. This allows petitioners to submit certified copies and to retain valuable or sentimental originals. This practice reduces the Service workload in processing petitions; prevents loss of originals; reduces requests for the return of originals after comparison; and, in the case of originals not accompanied by copies, reduces future requests for the return of originals from Service record files.

Nonprofit voluntary agencies and their employees are permitted to represent aliens before the Service if recognized and accredited by the Board of Immigration Appeals under 8 CFR 292.2. The extension of the certification authority to recognized organizations and their accredited representatives will allow them to better serve their clientele while allowing the Service to maintain the quality and integrity of its adjudication proceedings under 8 CFR Part 204. The Service will continue to reserve the right to require submissions

of the original documents when it deems necessary for proper enforcement of the Act.

Compliance with 5 U.S.C. 553 as to notice of proposed rulemaking and delayed effective date is unnecessary because the rule is limited to agency practice and procedure which is of benefit to the public.

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

This rule is not a major rule within the meaning of section 1(b) of E.O. 12291.

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

PART 204—PETITION TO CLASSIFY ALIEN AS IMMEDIATE RELATIVE OF A UNITED STATES CITIZEN OR AS A PREFERENCE IMMIGRANT

1. In § 204.2, paragraph (h) is revised to read as follows:

§ 204.2 Documents.

(h) *Certification of documents—(1) By attorneys.* A copy of a document submitted in support of a visa petition filed pursuant to section 204 of the Act and this Part may be accepted, though unaccompanied by the original, if the copy bears a certification by an attorney typed or rubber-stamped in the following language:

I certify that I have compared this copy with its original and it is a true and complete copy.

Signed: _____ Date: _____
Name: _____, Attorney at Law
Address: _____
Admitted to Practice in State of _____

(2) *By accredited representatives of recognized nonprofit voluntary agencies under § 292.2 of this Chapter.* A copy of a document submitted in support of a visa petition filed pursuant to section 204 of the Act and this Part may be accepted, though unaccompanied by the original, if the copy bears a certification by an accredited representative, typed or rubber-stamped in the following language:

I certify that I have compared this copy with its original and it is a true and complete copy.

Signed: _____ Date: _____
Name: _____, Accredited Representative
Agency: _____
Agency Address: _____
Date of Agency Recognition: _____
Date of Representative Accreditation: _____

(3) *Original document.* The original document must be submitted if requested by the Service.

(Sec. 103, 66 Stat. 173 (8 U.S.C. 1103))

Dated: December 28, 1981.

Doris M. Meissner,

Acting Commissioner of Immigration and Naturalization.

[FR Doc. 82-548 Filed 1-7-82; 8:45 am]

BILLING CODE 4410-01-M

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 327

Interest Charge on Delinquent Assessment Payments and Assessment Overpayments

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Final rule.

SUMMARY: FDIC amends Part 327 of its regulations pertaining to its insurance assessment on deposits held by insured banks. The amendment requires insured banks to pay interest on delinquent assessment payments owed to FDIC if the delinquencies are not caused by FDIC. Further, it requires FDIC to pay interest on assessment overpayments by insured banks. The amendment insures that appropriate compensation is provided to insured banks and the FDIC for the loss of the immediate use of their funds when such delinquent payments or overpayments occur under the assessment process. The amendment is issued under FDIC's general rule making authority in Section 9 of the Federal Deposit Insurance Act.

The amendment will not significantly affect any insured bank since the interest paid to banks by FDIC for overpayments will generally be insignificant and the interest paid by a bank to FDIC for delinquencies will be materially or completely offset by interest income realized by the bank from the use of FDIC funds. Further, the interest charge on the delinquent payments will only affect those banks which have failed to comply with FDIC regulations.

EFFECTIVE DATE: January 4, 1982.

FOR FURTHER INFORMATION CONTACT:

J. David Shaffer, Assessments Section Chief, Division of Accounting and Corporate Services (202-389-4735), or Roger A. Hood, Assistant General Counsel, Legal Division (202-389-4628), Federal Deposit Insurance Corporation, 550 17th Street, N.W., Washington, D.C. 20429.

SUPPLEMENTARY INFORMATION: On October 19, 1981, FDIC published a proposal in the Federal Register (46 FR 51256) which would amend Part 327 to impose an interest charge on late assessment payments which are not caused by FDIC so that FDIC can recoup the interest which it loses on the funds during the delinquent period. The proposal also provided for FDIC to pay interest on assessment overpayments by insured banks.

Public comment on the proposal was invited through December 3, 1981. During the period, ten (10) written comment letters were received. All but two of these were favorable (including one from the American Bankers Association) and several included recommendations to be considered by FDIC. The most significant comments are discussed below.

(1) One comment stated that banks should not be required to pay interest on delinquent payments which result from a bank's reliance on an FDIC rule, regulation, or approval. Section 327.06 of the proposed rule which was published for comment states that the interest would not be charged for delinquent payments that are caused by FDIC. This provision was intended to be applicable to a delinquent payment that is caused by a bank's good faith reliance on an FDIC rule, regulation, or approval which specifically applied to the situation. To clarify the regulation, the final rule has been changed to expressly state this.

(2) Two of the comment letters recommended that the interest charge not be imposed for delinquent payment if the delinquency resulted from an unintentional error, including a clerical, printing, or computer error. Since the interest charge is a "use" charge rather than a penalty charge, FDIC believes that the interest charge should be applicable in such situations and that intent should not be a critical determining factor.

(3) Another comment opposed the proposal because, according to the comment, the proposal does not take into account situations which involve protracted disputes that arise between banks and the FDIC over the proper interpretation of rules, regulations, or statutory provisions. As has been stated earlier, the interest charge is intended to be a "use" charge which, among other things, permits FDIC to recover the interest which it now loses on delinquent funds during the period of the delinquency. Accordingly, the length of a dispute is not a key factor in the application of the interest charge. Rather, the key element is whether FDIC was entitled to the funds during the

delinquency and, in turn, the interest on the funds.

(4) It was also recommended that the language in the final rule be clarified to indicate which of the several Department of Treasury rates is applicable and to state that the rate is published under the provisions of the Treasury Fiscal Requirements Manual (TFRM) but is not published in the manual itself. In response to this comment, FDIC has added statements in the final rule which indicate that the rate is the U.S. Treasury's current value of funds rate that is issued under the TFRM provisions and published quarterly in the Federal Register.

The proposal which was published for comment has also been modified to require FDIC to pay interest on all overpayments regardless of whether or not the overpayment was caused by FDIC.

Except for the changes noted above, the provisions in the final rule adopted by the FDIC are the same as those in the proposal that was issued for public comment. Further, in order that the interest charge requirements may be used for the first 1982 semi-annual assessments which are due on January 31, 1982, the FDIC has decided to make the final rule effective immediately rather than delay its effective date for 30 days.

The regulation will not affect the competitive status of an insured bank or impose any additional regulatory burden. It merely establishes an interest charge for the use of funds and does not add any additional recordkeeping or reporting requirements. Further, the amendment will not have any significant economic impact on insured banks since the amount of the interest paid to banks for overpayments will generally be insignificant and the amount of the interest charge to a bank for delinquent payments can generally be defrayed by the income the bank obtains from the use of the FDIC funds. Because of these factors, the FDIC Board of Directors has specifically certified that the amendment will not have a significant economic impact on a substantial number of small entities. Consequently, the analyses requirements of the Regulatory Flexibility Act are not applicable and FDIC has not made an initial or a final regulatory analysis in connection with the amendment.

PART 327—ASSESSMENTS

In view of the above, the FDIC Board of Directors amends 12 CFR Part 327 as follows:

(1) The authority citation for Part 327 reads as follows:

Authority: Secs. 7-9, Pub. L. No. 797, 64 Stat. 876-882 as amended by secs. 2, 3, Pub. L. No. 86-671, 74 Stat. 547-551 and sec. 304, Pub. L. No. 95-630, 92 Stat. 3676 (12 U.S.C. 1817-1819).

(2) A new § 327.06 is added to read as follows:

§ 327.06 Payment of interest on delinquent assessment payments and assessment overpayments.

(a) Each insured bank shall pay to the Corporation interest on delinquent assessment payments. All assessments will be considered delinquent if they are postmarked after the time for payment specified in § 327.05, including late payments caused by bank errors in the Certified Statement, unless the delay has been caused by a bank's good faith reliance on a specific FDIC rule, regulation or approval. The interest rate will be the United States Treasury Department's current value of funds rate which is issued under the Treasury Fiscal Requirements Manual (TFRM rate) and published quarterly in the *Federal Register*. The interest rate will be determined as follows:

(1) *Current year.* (i) For delinquent days occurring on or prior to March 31, the rate will be the TFRM rate that is published in the preceding December.

(ii) For the delinquent days occurring from April 1 to June 30, the rate will be the TFRM rate that is published in March for the second quarter of the year.

(iii) For delinquencies days occurring from July 1 to September 30, the rate will be the TFRM rate that is published in June for the third quarter.

(iv) For delinquent days occurring from October 1 to December 31, the rate will be the TFRM rate that is published in September for the fourth quarter.

(2) *Prior years.* The interest will be calculated quarterly and compounded annually at the rates applicable for each quarter as issued under the TFRM. For the initial year, the rate will be applied to the gross amount of the delinquent payment. For each additional year or portion thereof the rate will be applied to the net amount of the delinquent payment after it has been reduced by the assessment credit for the year.

(b) The Corporation will pay interest to an insured bank for any overpayments.

By Order of the Board of Directors, January 4, 1982.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 82-464 Filed 1-7-82; 8:45 am]

BILLING CODE 6714-01-M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 10

[T.D. 82-8]

Customs Regulations Amendments Relating to the Importation of Certain Fresh, Chilled, or Frozen Beef

AGENCY: Customs Service, Treasury.

ACTION: Final rule.

SUMMARY: The Trade Agreements Act of 1979 made numerous changes to various provisions of law presently administered in whole or in part by the Customs Service. One of those changes relates to the importation of certain fresh, chilled, or frozen beef. This document adds a new section to the Customs Regulations to require a certification, by an official of the exporting country, stating that certain fresh, chilled, or frozen beef meets specifications prescribed in regulations issued by the U.S. Department of Agriculture.

EFFECTIVE DATE: This rule is effective on: January 8, 1982.

FOR FURTHER INFORMATION CONTACT: Raymond R. Janiszewski, Duty Assessment Division, Office of Trade Operations, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202-566-8651).

SUPPLEMENTARY INFORMATION:

Background

The Trade Agreements Act of 1979, Pub. L. 96-39, 93 Stat. 144 (the "Act") made numerous changes to various provisions of law administered in whole or in part by the Customs Service.

Title V of the Act provides for the implementation of certain tariff concessions negotiated in the Multilateral Trade Negotiations ("MTN"). Section 506 of Title V amended Schedule 1, Part 2, Subpart B, Tariff Schedules of the United States ("TSUS"), by deleting item 107.60 and inserting items 107.61, 107.62, and 107.63, relating to certain fresh, chilled, or frozen beef.

Prior to the Act, fresh, chilled, or frozen beef and veal (except for sausages) valued over 30 cents per pound were classified under TSUS item 107.60. The rate of duty was 10 percent

ad valorem. Before the Act, portion control cuts from Canada were entered under TSUS item 107.60, which was not covered by the Meat Import Act (Pub. L. 88-482, 19 U.S.C. 1202). Section 506 of the Act created a separate tariff classification for portion control cuts meeting high-quality U.S. specifications. Section 704 of the Act includes this new tariff classification in the coverage of the Meat Import Act.

In bilateral negotiations with Canada, the United States agreed to reduce the duty on high-quality portion control cuts of beef from 10 percent to 4 percent ad valorem on condition that (1) the concession apply only to portion control cuts which meet high-quality specifications (7 CFR 2853.106 (a) and (b)) and (2) meat entering under the concession would be counted against the exporter's allocation under the U.S. Meat Import Program.

Under the provisions of new TSUS item 107.61, a certification is required from an official of the exporting country prior to exportation stating that the fresh, chilled, or frozen beef meets the specifications for beef contained in regulations issued by the U.S. Department of Agriculture (7 CFR 2853.106 (a) and (b)). The certification is to be in a form required by regulations issued by the Secretary of the Treasury after consultation with the Secretary of Agriculture. A proposal was developed as a result of meetings between personnel from the Customs Service and the U.S. Department of Agriculture (USDA) and published in the *Federal Register* as a notice of proposed rulemaking (NPRM) on July 2, 1981 (46 FR 34598).

Discussion of Comments

Only three comments were received in response to the NPRM.

One commenter suggested that the required certification should be exempted from the missing document provisions of § 141.66, Customs Regulations (19 CFR 141.66). Section 141.66 states that unless otherwise prescribed in the Customs Regulations, an appropriate bond may be given for the production of any required document which is not available at the time of entry.

Customs is of the opinion that fresh, chilled, or frozen beef entered under the provisions of TSUS item 107.61, should not be treated any differently than other classes of merchandise subject to a reduced rate of duty once certain conditions are satisfied. Most of these classes of merchandise are listed in Part 10, Customs Regulations (19 CFR Part 10). A bond for missing documents may

be posted for most of these classes of merchandise. Accordingly, Customs believes that a bond for missing documents should be allowed for the certification required for beef entered under TSUS item 107.61. However, as a practical matter, the certification will be available in virtually every case at the time of entry. The NPRM proposed to add the required certification to the foreign officials meat-inspection certificate required by USDA regulations (9 CFR 327.4). Section 327.4 requires that each consignment be accompanied by the foreign officials meat-inspection certificate. The USDA examination and release may not take place without the required certification. Therefore, the certification should always be available at the time of entry.

Another commenter noted that the term "high quality beef" is not used in TSUS item 107.61 and suggested that it be deleted from the certification. Customs concurs with this comment and, accordingly, has deleted the term from the final rule.

The same commenter also recommended that the reference to 7 CFR 2853.106 (a) and (b) be deleted from the certification since no citation to these sections appears in TSUS item 107.61. Sections 2853.106 (a) and (b) and TSUS item 107.61 use the terms "Prime" and "Choice". It is Customs opinion, and that of the Department of Agriculture and the Office of the Trade Representative, that the terms "Prime" and "Choice" should not be used in the certification. Fresh, chilled, or frozen beef entered under TSUS item 107.61 may not be marketed as USDA "Prime" or "Choice" beef unless it is labeled by a USDA meat grader. Specific language to this effect was included in the proposed regulation and is retained in the final rule. Imported beef entered under TSUS item 107.61, therefore, may not be referred to as "Prime" or "Choice", and the exporter's certification may not refer to the beef as "Prime" or "Choice." To use the words in the certification could lead individuals to believe that the beef may be marketed as "Prime" or "Choice". In order to eliminate this possibility, the citation to 7 CFR 2853.106 (a) and (b) was used rather than "Prime" or "Choice", even though this may mean amending the certification at a later date, if, in the unlikely event, the Department of Agriculture regulations, contained in 7 CFR 2853.106 (a) and (b), are changed.

The third comment received was in favor of the proposed rule but contained no substantive comments.

Other Changes to Proposed Rule

Customs has been advised by the Foreign Agriculture Service, that the Department of Agriculture has reached agreement with the Canadian government as to the Canadian beef grades that will satisfy the certification requirements. Accordingly, a paragraph (b) has been included in the final rule which lists Canada as a country from which Customs officials will accept certifications. From time to time, as agreement is reached by the Department of Agriculture and appropriate officials of other nations, the listing will be amended to include other countries.

Finally, Customs is of the opinion that the rule would be more appropriately placed in Part 10, Customs Regulations, which relates to articles conditionally free, subject to reduced rates of duty, etc., rather than in Part 12, Customs Regulations, which relates to special classes of merchandise. Accordingly, the rule will appear in the Customs Regulations as new § 10.180.

Inapplicability of Delayed Effective Date

Because the subject matter of this document does not constitute a departure from established policy or procedure, implements a statutory policy, and confers a benefit on the public through a reduced duty rate, pursuant to 5 U.S.C. 553(d) (1) and (3), a delayed effective date is not required.

Executive Order 12291

The proposed regulation is not a major regulation as defined in section 1(b) of E.O. 12291. Accordingly, a regulatory impact analysis was not required.

Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to an initial and final regulatory flexibility analysis (5 U.S.C. 603, 604) are not applicable to this regulation. The NPRM published July 2, 1981 (46 FR 34598), contained a certification under the provisions of section 3 of the Regulatory Flexibility Act (5 U.S.C. 605(b)) that the rule will not have a significant economic impact on a substantial number of small entities.

Drafting Information

The principal author of this document was John E. Elkins, Regulations Control Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

Amendment to the Regulations

Part 10, Customs Regulations (19 CFR Part 10), is amended as set forth below.

William Green,

Acting Commissioner of Customs.

Approved: December 29, 1981.

John M. Walker, Jr.,

Assistant Secretary of the Treasury.

PART 10—ARTICLES CONDITIONALLY FREE, SUBJECT TO A REDUCED RATE, ETC.

Part 10 is amended by adding a new § 10.180 and heading to read as follows:

Certain Fresh, Chilled, or Frozen Beef

§ 10.180 Certification.

(a) The foreign official's meat-inspection certificate required by U.S. Department of Agriculture regulations (9 CFR 327.4) shall be modified to include the certification below when fresh, chilled, or frozen beef is to be entered under the provisions of item 107.61, Tariff Schedules of the United States (TSUS). The certification shall be made, prior to exportation of the beef, by an official of the government of the exporting country and filed with Customs with the entry summary or with the entry when the entry summary is filed at the time of entry. The requirements of this section shall be in addition to those requirements contained in 9 CFR 327.4. Appropriate officials of the exporting country should consult with the U.S. Department of Agriculture as to the beef grades or standards within their country that satisfy the certification requirement. Exporters or importers of beef to be entered under the provisions of item 107.61, TSUS, should consult with the U.S. Department of Agriculture prior to exportation in order to insure that the beef will satisfy the certification requirements. This certification is relevant only to U.S. Customs tariff classification and is not applicable to marketing of beef under U.S. Department of Agriculture grading standards, a matter within U.S. Department of Agriculture's jurisdiction.

Certification

I hereby certify to the best of my knowledge and belief that the herein described fresh, chilled, or frozen beef, meets the specifications prescribed in regulations issued by the U.S. Department of Agriculture (7 CFR 2853.106 (a) and (b)).

(b) Appropriate officials of the following countries have agreed with the U.S. Department of Agriculture as to the grades or standards for fresh, chilled, or frozen beef within their respective countries which will satisfy the

certification requirements of paragraph (a) of this section:

Canada

(R.S. 251, as amended (19 U.S.C. 66); section 624, 46 Stat. 759 (19 U.S.C. 1624); Pub. L. 96-39, 93 Stat. 252)

[FR Doc. 82-504 Filed 1-7-82; 8:45 am]

BILLING CODE 4820-02-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 1, 2, 73, 105, 170, and 172

[Docket No. 81N-0266]

Incorporation by Reference Regulatory Text

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the incorporating regulatory text in Title 21 of the Code of Federal Regulations to make clear when an incorporation by reference is intended. This action is being taken to meet the drafting requirements for incorporation by reference set forth in Title 1 of the Code of Federal Regulations (1 CFR Part 51).

DATES: Effective January 8, 1982; written comments by February 8, 1982.

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

FOR FURTHER INFORMATION CONTACT: Vir D. Anand, Bureau of Foods (HFF-334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: Title 1 of the Code of Federal Regulations (1 CFR 51.6, 51.7, and 51.8) requires, in addition to other information, specific language in a regulation that makes clear that an incorporation by reference is intended.

FDA has reviewed all of its regulations that include materials incorporated by reference. The agency has concluded that it is necessary to amend a number of these regulations to bring them into compliance with the drafting requirements prescribed in 1 CFR 51.6, 51.7, and 51.8. This notice amends certain of the regulations concerned with food. The agency will publish additional notices revising the incorporations by reference in its regulations that cover food and other products in future issues of the Federal Register.

The agency is amending §§ 1.24, 2.19, 73.160, 73.450, 105.65, 170.30, and 172.280 (21 CFR 1.24, 2.19, 73.160, 73.450, 105.65, 170.30, and 172.280) to include language that: clearly indicates that an incorporation by reference is intended; contains a complete citation of the material incorporated; and contains a statement about the availability of the incorporated material. These amendments ensure compliance with the drafting requirements specified in Title 1.

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

PART 1—GENERAL REGULATIONS FOR THE ENFORCEMENT OF THE FEDERAL FOOD, DRUG, AND COSMETIC ACT AND THE FAIR PACKAGING AND LABELING ACT

1. Part 1 is amended in § 1.24(a) (6) (i), (ii), and (iii) by revising the citation to the Measure Container Code, adding the phrase "which is incorporated by reference" after that citation, and adding a sentence at the end of the paragraph to read as follows:

§ 1.24 Exemption from required label statements.

(a) * * *

(6)(i) * * * "Measure Container Code of National Bureau of Standards Handbook 44," Specifications, Tolerances, and Other Technical Requirements for Weighing and Measuring Devices, Sec. 4.45 "Measure-Containers," which is incorporated by reference, * * *. Copies are available from the Division of Regulatory Guidance, Bureau of Foods (HFF-310), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, or available for inspection at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

(ii) * * * "Measure Container Code of National Bureau of Standards Handbook 44," Specifications, Tolerances, and Other Technical Requirements for Weighing and Measuring Devices, Sec. 4.45 "Measure-Container," which is incorporated by reference, * * *. Copies are available from the Division of Regulatory Guidance, Bureau of Foods (HFF-310), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, or available for inspection at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

(iii) * * * "Measure Container Code of National Bureau of Standards Handbook 44," Specifications, Tolerances, and Other Technical Requirements for Weighing and Measuring Devices, Sec. 4.45 "Measure-Containers" which is incorporated by reference, * * *. Copies are available from the Division of Regulatory Guidance, Bureau of Foods (HFF-310), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, or available for inspection at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

PART 2—GENERAL ADMINISTRATIVE RULINGS AND DECISIONS

2. Part 2 is amended in § 2.19 by revising the portion of the first sentence following the phrase "methods of analysis of the" and adding a new second sentence to the paragraph to read as follows:

§ 2.19 Methods of analysis.

* * * Association of Official Analytical Chemists (AOAC) as published in the latest edition (13th Ed., 1980) of their publication "Official Methods of Analysis of the Association of Official Analytical Chemists," and the supplements thereto ("Changes in Methods" as published in the March issues of the "Journal of the Association of Official Analytical Chemists"), which are incorporated by reference, when available and applicable. Copies are available from the Association of Official Analytical Chemists, P.O. Box 540, Benjamin Franklin Station, Washington, DC 20044, or available for inspection at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408. * * *

PART 73—LISTINGS OF COLOR ADDITIVES EXEMPT FROM CERTIFICATION

3. Part 73 is amended as follows:

a. In § 73.160(a) and (b) by revising the portion of the paragraph beginning with "Food Chemicals Codex" to read as follows:

§ 73.160 Ferrous gluconate.

(a) * * * Food Chemicals Codex, 2d Ed. (1972), which is incorporated by reference. Copies are available from the Director, Division of Food and Color Additives, Bureau of Foods (HFF-330), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, or available for inspection at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

(b) * * * Food Chemicals Codex, 2d Ed. (1972), which is incorporated by reference. Copies are available from the Director, Division of Food and Color Additives, Bureau of Foods (HFF-330), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, or available for inspection at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

b. In § 73.450(a)(1) and (b) by revising the portion of the paragraph beginning with "Food Chemicals Codex" to read as follows:

§ 73.450 Riboflavin.

(a) * * *
(1) * * * Food Chemicals Codex, 2d Ed. (1972), which is incorporated by reference. Copies are available from the Director, Division of Food and Color Additives, Bureau of Foods (HFF-330), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, or available for inspection at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

(b) * * * Food Chemicals Codex, 2d Ed. (1972), which is incorporated by reference. Copies are available from the Director, Division of Food and Color Additives, Bureau of Foods (HFF-330), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, or available for inspection at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

PART 105—FOODS FOR SPECIAL DIETARY USE

4. Part 105 is amended in § 105.65(c)(4) (i) and (ii) by revising the portion of the paragraphs beginning with "Biological Evaluation of Protein" and "Improved Kjeldahl Methods", respectively, to read as follows:

§ 105.65 Infant foods.

(c) * * *
(4) * * *
(i) * * * "Biological Evaluation of Protein Quality—Official, Final Action" of "Official Methods of Analysis of the Association of Official Analytical Chemists," 11th Ed. (1970), which is incorporated by reference. Copies are available from the Director, Division of Food Technology, Bureau of Foods (HFF-210), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, or available for inspection at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

(ii) * * * "Improved Kjeldahl Methods for Nitrate-Free Samples—Official, Final

Action" of "Official Methods of Analysis of the Association of Official Analytical Chemists," 11th Ed. (1970), which is incorporated by reference. Copies are available from the Director, Division of Food Technology, Bureau of Foods (HFF-210), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, or available for inspection at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

PART 170—FOOD ADDITIVES

5. Part 170 is amended in § 170.30(h)(1) by revising the citation to the Food Chemicals Codex, adding the phrase "which is incorporated by reference" after that citation, and adding a new sentence at the end of the paragraph to read as follows:

§ 170.30 Eligibility for classification as generally recognized as safe (GRAS).

(h) * * *
(1) * * * Food Chemicals Codex, 2d Ed. (1972), which is incorporated by reference, * * *. Copies are available from the Director, Division of Food and Color Additives, Bureau of Foods (HFF-330), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, or available for inspection at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

PART 172—FOOD ADDITIVES PERMITTED FOR DIRECT ADDITION TO FOOD FOR HUMAN CONSUMPTION

6. Part 172 is amended in § 172.280(a) by revising the portion of the paragraph beginning with "as determined by" to read as follows:

§ 172.280 Terpene resin.

(a) * * * as determined by ASTM Method E28-51T, "Tentative Method of Test for Softening Point By Ring and Ball Apparatus" (revised 1951), which is incorporated by reference. Copies are available from University Microfilm International, 300 N. Zeeb Rd., Ann Arbor, MI 48106, or available for inspection at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

The agency has determined that because these amendments do not make any substantive changes in the regulations but merely are editorial, bringing the incorporation by reference text into compliance with the drafting requirements of 1 CFR 51.6, 51.7, and

51.8, notice, public procedure, and delayed effective date are unnecessary. However, interested persons may, on or before February 8, 1982 submit to the Dockets Management Branch (address above), written comments regarding these amendments. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. If the agency determines by the comments received that the amended text should be modified, a notice containing those modifications will be published in the Federal Register. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: December 17, 1981.

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

[FR Doc. 82-285 Filed 1-7-82; 8:45 am]

BILLING CODE 4160-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-1-FRL-1998-1]

Approval and Promulgation of Implementation Plans; Revisions to Maine Sulfur-in-Fuel Regulations; Maine

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: EPA is approving a revision to the Maine State Implementation Plan (SIP) which will allow burning of 2.5 percent sulfur content residual fuel by all sources located in that portion of the Metropolitan Portland Air Quality Control Region (AQCR) outside of the "Portland Peninsula" area. Sources located within the "Portland Peninsula" area will continue to burn 1.5 percent sulfur content fuel, which is the present SIP requirement for the entire AQCR. After November 1, 1985, sources within the "Portland Peninsula" area will be limited to use of 1.0 percent sulfur content fuel under this revision. No comments were received on the proposed rulemaking.

EFFECTIVE DATE: January 8, 1982.

FOR FURTHER INFORMATION CONTACT: Miriam Fastag, Air Branch, EPA Region I, Room 1903, JFK Federal Building, Boston, Massachusetts 02203, (617) 223-5609.

ADDRESSES: Copies of the Maine document which is incorporated by reference are available for public inspection during regular business hours at the Environmental Protection Agency, Region I, Room 1903, JFK Federal Building, Boston, Massachusetts 02203; Public Information Reference Unit, Environmental Protection Agency, 401 M Street S.W., Washington, D.C. 20460; the Office of the Federal Register, 1100 L Street, N.W., Room 8401, Washington, D.C. and the Maine Department of Environmental Protection, Bureau of Air Quality Control, Ray Building, Hospital Street, Augusta, Maine.

SUPPLEMENTARY INFORMATION: On August 5, 1981, EPA proposed approval in the *Federal Register* (46 FR 39861) of a revision to the Maine State Implementation Plan (SIP), submitted by the Governor of Maine on August 25, 1977. Presently the SIP prohibits use of any fuel with a sulfur content greater than 1.5 percent by weight in the Metropolitan Portland Intrastate Air Quality Control Region (AQCR). The SIP revision, which EPA is approving today, will allow use of up to 2.5 percent sulfur content residual fuel by sources located in that portion of the AQCR outside of the "Portland Peninsula" area. The sulfur in fuel limitation for sources located within the "Portland Peninsula" area will remain at 1.5 percent sulfur content by weight until November 1, 1985. After November 1, 1985, use of any fuel with a sulfur content greater than 1.0 percent by weight is prohibited in the "Portland Peninsula" area under this revision.

The "Portland Peninsula" area consists of that section of the City of Portland bordered on the west by Interstate 295, on the south and east by the Fore River, and on the north by Casco Bay and the inlet to Back Cove. These boundaries were established by the Maine Board of Environmental Protection (BEP) based on their evaluation of monitored and modeled air quality levels and emission density characteristics of the Metropolitan Portland Intrastate AQCR. These data showed that the lower sulfur fuel requirement was necessary only for sources in the "Portland Peninsula" area.

A thorough discussion of the SIP revision and EPA's reasons for approving it were presented in the Notice of Proposed Rulemaking, cited above, and will not be repeated here. No comments have been received and EPA is now taking final action to approve the revision, excluding one provision. The revision includes a provision which would allow the Commissioner of the

Department of Environmental Protection to issue a temporary variance to an oil supplier who was unable to supply conforming fuel during a period of energy crisis and/or equipment outage. EPA is disapproving this regulatory provision as part of the federally enforceable SIP. Any variance issued under this section of the state laws must be submitted to EPA as a SIP revision. Temporary suspensions of SIP requirements during energy emergencies may also be granted using the procedures included in Section 110(f) of the Clean Air Act.

After evaluation of the state's submittal, the Administrator has determined that the Maine revision meets the requirements of the Clean Air Act and 40 CFR Part 51. Accordingly, this revision, excluding the provision noted above, is approved as a revision to the Maine State Implementation Plan.

Pursuant to the provisions of 5 U.S.C. 605(b) I certify that the SIP approvals under Sections 110 and 172 of the Clean Air Act will not have a significant economic impact on a substantial number of small entities. This action approves state actions. It imposes no new requirements. The disapproval of one portion of the state regulation merely preserves the status quo.

Under Executive Order 12291, EPA must judge whether a regulation is "Major" and therefore subject to the requirements of a Regulatory Impact Analysis. This regulation is not Major because it only approves state actions and adds no new requirements.

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

The Agency finds that good cause exists for making this action effective immediately since this implementation plan revision is already in effect under state law and EPA approval imposes no additional regulatory burden.

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

(Sec. 110(a) of the Clean Air Act, as amended, 42 U.S.C. 7410 and 7601).

Note.—Incorporation by reference of the State Implementation Plan for the State of Maine was approved by the Director of the Federal Register on July 1, 1981.

Dated: December 30, 1981.

Anne M. Gorsuch,
Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

Subpart U—Maine

1. Section 52.1020, paragraph (c) is amended by adding subparagraph (15) as follows:

§ 52.1020 Identification of plan.

* * * * *

(c) The plan revisions listed below were submitted on the dates specified.

* * * * *

(15) A revision to Regulation 100.6 (Chapter 106) "Low Sulfur Fuel Regulation" for the Metropolitan Portland Air Quality Control Region, submitted by the Governor of Maine on August 25, 1977.

2. Section 52.1030 is added:

§ 52.1030 Control strategy: Sulfur oxides.

(a) The revision to Regulation 100.6 (Chapter 106) "Low Sulfur Fuel Regulation" for the Metropolitan Portland Air Quality Control Region, submitted by the Governor of Maine on August 25, 1977, is approved with the exception of paragraph 100.6.5(b) which allows the Commissioner of the Department of Environmental Protection to grant variances to Regulation 100.6.

[FR Doc. 82-417 Filed 1-7-82; 8:45 am]

BILLING CODE 6560-38-M

40 CFR Part 52

[A-1-FRL 1998-8]

Approval and Promulgation of Implementation Plans Revisions; Vermont

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: On August 5, 1981 EPA proposed approval of a revision to the Vermont State Implementation Plan (SIP) raising the maximum allowable sulfur-in-fuel content for fuels used, purchased or sold for use in stationary combustion installations for heat or power generation from 1.0 percent to 2.0 percent by weight (46 FR 39863). The purpose of this notice is to approve that revision to Vermont Environmental

Regulations, Chapter 5, Air Pollution Control, Subchapter II, Regulation 5-221(1), "Sulfur Limitation in Fuel," with the exception of one stationary source and under special conditions for three others, as provided herein. No comments were received on the proposed rulemaking. For the three sources approved under special conditions and for the one stationary source where the use of 2.0 percent sulfur fuel is allowed as part of a bubble strategy, EPA believes that publishing a proposed for these actions is unnecessary.

EFFECTIVE DATE: If no comments are received on the action taken for the four specified sources, the public is advised that these actions will be effective March 9, 1982.

FOR FURTHER INFORMATION CONTACT: Marcia L. Spink, Air Branch, EPA Region I, Rm. 1903, J.F.K. Federal Bldg., Boston, Massachusetts 02203, (617) 223-4448.

ADDRESSES: Copies of the Vermont submittal which is incorporated by reference are available for public inspection during regular business hours at the Environmental Protection Agency, Region I, J.F.K. Federal Building, Boston, MA 02203; Public Information Reference Unit, Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460; and the Vermont Agency of Environmental Conservation, State Office Building, Montpelier, VT 05602.

SUPPLEMENTARY INFORMATION: On August 5, 1981, EPA proposed approval of a revision to Vermont Environmental Regulations, Chapter 5, Air Pollution Control, Subchapter II, Regulation 5-221(1), "Sulfur Limitation in Fuel" (46 FR 39863). Under the current federally-approved version of this regulation, the sulfur content of fuels for stationary combustion-installations within the State of Vermont for heat or power generation may not exceed 1.0 percent by weight. This SIP revision, which EPA is approving today, raises the maximum allowable sulfur-in-fuel content for fuels used, purchased or sold for use in stationary combustion installations for heat or power generation in Vermont to 2.0 percent by weight under Vermont Regulation 5-221(1), subsection 5-221(1)(a).

A thorough discussion of the SIP revision and EPA's reasons for approving it were presented in the Notice of Proposed Rulemaking (NPR) cited above, and will not be repeated here.

Action: No comments were received and EPA is now taking final action to approve Vermont Regulation 5-221(1), subsection 5-221(1)(a) with the

exception of one stationary source and under special conditions for three others, as discussed later in this Notice.

On August 5, 1981, EPA also proposed approval of Vermont Regulation 5-221(1), subsection 5-221(1)(b) and paragraph 5-221(1)(c)(iii) of subsection 5-221(1)(c) for reasons stated in the NPR cited above. Additionally, in that NPR, EPA proposed to disapprove Vermont Regulation 5-221(1), paragraphs 5-221(1)(c) (i) and (ii) which would allow the Secretary of the AEC to issue a permit to a person allowing the use, purchase and sale of 2.2 percent sulfur fuel upon adequate demonstration that 2.0 percent sulfur fuel is not available. EPA proposed that any variance from subsection 5-221(1)(a), except as provided by subsection 5-221(1)(b), must be submitted as a SIP revision.

Action: No comments were received on these proposed actions, and EPA is approving subsection 5-221(1)(b) and paragraph 5-221(1)(c)(iii), and disapproving paragraphs 5-221(1)(c) (i) and (ii) of Vermont Regulation 5-221(1).

In the NPR, EPA cited four point sources for which the state had to impose special operating conditions, legally binding under state regulations, to mitigate peak SO₂ impacts. The documents detailing those special operating conditions and dispersion modeling, with input data reflective of those conditions, demonstrating protection of the national ambient air quality standards (NAAQS) were to be formally submitted to EPA as part of the SIP revision in order for EPA to approve the 2.0 percent sulfur-in-fuel regulation for those sources at the time of final rulemaking. Vermont has submitted the documentation as outlined above for three of the four sources cited in the NPR.

Action: Those sources, Goodyear Tire and Rubber, in Windsor; Ryegate Paper Mill, in East Ryegate; and Yankee Milk, in Troy are approved by EPA to use fuel with a sulfur content equal to 2.0 percent by weight under the special operating conditions submitted to EPA by the state which are incorporated into and made part of the Vermont SIP.

For the Moran Generating Station, in Burlington, which is owned by the Burlington Electric Department, the state has submitted operating conditions and procedures allowing that source to bubble to meet the applicable 1.0 percent by weight sulfur-in-fuel SIP limitation. At the Moran Generating Station are three boilers of equal capacity, the emissions from which are vented to three separate, identical stacks. Under the conditions imposed by

Vermont and submitted to EPA to be incorporated into and made part of the Vermont SIP, the sulfur content of the fossil fuel utilized in the number 2 boiler shall at no time exceed 2.0 percent by weight while the sulfur content of fossil fuel utilized in boilers numbers one and three shall not exceed 0.5 percent by weight. Additionally, not more than fifty percent of the total heat input to boilers numbers one and three may be derived from fossil fuels other than natural gas. These operating conditions result in a decrease in allowable emissions and no increase in actual emissions at the source. The distance between stacks is fourteen meters resulting in a total stack spread of twenty-eight meters. The stack of the number two boiler, where the pollution increase occurs under the bubble, is of similar effective stack height as the stacks of boilers one and three, where the pollution decrease occurs. Therefore, no dispersion modeling is required for EPA to approve this bubble at the Moran Generating Station.

Action: EPA is approving these operating conditions, which provide for the use of 2.0 percent sulfur fuel in boiler number 2, as part of a bubble for meeting the 1.0 percent by weight SIP requirement applicable to the Moran Generating Station in accordance with the bubble policy for alternative emission reduction strategies for complying with SIPs (44 FR 71780).

For reasons stated in the NPR, the emissions from sources eligible to burn the higher sulfur fuel do not consume any Prevention of Significant Deterioration (PSD) increment and are included in the baseline for SO₂. Future growth is not expected to cause violations of the NAAQS or PSD increments because Vermont has new source review requirements for major sources and modifications in both attainment and nonattainment areas approved by EPA. There have been no monitored violations of the NAAQS for SO₂ in Vermont since 1974.

With regard to the approvals of the special operating conditions, under which the use of 2.0 percent sulfur fuel is allowed, imposed by the state and submitted as part of this revision to EPA for incorporation into the Vermont SIP for Goodyear Tire and Rubber, Ryegate Paper Mill, Yankee Milk, and under the bubble at the Moran Generating Station; EPA considers these actions to be noncontroversial. At the time the NPR, cited above, was published on this revision, the documents detailing the special conditions had not been submitted to EPA, although that NPR did state such documents were expected to

be submitted prior to the time of final rulemaking. EPA is approving, as part of this revision, the documents detailing the special conditions under which the use of 2.0 percent sulfur fuel is allowed at the four specified sources without going through proposed rulemaking on their specific contents. EPA believes that publishing a proposed rulemaking on these documents themselves is unnecessary, particularly in light of the fact that the special conditions imposed reflect the actual operation of the four sources and no actual emission increases result.

However, if notification is received on or before February 8, 1982 that someone wishes to submit adverse or critical comments, the actions approving the special operating conditions under which the use of 2.0 percent sulfur fuel is allowed at the four stationary sources will be withdrawn and two subsequent notices will be published before the effective date. One notice will withdraw the final actions approving the special operating conditions under which the use of 2.0 percent sulfur fuel is allowed at the four sources, and another will begin a new rulemaking by announcing proposal of the actions and establishing a comment period. If no such comments are received the public is advised that these actions will be effective on March 8, 1982.

Pursuant to the provisions of 5 U.S.C. 605(b) the Administrator has certified that SIP approvals under sections 110 and 172 of the Clean Air Act will not have a significant economic impact of a substantial number of small entities. (46 FR 8709, January 27, 1981). The attached rule constitutes a SIP approval under Section 110 within the terms of the January 27 certification. This action only approves state actions and imposes no new requirements. The disapproval of paragraphs 5-221(1)(c) (i) and (ii) of the Vermont regulations merely preserves the status quo.

Under Executive Order 12291, EPA must judge whether a regulation is "Major" and therefore subject to the requirements of a Regulatory Impact Analysis. This regulation is not Major because it only approves a state action enabling a source to implement a cost-effective control strategy, and adds no new requirements.

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

The Agency finds that good cause exists for making parts of this action effective immediately since this implementation plan revision is already in effect under state law and EPA

approval imposes no additional regulatory burden.

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

After evaluation of the State's submittal, the Administrator has determined that the Vermont revision meets the requirements of the Clean Air Act and 40 CFR Part 51. Accordingly, this revision is approved as a revision to the Vermont State Implementation Plan.

Date: December 30, 1981.
(Section 110(a) of the Clean Air Act, as amended, 42 U.S.C. 7410 and 7601)

Note.—Incorporation by reference of the State Implementation Plan for the State of Vermont was approved by the Director of the Federal Register on July 1, 1981.

Anne M. Gorsuch,
Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

Section 52.2370, paragraph (c) is amended by adding subparagraph (14) as follows:

§ 52.2370 Identification of plan.

* * * * *

(c) The plan revisions listed below were submitted on the dates specified:

* * * * *

(14) A revision to regulation 5-221(1), "Sulfur Limitation in Fuel," submitted by the Secretary of the Vermont Agency of Environmental Conservation on November 13, 1979.

[FR Doc. 82-414 Filed 1-7-82; 8:45 am]

BILLING CODE 6560-38-M

40 CFR Part 60

Revisions to the Priority List of Categories of Stationary Sources

[AD-FRL-1990-5]

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: On May 13, 1981, revisions were proposed (46 FR 26501) to the priority list of major categories of air

pollution sources for which standards of performance are to be developed under Section 111 of the Clean Air Act. The revisions included the deletion of 12 categories and a title change for one category. This action promulgates the revisions as proposed.

EFFECTIVE DATE: January 8, 1982. Under section 307(b)(1) of the Clean Air Act, judicial review of this rule is available *only* by the filing of a petition for review in the U.S. Court of Appeals for the District of Columbia Circuit within 60 days of today's publication of this rule.

ADDRESSES: Docket. The Docket, number A-80-23, containing all the information that EPA considered in revising the priority list, is available for public inspection and copying between 8:00 a.m. and 4:00 p.m., Monday through Friday, at EPA's Central Docket section (A-130), West Tower Lobby, Gallery 1, Waterside Mall, 401 M Street, SW., Washington, D.C. 20460. A reasonable fee may be charged for copying.

Source Category Survey Reports. The reports listed below may be obtained from the Library Services Office, MD-35, Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone (919) 541-2777.

Borax and Boric Acid Industry.....	EPA-450/3-80-004.
Refractory Industry.....	EPA-450/3-80-006.
Secondary Copper Smelting and Refining Industry.....	EPA-450/3-80-011.
Secondary Zinc Smelting and Refining Industry.....	EPA-450/3-80-012.
Industrial Incinerators.....	EPA-450/3-80-013.
Ammonia Manufacturing Industry.....	EPA-450/3-80-014.
Animal Feed Defluorination Industry.....	EPA-450/3-80-015.
Mineral Wool Manufacturing Industry.....	EPA-450/3-80-016.
Ceramic Clay Industry.....	EPA-450/3-80-017.
Thermal Process Phosphoric Acid Manufacturing Industry.....	EPA-450/3-80-018.
Detergent Industry.....	EPA-450/3-80-030.

A screening study of the potash industry may be obtained from the contact listed below.

FOR FURTHER INFORMATION CONTACT: Mr. Gene W. Smith, Standards Development Branch, Emission Standards and Engineering Division (MD-13), Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone (919) 541-5624.

SUPPLEMENTARY INFORMATION: Background

Section 111(b)(1)(A) of the Clean Air Act requires the Administrator to list those categories of stationary sources that " * * * in his judgment * * * cause[], or contribute[] significantly to, air pollution which may reasonably be anticipated to endanger public health or welfare." A category of sources that

meets this criterion is referred to as a "significant contributor." See, *National Asphalt Pavement Association, v. Train*, 539 F.2d 775 (D.C. Cir. 1976).

In 1977, Congress amended the Act to require, under Section 111(f), that the Administrator promulgate regulations listing every category of "major" stationary sources that met the significant contributor test of Section 111(b)(1)(A) and that had not already been listed. A "major" source under the Act is one that has the potential to emit 100 tons per year of any air pollutant. Section 302(j). On August 21, 1979, the Administrator promulgated the list of significant contributors required by Section 111(f) (44 FR 49222, 40 CFR 60.16).

Section 111(f) requires the Administrator to promulgate new source performance standards (NSPS) for these additional source categories by 1982, and to determine priorities for doing so. Therefore, the August 21, 1979 regulations were promulgated as a "Priority List."

On May 13, 1981, an amendment to the priority list was proposed to take account of new information developed by the Agency during studies of the listed source categories. The results of these studies indicate that for 12 categories there will be little or no growth through 1985. In the Administrator's judgment, Congress did not intend that source categories showing insignificant growth should be listed under the significant contributor test of section 111(b)(1)(A). Therefore, the Administrator proposed the deletion of the following 12 categories from the priority list.

- No. 8 Mineral Wool
- No. 12 Incineration: Non-Municipal
- No. 15 Secondary Copper
- No. 31 Potash
- No. 36 Secondary Zinc
- No. 39 Ammonia
- No. 47 Ceramic Clay Manufacturing
- No. 49 Castable Refractories
- No. 50 Borax and Boric Acid
- No. 55 Phosphoric Acid: Thermal Process
- No. 57 Animal Feed Defluorination
- No. 59 Detergent

In addition, the Administrator also proposed to change the title of the source category originally listed as "Sintering: Clay and Fly Ash" (No. 32 on the priority list) to "Lightweight Aggregate Industry: Clay, Shale, and Slate." The new title more accurately represents the scope of the source category for which standards are being developed.

Comments

Ten comment letters were received during the public comment period which

extended from May 13, 1981, to July 13, 1981. Nine of the ten commenters expressed concerns that did not directly pertain to the revisions that were the subject of the proposed action. The other commenter recommended that, rather than change the title of the Sintering: Clay and Fly Ash category, the category should be dropped from the list because no new plant growth is projected for the industry through 1985.

The results of EPA's study of the Sintering: Clay and Fly Ash category indicate that growth in the lightweight aggregate industry will result from expansions at existing plants and not from the construction of new grass roots plants. Information obtained from contacts with plants and the Expanded Shale, Clay, and Slate Institute (ESCSI) support this projection.

In the preamble to the proposed revisions, EPA stated that the reason for deleting the 12 categories was that the Administrator had concluded that these categories are not significant contributors because little or no new plant growth is projected for these categories. As explained later in the proposal preamble, the Administrator's determination that each of the 12 categories is not a significant contributor was not based solely on the fact that there are no new grass roots plants expected, but also on the projection that there will be no expansions, modifications, or reconstructions of facilities at existing plants. Since facilities comprising expansions, modified facilities, and reconstructed facilities at existing plants would be new sources of air pollution, these sources must also be considered in a determination of whether a category is a significant contributor. Because of the expected expansions in the lightweight aggregate industry, the Administrator believes that this category should remain listed as a significant contributor on the priority list.

For the most part, the remaining nine commenters recommended that EPA further revise the priority list by deleting other categories, in addition to those that were proposed for deletion. Each of these comment letters is being considered by EPA. If, after investigating the concerns expressed in these letters, the Administrator determines that additional source categories are not significant contributors, EPA will propose to revise the priority list again.

For the present, since no comments were received that objected to the proposed category deletions and title change, these revisions are promulgated today as proposed.

Miscellaneous

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. This regulation is not major because it will not have an annual effect on the economy of \$100 million or more, it will not result in a major increase in costs or prices, and there will be no 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.

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that this rule will not have a significant economic impact on a substantial number of small entities. The rule will not impose burdens on any person.

Dated: December 31, 1981.

John W. Hernandez, Jr.,
Acting Administrator.

PART 60—STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES

Part 60 of Chapter I of Title 40 of the Code of Federal Regulations is amended by revising § 60.16 of Subpart A as follows:

§ 60.16 Priority list.

Prioritized Major Source Categories

Priority Number¹

Source Category

1. Synthetic Organic Chemical Manufacturing
 - (a) Unit processes
 - (b) Storage and handling equipment
 - (c) Fugitive emissions sources
 - (d) Secondary sources
2. Industrial Surface Coating: Cans
3. Petroleum Refineries: Fugitive Sources
4. Industrial Surface Coating: Paper
5. Dry Cleaning
 - (a) Perchloroethylene
 - (b) Petroleum solvent
6. Graphic Arts
7. Polymers and Resins: Acrylic Resins
8. Mineral Wool (Deleted)
9. Stationary Internal Combustion Engines
10. Industrial Surface Coating: Fabric
11. Fossil-Fuel-Fired Steam Generators: Industrial Boilers
12. Incineration: Non-Municipal (Deleted)
13. Non-Metallic Mineral Processing
14. Metallic Mineral Processing
15. Secondary Copper (Deleted)
16. Phosphate Rock Preparation
17. Foundries: Steel and Gray Iron
18. Polymers and Resins: Polyethylene
19. Charcoal Production

¹Low numbers have highest priority, e.g., No. 1 is high priority, No. 59 is low priority.

20. Synthetic Rubber
 - (a) Tire manufacture
 - (b) SBR production
 21. Vegetable Oil
 22. Industrial Surface Coating: Metal Coil
 23. Petroleum Transportation and Marketing
 24. By-Product Coke Ovens
 25. Synthetic Fibers
 26. Plywood Manufacture
 27. Industrial Surface Coating: Automobiles
 28. Industrial Surface Coating: Large Appliances
 29. Crude Oil and Natural Gas Production
 30. Secondary Aluminum
 31. Potash (Deleted)
 32. Lightweight Aggregate Industry: Clay, Shale, and Slate²
 33. Glass
 34. Gypsum
 35. Sodium Carbonate
 36. Secondary Zinc (Deleted)
 37. Polymers and Resins: Phenolic
 38. Polymers and Resins: Urea-Melamine
 39. Ammonia (Deleted)
 40. Polymers and Resins: Polystyrene
 41. Polymers and Resins: ABS-SAN Resins
 42. Fiberglass
 43. Polymers and Resins: Polypropylene
 44. Textile Processing
 45. Asphalt Roofing Plants
 46. Brick and Related Clay Products
 47. Ceramic Clay Manufacturing (Deleted)
 48. Ammonium Nitrate Fertilizer
 49. Castable Refractories (Deleted)
 50. Borax and Boric Acid (Deleted)
 51. Polymers and Resins: Polyester Resins
 52. Ammonium Sulfate
 53. Starch
 54. Perlite
 55. Phosphoric Acid: Thermal Process (Deleted)
 56. Uranium Refining
 57. Animal Feed Defluorination (Deleted)
 58. Urea (for fertilizer and polymers)
 59. Detergent (Deleted)
- Other Source Categories
- Lead acid battery manufacture³
 - Organic solvent cleaning³
 - Industrial surface coating: metal furniture³
 - Stationary gas turbines⁴

(Section 111, 301(a), Clean Air Act as amended (42 U.S.C. 7411, 7601))

[FR Doc. 82-481 Filed 1-7-82; 8:45 am]

BILLING CODE 6560-26-M

40 CFR Part 81

[A-4-FRL-2013-7]

South Carolina: Redesignation of a Portion of Charleston County for Air Quality Planning Purposes

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

²Formerly titled "Sintering: Clay and Fly Ash".

³Minor source category, but included on list since an NSPS is being developed for that source category.

⁴Not prioritized, since an NSPS for this major source category has already been promulgated.

SUMMARY: On the basis of eight consecutive quarters of air quality data showing no violations of any national standard for particulate matter, EPA is changing the attainment status designation of that portion of Charleston County, South Carolina within the section of North Charleston just south of the U.S. Army Depot from nonattainment for the secondary standard to attainment. This action will be effective March 9, 1982, unless notice is received within 30 days that someone wishes to submit adverse or critical comments.

DATE: This action is effective March 9, 1982.

ADDRESSES: Written comments should be addressed to Denise W. Pack of EPA Region IV's Air Program Branch (see EPA Region IV address below). Copies of the materials submitted by South Carolina may be examined during normal business hours at the following locations:

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

Environmental Protection Agency,
Region IV, Air Programs Branch, 345
Courtland Street, NE., Atlanta,
Georgia 30365

Bureau of Air Quality, SC Dept. of
Health and Environmental Control,
2600 Bull Street, Columbia, South
Carolina 29201

FOR FURTHER INFORMATION CONTACT:
Denise W. Pack, EPA Region IV Air
Programs Branch at the above listed
address, phone 404/881-3286 (FTS 257-
3286).

Action

On March 3, 1978 (43 FR 8962), the Administrator designated the portion of Charleston County (South Carolina) within a section of North Charleston just south of the U.S. Army Depot as nonattainment for the secondary standard for particulate matter. Subsequent studies and monitoring data submitted to EPA on June 30, 1981, indicate that this area is now meeting both the primary and secondary particulate standards. Also, information submitted on October 8, 1981, shows that no ambient particulate standard was violated in the area during calendar years 1979 and 1980. EPA's review of the data submittal indicates that it satisfies all the Agency's requirements with regard to validity and representativeness of air quality data.

Accordingly, the State's request for the area to be redesignated as attainment is granted and EPA today

announces this change. This action is being taken without prior proposal because this redesignation is noncontroversial and EPA anticipates no comments on it. The public should be advised that this action will be effective March 9, 1982. However, if notice is received on or before February 8, 1982 that someone wishes to submit adverse or critical comments, this action will be withdrawn and two subsequent notices will be published before the effective date. One notice will withdraw the final action and another will begin a new rulemaking by announcing a proposal of the action and establishing a comment period.

Under section 307(b)(1) of the Clean Air Act, judicial review of EPA's redesignation of this area is available only by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit on or before March 9, 1982.

Pursuant to the provisions of 5 U.S.C. section 605(b) I hereby certify that the attached rule will not have a significant economic impact on a substantial number of small entities since it changes an area's attainment status designation to attainment.

Under Executive Order 12291, EPA must judge whether a regulation is major and therefore subject to the requirement of a Regulatory Impact Analysis. This regulation is not major because it merely changes the attainment status designation of a single area to attainment.

(Section 107 of the Clean Air Act (42 U.S.C. 7407))

Dated: December 31, 1981.

Anne M. Gorsuch,
Administrator.

PART 81—DESIGNATION OF AREAS FOR AIR QUALITY PLANNING PURPOSES

Part 81 of Chapter I, Title 40, Code of Federal Regulations, is amended as follows:

§ 81.341 [Amended]

In § 81.341, the South Carolina TSP attainment status table is amended by removing the entry titled "That portion of Charleston County within section of North Charleston just south of U.S. Army Depot."

[FR Doc. 82-478 Filed 1-7-82; 8:45 am]

BILLING CODE 6560-38-M

40 CFR Part 264

[SWH-FRL-2024-4]

Standards Applicable to Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities; Correction**AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Interim rule; correction.

SUMMARY: This document corrects typographical errors in the revision to Appendix VI to 40 CFR Part 264 that appeared at page 57284 in the Federal Register of Monday, November 23, 1981 (46 FR 57284). Appendix VI lists political jurisdictions within which owners or operators of hazardous waste management facilities must demonstrate compliance with the seismic location standard in § 264.18(a).

FOR FURTHER INFORMATION CONTACT: Alexander Wolfe, Office of Solid Waste (WH-565), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, (202) 755-9203.

Christopher J. Capper,

*Acting Assistant Administrator for Solid Waste and Emergency Response***PART 264, APPENDIX VI [Corrected]**

Accordingly, the EPA is correcting the first column of page 57286 of the November 23, 1981 Federal Register as follows:

1. Under the state of Utah, "Iran" is corrected to read "Iron".
2. Under the state of Washington, "Gray Harbor" is corrected to read "Grays Harbor".

[FR Doc. 82-483 Filed 1-7-82; 8:45 am]

BILLING CODE 6560-30-M

FEDERAL COMMUNICATIONS COMMISSION**47 CFR Parts 2, 21, and 74**

[Gen. Docket No. 81-272; RM-2667; FCC 81-591]

Reallocation of Frequency Band to The Broadcast Auxiliary Service for Television Pickup Use on a Secondary Basis**AGENCY:** Federal Communications Commission.**ACTION:** Final rule.

SUMMARY: This action reallocates a specific frequency band to the Broadcast Auxiliary Service for Television Pickup use on a Secondary basis. The band will continue to be allocated on a Primary basis to the Common Carrier Local Television Transmission Service to which it has hitherto been exclusively

allocated. This action is being taken in response to a petition, from the National Association of Broadcasters, for spectrum relief for electronic newsgathering. The reallocation will provide the broadcast licensees with four channels which they will be able to use on the basis that they will not cause interference to the primary users of the band, and will not detract in any way from the Common Carrier Primary use.

EFFECTIVE DATE: February 16, 1982.**ADDRESS:** Federal Communications Commission, 1919 M Street, N.W., Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Maureen Cesaitis, Office of Science and Technology, Washington, D.C. 20554 (202) 653-8164 Room 7310.

SUPPLEMENTARY INFORMATION:

In the matter of amendment of Part 2 of the Commission's Rules governing Frequency Allocations, Part 21 of the Commission's rules governing Domestic Public Fixed Radio Service, and Part 74 of the Commission's rules governing Experimental, Auxiliary, and Special Broadcast Services to make the 6425-6525 MHz band available for Television Pickup on a secondary basis to the Local Television Transmission Service; Report and order.

Adopted: December 24, 1981.

Released: January 8, 1982.

Summary

1. In this Report and Order we are making the frequency band 6425-6525 MHz available on a secondary¹ basis to the Broadcast Auxiliary Service (BAS) for use by television pickup stations. This band was previously allocated exclusively to the common carrier Local Television Transmission Service (LTTS) to which it will continue to be allocated on a primary basis.

Background

2. On March 3, 1976, the National Association of Broadcasters (NAB) filed a petition for rule making to reallocate the 6500 MHz frequency band (6425-6525 MHz) to the BAS for TV pickup use on a coequal basis with LTTS to which the band is presently allocated on an exclusive basis. The petitioner alleged

that its need for additional spectrum was threefold: 1) the existing allocations for TV pickup were approaching congestion in the major television markets, 2) the advent and growing interest in electronic newsgathering (ENG) had greatly increased the TV pickup growth rate thereby placing additional pressure on those frequency bands, and 3) the growing cost and inconvenience of hiring a common carrier to provide TV pickup service was causing many broadcast stations to provide their own TV pickup. The petition also noted that owing to the similarity between the existing and proposed uses, sharing of the four channels at 6500 MHz would have minimal impact on existing LTTS users. The NAB also claimed that the band was only lightly loaded, and that LTTS operators have other bands available to them. Among the comments filed in response to the petition was an opposition from the American Telephone and Telegraph Company (AT&T) in which the latter pointed out that the 6500 MHz band is the only exclusive LTTS band and therefore the only band in which the common carriers can provide interference-free service to nonbroadcast as well as broadcast TV pickup customers. In joint comments, the Corporation for Public Broadcasting (CPB) and the Public Broadcasting Service (PBS) requested that the reallocation be expanded to include fixed BAS uses, such as intercity relay and studio-to-transmitter links, as well as the mobile BAS use, namely television pickup.

3. On May 5, 1981, we released a Notice of Proposed Rule Making (NPRM), FCC 81-184 (46 FR 26507) in the above-captioned proceeding. In the intervening time we had conducted our own studies to determine the degree of congestion being experienced in the existing BAS bands, especially in major metropolitan areas, and the level to which the 6500 MHz band was being utilized by the LTTS. Although delayed in obtaining meaningful data, we eventually concluded that there was congestion and continued growth in the existing BAS bands, particularly in the larger cities. We further found that the 6500 MHz band was lightly used, and that most of that light use was in support of broadcast services. Since the proposed BAS use would be largely in lieu of leased LTTS facilities, rather than in addition to, the incremental use of this band would be small. We did however recognize the importance of the LTTS having an interference-free allocation, and therefore proposed admitting the BAS TV pickups on a

¹ According to § 2.105(g)(3) of Part 2 of the Rules and Geneva Radio Regulation No. 139, "Stations of a secondary service: (a) Shall not cause harmful interference to stations of primary or permitted services to which frequencies are already assigned or to which frequencies may be assigned at a later date; (b) cannot claim protection from harmful interference from stations of a primary or permitted service to which frequencies are already assigned or may be assigned at a later date; (c) can claim protection, however, from harmful interference from stations of the same or other secondary service(s) to which frequencies may be assigned at a later date."

secondary basis to the primary LTTS allocation. We further dismissed any consideration of making the 6500 MHz band available to fixed BAS users since it is a primary mobile allocation, fixed and mobile are basically incompatible, and it is desirable that this band remain available for mobile use.

Comments and Replies

4. Comments were filed by eleven different parties, including the petitioner; reply comments were filed by three of the eleven commenters. A complete list of the parties which filed comments and replies is included in Appendix A to this report and order. The abbreviations used in referring to these comments are also listed in Appendix A, in parentheses, following the full name of the commenter.

5. Of the eleven parties filing comments, seven favored the proposals set forth in our Notice, three opposed them, and one neither supported nor opposed them but sought to expand the scope of this proceeding to include cable operations. The seven proponents include six broadcast interests and one equipment manufacturer. Three of the broadcasters indicated that they failed to see any need for making the BAS allocation secondary. The three opponents, all common carriers, stated that they found little comfort in their primary status. The substance of these comments and replies will be addressed in more detail in the discussion which follows.

Discussion

6. The Commission's Notice received unqualified support from BBI, M/A-Com, and indirectly CPB. While supporting the basic premise of reallocating the 6500 MHz band to include BAS users, NAB, CBS, ABC and NBC all urged the Commission to make the new allocation coequal primary with the existing LTTS one. Opposition to our proposal came from BNSI, AT&T and Midwestern. Both NCTA and M/A-Com suggested further expanding the scope of this rule making to include cable systems and enhanced video service vendors since these users have no frequencies available below 13 GHz for use on longer distances. The NAB opposes this suggestion in its reply, and points out that few cable operators can afford to provide original local news programming. Since the BAS TV pickup users have been waiting for over five years for a response to the NAB petition cited above, we feel that it would be inappropriate to delay any further while entertaining the possibility of expanding the scope of this rule making and possibly issuing a second NPRM. We are therefore dismissing without

prejudice M/A-Com's and NCTA's suggestion that the Cable Television Relay Service (CARS) be given access to the 6500 MHz band.

7. Both CBS and NBC applauded the Commission's proposal to exclude fixed BAS users from the four 6500 MHz channels. Meanwhile, CPB, which together with PBS originally suggested fixed users be allowed to use this spectrum, has submitted a new proposal. In its comments, CPB outlines a complicated plan which allows new fixed BAS users to force existing mobile BAS users into the 6500 MHz band so that the former can have access to the channel vacated by the TV pickup user. The rather cumbersome CPB proposal did not win support since it appears to fly in the face of the Commission's stated policy to "unregulate" the services wherever possible.

8. The issue of regulation can also be found at the heart of the Commission's proposal to make the TV pickup users secondary. Since many newsworthy events occur unexpectedly, the television pickup operators have very little time to effect coordination before initiating coverage of the news story. Furthermore, if one BAS licensee deems a particular event interesting enough to dispatch a TV pickup crew, then it becomes highly likely that other BAS licensees will soon be covering the same event. In order to insure against causing interference, the BAS licensee must take it upon itself to notify all licensed LTTS operators in the area of its intent to use a 6500 MHz channel. If there is any conflict, the parties involved must work it out to the satisfaction of all concerned. Past experience has taught the BAS operators to work around one another, often time-sharing the channels. The additional requirement being placed on TV pickup operations in the 6500 MHz band should be easy by comparison, and will often be accomplished by means of a phone call to the local LTTS operator. If none of the channels in this band are going to be used by the LTTS operator, on a first choice basis, then they would be available for the BAS operator to use. It would be wasteful and unproductive for the Commission to establish formal coordination procedures in an instance such as this one. Accordingly, we believe that the secondary status proposed for use of the 6500 MHz band by BAS operations is appropriate to their needs.

9. In its comments, AT&T raised two points regarding the 6500 MHz band which we think it important to address. The first involves the Final Acts of the 1979 World Administrative Radio

Conference ('79 WARC) which have not as yet been ratified by the U.S., but which become effective internationally on January 1, 1982, for those countries which have acceded to the treaty. At the '79 WARC, the U.S. position supported a proposal to make the 6425-6525 MHz band available for Fixed Satellite Service (FSS). The Final Acts reflect this new FSS allocation and, if ratified, could lead to a modification of our own Rules to add this allocation. AT&T's concern that the FSS would further deplete the available channels at 6500 MHz is understandable. However, the proposed FSS allocation is for an up-link (earth-to-space) and any earth stations would likely be remotely located away from congested metropolitan areas. Interference from such stations to LTTS or BAS would be very localized and likely non-existent although the secondary service would have to suffer any which does occur. The other point raised by AT&T involves what it refers to as the "migration" to the 6500 MHz band of LTTS users from the 12 GHz band (11.7-12.2 GHz) as the latter becomes more occupied by FSS to which it is allocated on a primary basis. (LTTS use is secondary in the 12 GHz band.) The Commission's findings show such light activity by LTTS users in those bands currently allocated to them that we cannot foresee any congestion as a result of some LTTS licensees shifting their operations from 12 GHz to 6 GHz.

10. Therefore, for the reasons stated above and in our Notice, the Commission concludes that the secondary allocation of the band 6425-6525 MHz to the Broadcast Auxiliary Service for TV pickup is in the public interest.

11. Pursuant to section 605 of the Regulatory Flexibility Act of 1980, Pub. L. 96-354, we find that the action contained herein will not have a significant economic impact on a substantial number of small businesses. This spectrum reallocation will provide broadcast stations of whatever size the option of operating their own remote pickup stations in the 6425-6525 MHz band. This option already exists in other BAS bands. Moreover, because the broadcast use of the spectrum will be on a secondary basis, the affect on existing users will be negligible.

Action

12. Accordingly, it is ordered, that under the authority contained in Sections 4 and 303 of the Communications Act of 1934, as amended, the Commission's Rules are amended as set forth in the attached Appendix B, effective February 16, 1982.

13. It is further ordered, that the NAB petition (RM-2667) IS GRANTED to the extent consistent herewith, and is otherwise denied. It is further ordered, that the proposal of CPB and PBS to make the 6425-6525 MHz band available for fixed BAS use (STL and intercity relay) is denied, and that the proposal by M/A-Com and NCTA to make this frequency available for cars is dismissed without prejudice. It is further ordered, that this proceeding is terminated.

14. Contact Maureen Cesaitis at (202) 653-8164 regarding questions on matters covered in this document.

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083; 47 U.S.C. 154, 303, 307)

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix A

Comments

National Association of Broadcasters

(NAB)

CBS, Inc. (CBS)

American Broadcasting Companies, Inc.

(ABC)

National Broadcasting Company, Inc.

(NBC)

Broadcast News Service, Inc. (BNSI)

Corporation for Public Broadcasting

(CPB)

Boston Broadcasters, Inc. (BBI)

M/A-Com, Inc. (M/A-Com)

National Cable Television Association,

Inc. (NCTA)

American Telephone and Telegraph

Company (AT&T)

Midwestern Relay Company

(Midwestern)

Replies

National Association of Broadcasters

American Broadcasting Companies, Inc.

American Telephone and Telegraph

Company

Appendix B

Parts 2, 21 and 74 of Chapter I of Title 47 of the Code of Federal Regulations are amended as follows:

PART 2—FREQUENCY ALLOCATIONS AND RADIO TREATY MATTERS GENERAL RULES AND REGULATIONS

In § 2.106, the Table of Frequency Allocations is amended by adding new footnote designator NG122 in column 7 to the band 6425-6525 MHz and by adding the text of footnote NG122, in proper numerical sequence, following the Table, as shown below:

§ 2.106 Table of frequency allocations.

FEDERAL COMMUNICATIONS COMMISSION				
7	8	9	10	-11
Band (MHz)	Service	Class of station	Frequency	Nature of service of station
6425-6525 (NG122)	MOBILE.....	Common Carrier Land, Common Carrier Mobile **		

NG122 Television Pickup stations may be authorized in the 6425-6525 MHz band on a secondary basis to stations operating in accordance with the Table of Frequency Allocations.

PART 21—DOMESTIC PUBLIC FIXED RADIO SERVICE (OTHER THAN MARITIME MOBILE)

The § 21.801 is amended by adding footnote 6 to paragraph (a) as follows:

§ 21.801 Frequencies.

(a) Frequencies in the following bands are available for assignment to television pickup and television non-broadcast pickup stations in this service:

6425-6525 MHz⁶

11,700-12,200 MHz³

13,200-13,250 MHz¹

21,200-22,000 MHz^{1 2 4 5}

22,000-23,600 MHz^{1 2 5}

* * * * *

⁶This frequency band is shared with television pickup stations licensed under Part 74 of the Commission's Rules. However, Part 74 licensees are secondary to Part 21 licensees in this band (see § 2.105(e)(3) for definition of "Primary" and "Secondary")

PART 74—EXPERIMENTAL, AUXILIARY, AND SPECIAL BROADCAST, AND OTHER PROGRAM DISTRIBUTION SERVICE

In § 74.602, paragraph (a) is amended by adding four new channels to "B" the column entitled "Band B", and by adding footnote 3, as follows:

§ 74.602 Frequency assignment.

(a) * * *

Band B MHz
6425-6450 ^a
6450-6475 ^a
6475-6500 ^a
6500-6525 ^a
6875-6900
6900-6925
6925-6950
6950-6975
6975-7000
7000-7025
7025-7050
7075-7100

^a This frequency may be assigned to television pickup stations only and on a secondary basis to the Local Television Transmission Service licensed under Part 21 of the Commission's rules.

[FR Doc. 82-395 Filed 1-7-82; 8:45 am]

BILLING CODE 6712-01-M

Proposed Rules

Federal Register

Vol. 47, No. 5

Friday, January 8, 1982

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 352

Reemployment Rights After Service With the Panama Canal Commission

AGENCY: Office of Personnel Management.

ACTION: Proposed rulemaking.

SUMMARY: Pursuant to the Panama Canal Act of 1979, the Office of Personnel Management is proposing regulations to provide reemployment rights for Federal employees who are detailed or transferred to the Panama Canal Commission in the Republic of Panama. These regulations are intended to define the scope of the reemployment rights and to prescribe conditions under which they may be exercised.

DATE: Written comments will be considered if received no later than March 9, 1982.

ADDRESS: Send or deliver written comments to Chief, Office of Policy Analysis and Development, Staffing Services, Office of Personnel Management, Room 6526, 1900 E Street, NW., Washington, D.C. 20415

FOR FURTHER INFORMATION CONTACT: Leota Shelkey, 202-632-6817.

SUPPLEMENTARY INFORMATION: Highlights of the proposed regulations are:

- Detail or transfer to the Commission with reemployment rights may not exceed five years unless approved by the agency and Commission.
- The Commission may separate an employee at the conclusion of the agreed upon term of employment without regard to grievance rights or procedures for reduction in force, adverse action, or action based on unacceptable performance.
- Employees must apply for reemployment within 30 days before the term of employment with the Commission ends or within 30 days after

receiving notice of involuntary separation, or may apply at any time with the consent of the Commission.

- The former agency must reemploy promptly but no later than 30 days after receipt of application or on termination of the tour of duty with the Commission, whichever is later.

- Reemployment rights terminate if the person fails to apply within the time limits, resigns without the Commission's consent, or refuses a proper offer of reemployment.

- An applicant may appeal to the Merit Systems Protection Board if denied reemployment. An employee may appeal to the Board or file a grievance if he or she believes that the reemployment or return from detail was not proper.

These regulations will be supplemented by further guidance developed by the Office of Personnel Management and issued through the Federal Personnel Manual. The Panama Canal Commission is responsible for issuing regulations which govern employment with the Commission.

E.O. 12291 Federal Regulation

OPM has determined that this is not a major rule for the purpose 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

I certify 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 proposes to add Subpart I to Part 352, Title 5, Code of Federal Regulations, to read as follows:

PART 352—REEMPLOYMENT RIGHTS

Subpart I—Reemployment Rights After Service with the Panama Canal Commission

Sec.	
352.901	Purpose.
352.902	Definitions.
352.903	Coverage.
352.904	Effecting a detail or transfer.
352.905	Eligibility.
352.906	Personnel actions.
352.907	Termination of detail or transfer.
352.908	Exercise or termination of reemployment rights.
352.909	Agency obligation.
352.910	Appeals.

Authority: Section 1203 of the Panama Canal Act of 1979 (Pub. L. 96-70, 22 U.S.C. 3643).

Subpart I—Reemployment Rights After Service With the Panama Canal Commission

§ 352.901 Purpose.

This subpart implements section 1203 of the Panama Canal Act of 1979 which provides for the detail or transfer of Federal employees to the Panama Canal Commission with reemployment rights in the former agency.

§ 352.902 Definitions.

In this subpart:

"Act" means the Panama Canal Act of 1979 (22 U.S.C. 3601 et seq.);

"Agency" means an Executive agency, the United States Postal Service, and the Smithsonian Institution;

"Commission" means the Panama Canal Commission as established by section 1101 of the Act;

"Competitive area" is defined in § 351.402 of Part 351 of this chapter;

"Competitive level" is defined in § 351.403(a) of Part 351 of this chapter;

"Detail" is the assignment or loan of an employee to the Commission without the employee's transfer. The employee remains an employee of the agency and the incumbent of the position from which detailed;

"Term of employment" means the period of employment with the Commission specified at time of consent to a transfer or extension of transfer; and

"Transfer" means the change in appointment of an employee from an agency to a new appointment with the Commission.

§ 352.903 Coverage.

This subpart covers only those employees transferred or detailed to Commission positions with duty stations in the Republic of Panama.

§ 352.904 Effecting a detail or transfer.

(a) *Authority to approve.* The head of an agency may enter into written agreements for the detail or voluntary transfer of employees to the Commission with the rights provided for in, and in accordance with, section 3643 of title 22, United States Code, and this subpart. Refusal by the head of the agency to agree to a detail or transfer or extension of detail or transfer is not reviewable by the Office of Personnel Management or appealable.

(b) *Maximum period.* A detail, transfer, and extension of detail or transfer with reemployment rights shall be for set periods of time. A detail, transfer, or series of details and/or transfers with reemployment rights may not exceed five years in the aggregate unless approved by both the agency head and the Commission Administrator.

§ 352.905 Eligibility.

(a) *Employees eligible.* Except as provided in paragraph (b) of this section, an employee serving in a position in an agency under one of the following types of appointment may be granted rights under this subpart:

- (1) An appointment with career or career-conditional tenure in the competitive service;
- (2) An appointment without a specific time limit in the excepted service; or
- (3) A career appointment in the Senior Executive Service.

(b) *Employees not eligible.* The following employees are not eligible under this subpart:

- (1) An employee who is serving a trial period or probationary period for initial appointment to the competitive service or Senior Executive Service;
- (2) An employee who has received a proposed notice of involuntary separation (e.g. based on reduction in force, adverse action, or performance).
- (3) An employee who is serving in a position excepted from the competitive service under Schedule C of Part 213 of this chapter, in a position authorized to be filled by noncareer executive assignment under Part 305 of this chapter, or under Presidential appointment; or
- (4) An employee whose resignation has been accepted for reasons other than to accept employment with the Commission.

§ 352.906 Personnel actions.

(a) An agency shall consider each employee detailed or transferred to the Commission for all promotions for which he or she would be considered if not absent. A promotion of a transferred employee based on this consideration is subject to reemployment of the employee.

(b) An employee detailed to the Commission is subject to the same conditions of employment at his or her employing agency as if he or she had not been detailed.

(c) A position to which promoted or assigned under this section is to be considered the employee's last or former position for purposes of § 352.909.

§ 352.907 Termination of detail or transfer.

(a) The Commission and the employing agency shall arrange for the termination of a detail and the return of the employee without a break in service of one workday or more to his or her former position or an equivalent one as provided in § 352.909(b).

(b) At the conclusion of a term of employment agreed upon as provided in § 352.904, employment with the Commission may be terminated without regard to Parts 351, 432, 752, or 771 of this chapter.

§ 352.908 Exercise or termination of reemployment rights.

(a) *Exercise.* An individual who has been transferred under this subpart to the Commission and wishes to be reemployed must apply in writing to the former employing agency. The time limits for application for reemployment are:

- (1) Within 30 calendar days before the expiration of the term of employment with the Commission;
- (2) Within 30 calendar days after receipt of notice of involuntary separation; or
- (3) At any time before the expiration of the term of employment with the Commission with the written consent of the Commission.

(b) *Termination.* Reemployment rights terminate if the individual:

- (1) Fails to apply within the time limits stated in paragraph (a) of this section;
- (2) Resigns without the written consent of the Commission; or
- (3) Within 10 calendar days, fails to accept an offer of reemployment made under § 352.909 which is determined to be a proper offer of reemployment by the reemploying agency or by the Merit Systems Protection Board on appeal.

§ 352.909 Agency obligation.

(a) *Time limits.* An employee is to be reemployed by the reemploying agency as promptly as possible, but not later than 30 calendar days after receipt of his or her application or on termination of the term of employment with the Commission, whichever is later.

(b) *Conditions.* An employee shall be reemployed in or returned from detail to his or her former position or an equivalent one in the same agency but without loss of pay, seniority, or other rights or benefits to which the employee would have been entitled had he or she not been transferred or detailed. An employee in the Senior Executive Service shall be reemployed or returned at not less than the pay level at which the employee was being paid immediately prior to the transfer or detail. An employee who is reemployed is not eligible for grade or pay retention under Part 536 of this chapter based on a grade or rate of pay attained while employed by the Commission. If the function with which the employee's former position was identified has been transferred, the employee's right is in the gaining agency or activity.

(c) *Reemployment in a different position.*

(1) When an employee's right is to a position in the Senior Executive Service, reemployment or return may be to any position in the Senior Executive Service in the former agency for which the employee is qualified. For other employees, reemployment or return must be to a position at the same grade or level and in the same competitive area as the position last held in the former agency except if the former position has been transferred to another agency or activity. If the reemployment would cause the separation or demotion of another employee, the applicant should then be considered an employee for the purpose of applying the reduction-in-force regulations to determine to what, if any, position the employee is entitled.

(2) If the employee is not placed under paragraph (c)(1) of this section, the agency must extend consideration beyond the competitive area. Responsibility for reemploying an employee is agency wide.

(d) *Higher grade.* An employee may be reemployed at a higher grade than that to which entitled if all appropriate standards and requirements are satisfied and this will not cause the displacement of another employee.

(e) *Agency refusal to reemploy.* An agency may refuse to reemploy under this section only when the employee was separated from the Commission for

serious cause evidencing unsuitability for reemployment.

§ 352.910 Appeals.

(a) If an agency denies reemployment to an applicant who claims reemployment rights under this subpart, the agency shall notify the person of that denial, and the reasons therefor, by a written notice. In the same notice, the agency shall inform the applicant of the right to appeal to the Merit Systems Protection Board under the provisions of the Board's regulations. The agency shall comply with the provisions of § 1201.21 of this title.

(b)(1) When an agency has reemployed or returned an employee, it shall advise the employee of the right of appeal if he or she considers the reemployment or return not to be in accordance with the Act and this subpart.

(2) An employee in a bargaining unit covered by a negotiated grievance procedure that does not exclude this matter must use the negotiated grievance procedure.

(3) An employee to whom paragraph (b)(2) does not apply is entitled to appeal to the Merit Systems Protection Board under the provisions of the Board's regulations. The agency shall comply with the provisions of § 1201.21 of this title.

[FR Doc. 82-459 Filed 1-7-82; 8:45 am]
BILLING CODE 6325-01-M

5 CFR Parts 550 and 610

Pay Administration (General) and Hours of Duty

AGENCY: Office of Personnel Management.

ACTION: Proposed rule.

SUMMARY: The Office of Personnel Management proposes to revise the regulations pertaining to an agency's responsibility to establish regularly scheduled workweeks for its employees and the regulations pertaining to an employee's entitlement to premium pay for regularly scheduled work at night, on Sunday, or on a holiday, or for overtime work outside his or her regularly scheduled basic workweek. Over the years, the Comptroller General and the courts have greatly expanded the original meaning of the term "regularly scheduled" as it is used in the regulations. The proposed revision will clarify the definition of the term "regularly scheduled" and will clarify the relationship originally intended between an agency's requirement to establish workweeks for its employees

and an employee's entitlement to premium pay for that work.

DATE: Comments must be submitted on or before March 9, 1982.

ADDRESSES: Comments may be mailed to Craig B. Pettibone, Director, Office of Pay and Benefits Policy, P.O. Box 57, Compensation Group, Office of Personnel Management, Washington, D.C. 20044, or delivered to Room 4351, Office of Personnel Management, 1900 E Street, N.W., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Dwight W. Brown, 202-632-4634.

SUPPLEMENTARY INFORMATION: The terms "regularly scheduled" and "irregular or occasional" are used repeatedly throughout the premium pay provisions in Subchapter V of Chapter 55 of Title 5, United States Code, and the hours of work provisions of Chapter 61 of Title 5, United States Code.

Legislative History

The terms "regularly scheduled" and "irregular or occasional" have their origin in the Federal Employees Pay Act of 1945. In the Act, Congress intended to—

- (1) Establish a 40-hour workweek for full-time employees;
- (2) Provide basic pay for a 40-hour workweek; and
- (3) Provide premium pay for overtime work (work in excess of 40 hours) and premium pay for work at night or on a holiday.

The Act required Federal agencies to establish regular workweeks for their employees. It included requirements that an agency establish an administrative workweek of 7 days for pay administration purposes, a basic workweek of 40 hours for full-time employees, and a regularly scheduled administrative workweek that included the basic 40-hour workweek plus regularly scheduled overtime work, if such work were required.

The Act established the following pay entitlements for employees:

- (1) Basic pay for their basic 40-hour workweek.
- (2) Night pay for regularly scheduled nightwork.
- (3) Holiday pay for work on a holiday.
- (4) Overtime pay for work performed outside their basic 40-hour workweek.
- (5) Compensatory time off, in lieu of overtime pay, for irregular or occasional overtime work under certain conditions.

In addition, the Act established the method for computing an hourly basic rate of pay (per annum salary divided by 2080 hours), established biweekly pay periods of two administrative workweeks, and established 26 pay periods per year.

The Federal Employees Pay Act of 1945 was amended in 1946, 1954, and 1966. The amendments provided for annual premium pay for regularly scheduled standby duty; annual premium pay for administratively uncontrollable work (irregular, unscheduled overtime work); overtime pay for time spent traveling during regularly scheduled overtime hours or under other specific conditions; call-back overtime pay for unscheduled overtime work; and Sunday pay for regularly scheduled work on Sunday.

In 1966 the provisions were codified in Title 5, United States Code. The basic pay provisions are contained in chapter 53, the premium pay provisions are contained in subchapter V of chapter 55, and the hours of work provisions are contained in chapter 61.

Problem

The Federal Employees Pay Act of 1945 provided the basis for the relationship between the hours of work and premium pay provisions currently contained in chapters 61 and 55 of title 5, United States Code. Amendments to the Act, passed by Congress in 1946, 1954, and 1966, clarify this relationship. However, in the statutes themselves and in their respective legislative histories, there was no express definition of the term "regularly scheduled."

As a result, the Comptroller General, through a number of decisions over a span of 30 years, has improvised a definition of the term "regularly scheduled" that gives effect to the following assumptions:

(1) The word "regular" in the term "regularly scheduled" connotes work that is recurring, pattern-like, or uniform in nature.

(2) For entitlement to night pay, it must be the work, and not the employee, that is regularly scheduled.

The courts, when faced with the problem of defining the phrase "regularly scheduled," have rendered conflicting decisions in cases where the facts and circumstances have been almost identical. The common thread in these decisions, however, has been equitable pay treatment for affected employees.

In 1979, the Comptroller General issued a decision involving payment of night pay for nightwork performed during overtime hours. This decision recapitulates all the decisions by the Comptroller General and the courts concerning this issue over the past 30 years.

It outlines three conditions under which night pay is due for nightwork during overtime hours:

(1) When employees perform overtime work during a scheduled night shift, not necessarily their own tour of duty.

(2) When employees habitually and recurrently perform overtime work at night due to the inherent nature of their employment.

(3) When the overtime work is considered "regularly scheduled" work—that is, the work is "duly authorized in advance (at least 1 day) and scheduled to recur on successive days or after specified intervals."

This decision reiterates the meaning of the term "regularly scheduled" as defined by the Comptroller General and the courts. Further, it reiterates the assumption that it is the work and not the employee that must be regularly scheduled for night pay entitlement.

Because the term "regularly scheduled" has been given various interpretations over a period of years, agencies are unsure how to handle the hours of work and the premium pay of their employees. As a result, premium pay entitlements have been extended to employees in situations not originally intended by Congress. On the other hand, it is conceivable that some employees have not been receiving premium payments to which they have been entitled.

Solution

Early in 1980, OPM conducted a study of the meaning of the term "regularly scheduled" and its relationship to premium pay administration. The study analyzed the decisions of the Comptroller General and the courts; reviewed Congressional intent as evidenced in the Federal Employees Pay Act of 1945, the amendments of 1946, 1954, and 1966, and their legislative histories; and reviewed the executive files for Civil Service Commission (now OPM) regulations from 1954 through the present.

The study found that the intended meaning of the term "regularly scheduled" is implicit in the use of this term, and related terms, in the Federal Employees Pay Act of 1945, as amended, and implementing Civil Service Commission regulations. Further, it found that the term "regularly scheduled" was intended to encompass the concept of the relationship between—

(1) An agency's responsibility to establish workweeks for its employees in accordance with standardized procedures specified in chapter 61 of title 5, United States Code, and Part 610 of Title 5, Code of Federal Regulations; and

(2) An employee's entitlement to premium pay for such work under

subchapter V of chapter 55 of title 5, United States Code, and Part 550 of Title 5, Code of Federal Regulations.

The study concluded that the word "regular" in the term "regularly scheduled" means "according to standardized procedures," and not necessarily that the employee performed the work on a recurring or pattern-like basis.

Thus, the study proposed that the term "regularly scheduled" be clarified to mean:

(1) Scheduled in advance of and to include at least one administrative workweek, and

(2) Scheduled in accordance with an agency's procedures as required by chapter 61 of title 5, United States Code.

The study also proposed clarifying definitions for the phrases "regularly scheduled administrative workweek" and "irregular or occasional overtime work."

In addition, the study proposed that OPM promulgate a regulation to require an agency to schedule its employees to meet the work requirements of the agency. This would require an agency to change the regularly scheduled administrative workweek of its employees if the work requirements would be different in an ensuing administrative workweek.

OPM submitted the study to the Comptroller General for review and discussion between our respective staffs. OPM proposed that the meaning of the term "regularly scheduled," and related terms, as defined by the study be promulgated in OPM regulations. The Comptroller General in his reply to OPM (B-201039, March 16, 1981) indicated that he had no objection to OPM's proposal to issue such regulations.

Proposed Regulations

Accordingly, OPM proposes to issue regulations—

(1) To clarify the meaning of the term "regularly scheduled," and

(2) To clarify the relationship between an agency's responsibility to establish workweeks under chapter 61 of title 5, United States Code, and an employee's entitlement to premium pay for that work under subchapter V of chapter 55 of title 5, United States Code.

In the process, OPM proposes to clarify the definitions of the terms "regularly scheduled administrative workweek," "tour of duty," "regular overtime work," and "irregular or occasional overtime work." OPM also proposes to add definitions for "nightwork" and "holiday work."

In accordance with the recommendation of the study and the Comptroller General's comments, OPM

is proposing to issue regulations to require an agency to schedule its employees to meet recognized work needs. If an agency fails to schedule its employees in a manner that realistically reflects the agency's actual work requirements, the failure to schedule will constitute a violation of regulations warranting payment of premium pay for "regularly scheduled" work.

Summary

The scheduling structure outlined in chapter 61 of title 5, United States Code, constitutes the framework by which an employee's premium pay entitlements are to be determined under subchapter V of chapter 55 of title 5, United States Code. OPM's authority to regulate is contained in sections 6101 and 5548 of the respective chapters.

Thus, agency established workweeks have a direct effect on an employee's pay entitlements:

(1) An employee is entitled to basic pay for work performed during his or her basic 40-hour workweek.

(2) If an employee's basic workweek includes work on Sunday or a holiday, he or she is entitled to premium pay for Sunday work or holiday work, respectively.

(3) If an employee performs work outside the basic 40-hour workweek, he or she is entitled to premium pay for overtime work.

(4) If an employee's regularly scheduled administrative workweek (including regularly scheduled overtime hours) includes nightwork, he or she is entitled to premium pay for such work at night. However, an employee who performs overtime work during night hours on an irregular basis is not entitled to night pay for such work, even if the employee performs it during a night shift for other employees.

(5) For an employee in receipt of AUO pay, all overtime work scheduled in advance of the administrative workweek is "regularly scheduled" overtime work for which the employee is entitled to overtime pay at time and one-half of his or her basic rate of pay. All other overtime work performed during the workweek is irregular overtime work and is paid for by receipt of AUO pay.

We believe the proposed definitions of the term "regularly scheduled," and related terms, will clarify the relationship between the scheduling structure and the premium pay structure contained in title 5, United States Code. This, in turn, will ensure that an employee receives proper premium payments for scheduled work and, thereby, preserve equitable pay

treatment for all employees. We also believe this will improve understanding of the premium pay structure by managers and employees.

This regulatory proposal is one of several actions being taken by OPM to improve Federal policy on premium pay.

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 businesses, small organizational units and small governmental jurisdictions.

Office of Personnel Management.
Donald J. Devine,
Director.

Accordingly, OPM proposes to amend Parts 550 and 610 of Title 5 of the Code of Federal Regulations as follows:

PART 550—PAY ADMINISTRATION (GENERAL)

1. Section 550.103 is amended by revising paragraphs (e), (f), (g), (k), and (n), and adding paragraphs (p) and (q) to read as follows:

§ 550.103 Definitions.

(e) "Nightwork" has the meaning given that term in § 550.121, and includes any nightwork performed by an employee as part of his or her regularly scheduled administrative workweek.

(f) "Irregular or occasional overtime work" means overtime work that is not part of an employee's regularly scheduled administrative workweek.

(g) "Regular overtime work" means overtime work that is part of an employee's regularly scheduled administrative workweek.

(k) "Tour of duty" means the hours of a day (a daily tour of duty) and the days of an administrative workweek (a

weekly tour of duty) that constitute an employee's regularly scheduled administrative workweek.

(n) "Regularly scheduled administrative workweek," for full-time employees, means the period within an administrative workweek, established in accordance with § 610.111 of this chapter, within which these employees are regularly scheduled to work. For part-time employees, it means the officially prescribed days and hours within an administrative workweek during which these employees are regularly scheduled to work.

(p) "Regularly scheduled" work means work that is scheduled in advance of an administrative workweek under an agency's procedures for establishing workweeks in accordance with § 610.111 of this chapter.

(q) "Holiday work" means nonovertime work performed by an employee during a regularly scheduled tour of duty on a holiday.

2. In § 550.112, paragraph (d) is revised to read as follows:

§ 550.112 Computation of overtime work.

(d) *Night, Sunday, or holiday work.* Hours of night, Sunday, or holiday work are included in determining for overtime pay purposes the total number of hours of work in an administrative workweek.

3. In § 550.122, paragraphs (c) and (d) are revised to read as follows:

§ 550.122 Computation of night pay differential.

(c) *Relation to overtime, Sunday, and holiday pay.* Night pay differential is in addition to overtime, Sunday, or holiday pay payable under this subpart and it is not included in the rate of basic pay used to compute the overtime, Sunday, or holiday pay.

(d) *Temporary assignment to different tour of duty.* An employee is entitled to a night pay differential when he or she is assigned temporarily to a tour of duty that includes nightwork.

4. In § 550.131, paragraph (a) is revised to read as follows:

§ 550.131 Authorization of pay for holiday work.

(a) Except as otherwise provided in this subpart, an employee who performs holiday work is entitled to pay at his or her rate of basic pay plus premium pay at a rate equal to his or her rate of basic pay for that holiday work that is not—

- (1) In excess of 8 hours; or

(2) Overtime work.

PART 610—HOURS OF DUTY

1. Section 610.102 is amended by revising paragraph (b) and adding paragraph (g) and (h) to read as follows:

§ 610.102 Definitions.

(b) "Regularly scheduled administrative workweek," for fulltime employees, means the period within an administrative workweek, established in accordance with § 610.111, within which these employees are regularly scheduled to work. For part-time employees, it means the officially prescribed days and hours within an administrative workweek during which these employees are regularly scheduled to work.

(g) "Regularly scheduled" work means work that is scheduled in advance of an administrative workweek under an agency's procedures for establishing workweeks in accordance with § 610.111.

(h) "Tour of duty" means the hours of a day (a daily tour of duty) and the days of an administrative workweek (a weekly tour of duty) that constitute an employee's regularly scheduled administrative workweek.

2. Section 610.121 is revised to read as follows:

§ 610.121 Establishment of work schedules.

(a) Except when the head of an agency determines that the agency would be seriously handicapped in carrying out its functions or that costs would be substantially increased, he or she shall provide that—

(1) Assignments to tours of duty are scheduled in advance of the administrative workweek over periods of not less than 1 week;

(2) The basic 40-hour workweek is scheduled on 5 days, Monday through Friday when possible, and the 2 days outside the basic workweek are consecutive;

(3) The working hours in each day in the basic workweek are the same;

(4) The basic nonovertime workday may not exceed 8 hours;

(5) The occurrence of holidays may not affect the designation of the basic workweek; and

(6) Breaks in working hours of more than 1 hour may not be scheduled in a basic workday.

(b) The head of an agency shall establish the work schedules of his or

her employees to accomplish the mission of the agency. The head of an agency shall schedule an employee's regularly scheduled administrative workweek so that it corresponds with the employee's actual work requirements. When the head of an agency knows in advance of an administrative workweek that an employee's work requirements for that administrative workweek will differ from the work requirements in the current administrative workweek, he or she shall establish the employee's regularly scheduled administrative workweek to meet those different work requirements in that administrative workweek.

(5 U.S.C. 5548 and 5 U.S.C. 6101)

[FR Doc. 82-460 Filed 1-7-82; 8:45 am]

BILLING CODE 6325-01-M

5 CFR Part 890

Federal Employees Health Benefits Program

AGENCY: Office of Personnel Management.

ACTION: Proposed rulemaking.

SUMMARY: The Office of Personnel Management proposes to extend the circumstances under which an employee or annuitant can change his or her Federal Employees Health Benefits (FEHB) enrollment from high option to low option coverage to include eligibility for CHAMPUS.

DATE: Comments must be received on or before February 8, 1982.

ADDRESS: Send or deliver written comments to Craig B. Pettibone, Director, Office of Pay and Benefits Policy, Compensation Group, Office of Personnel Management, Room 4351, Washington, D.C. 20415.

FOR FURTHER INFORMATION CONTACT: Mary Ann Mercer, (202) 632-4634.

SUPPLEMENTARY INFORMATION: CHAMPUS (the Civilian Health and Medical Program of the Uniformed Services Health Benefits Program (USHBP), ensures that authorized health services will be available if they cannot be obtained from a Uniformed Services facility. Generally, CHAMPUS will share the cost of any medical procedure or type of medical care which is medically necessary and not specifically excluded by law or regulation.

Dependents of active duty members, retired members and their dependents, and surviving dependents of deceased active or retired members are eligible for this coverage. (Parents and parents-

in-law are not considered dependents under CHAMPUS.)

There are a number of instances in which a person who becomes eligible for CHAMPUS coverage may also be a Federal employee or annuitant enrolled in the Federal Employees Health Benefits Program. For example, Members and Technicians in the National Guard and retired military reservists are eligible for military benefits, including CHAMPUS, upon reaching age 60; the spouse of an active duty serviceman becomes eligible for CHAMPUS at time of marriage; and the spouse and dependents of regular military retired personnel become eligible upon the member's eligibility for CHAMPUS. Any of these individuals may be a Federal employee at the time of eligibility for CHAMPUS, and it is quite possible that he or she may also be enrolled in the FEHB Program. Because CHAMPUS and high option FEHB offer similar benefits, a Federal employee with FEHB coverage who becomes eligible for CHAMPUS would normally not need a high option FEHB plan. To continue the high option plan would be an unnecessary expense for both the employee and the government.

Under current regulations, an employee who becomes eligible for CHAMPUS may not change his or her high option FEHB coverage to low option until the next open season. He or she may, however, cancel the high option enrollment and wait until the next open season to enroll in a low option plan, taking the risk of being under-insured during the interim period. Permitting an enrollment change from high to low option at the time of eligibility for CHAMPUS would alleviate the problem of paying for coverage that is not needed (i.e., by continuing high option until the next open season) or being under-insured (i.e., dropping enrollment until the next open season).

It is important to note, however, that should the employee drop FEHB coverage under either the existing or amended regulations, the individual would not lose entitlement to FEHB coverage during retirement because periods of coverage under CHAMPUS are creditable toward the years of service requirement set out in the Federal Employees Health Benefits law codified at 5 U.S.C. 8905(b).

As a matter of precedent for the proposed amendment, a change from high to low option FEHB coverage was authorized in 1968 for employees who become eligible for Medicare. A parallel can be drawn between eligibility for Medicare and eligibility for CHAMPUS. Related to the subject of Medicare is the

fact that CHAMPUS enrollees lose their eligibility for CHAMPUS at age 65 if they are eligible for Medicare. If the employee has CHAMPUS and a low option FEHB enrollment, he or she would continue to have two coverages, Medicare and low option FEHB. While the employee would not be able to enroll in a high option FEHB plan until the next open season, Medicare combined with low option FEHB coverage, in most cases, provides excellent protection.

The Director finds that good cause exists for reducing the comment period of this proposed rulemaking from sixty to thirty days. The comment period is reduced in order to realize enrollee and government cost savings which would result from prompt implementation of the regulations.

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

I certify 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.

PART 890—FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM

Accordingly, the Office of Personnel Management proposes to add § 890.301(x) to Title 5, Code of Federal Regulations, to read as follows:

§ 890.301 Opportunities to register to enroll or change enrollment.

* * * * *

(x) On becoming eligible for coverage under the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS). An enrolled employee or annuitant with a high option enrollment may register, at any time after the 31st

day before he or she is eligible for coverage under the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS), to change enrollment to the low option of any available plan under this part.

(5 U.S.C. 8913.)

[FR Doc. 82-457 Filed 1-7-82; 8:45 am]

BILLING CODE 6325-01-M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1007

[Docket No. AO-366-A18]

Milk in the Georgia Marketing Area; Notice of Hearing on Proposed Amendments to Tentative Marketing Agreement and Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice of public hearing on proposed rulemaking.

SUMMARY: This hearing is being held to consider proposals by a cooperative association to amend the Georgia Federal milk marketing order. Under the proposals, a plant located in the marketing area that processes and packages only ultra high temperature milk would be fully regulated by the order, regardless of where such milk is sold.

DATE: The hearing will convene January 21, 1982.

ADDRESS: The hearing will be held at the Ramada Inn, 845 North Central Avenue, Atlanta Airport, Hapeville, Georgia 30354, beginning at 9:30 a.m., local time.

FOR FURTHER INFORMATION CONTACT: Richard A. Glandt, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202/447-5443.

SUPPLEMENTARY INFORMATION: This action is exempt from the requirements set forth in Executive Order 12291.

Notice is hereby given of a public hearing to be held at the Ramada Inn, 845 North Central Avenue, Atlanta, Airport, Hapeville, Georgia 30354, beginning at 9:30 a.m., local time, on Thursday, January 21, 1982, with respect to proposed amendments to the tentative marketing agreement and to the order, regulating the handling of milk in the Georgia marketing area.

The hearing is called pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice and procedure governing the formulation of marketing

agreements and marketing orders (7 CFR Part 900).

The purpose of the hearing is to receive evidence with respect to the economic and marketing conditions which relate to the proposed amendments, hereinafter set forth, and any appropriate modifications thereof, to the tentative marketing agreement and to the order.

Beginning January 1, 1981, actions under the Federal milk order program became subject to the "Regulatory Flexibility Act" (Pub. L. 96-354). This act seeks to ensure that, within the statutory authority of a program, the regulatory and information requirements are tailored to the size and nature of small businesses. For the purpose of the Federal order program, a small business will be considered as one which is independently owned and operated and which is not dominant in its field of operation. Most parties subject to a milk order are considered as a small business. Accordingly, interested parties are invited to present evidence on the probable regulatory and informational impact of the hearing proposals on small businesses. Also, parties may suggest modifications of these proposals for the purpose of tailoring their applicability to small businesses.

The proposed amendments, as set forth below, have not received the approval of the Secretary of Agriculture.

Proposed by Dairymen, Inc.

Proposal No. 1

Revise paragraph 1007.7(a) to read as follows:

§ 1007.7 [Amended]

(a) a distributing plant that has a route disposition, except filled milk, during the month of not less than 50 percent of the fluid milk products, except filled milk, approved by a fully constituted health authority for fluid consumption that are physically received at such plant or diverted as producer milk to a nonpool plant pursuant to § 1007.13 and:

(1) that has route disposition, except filled milk, in the marketing area during the month of not less than 15 percent of its total Class I disposition, except filled milk, during the month; or,

(2) is a plant, located within the marketing area, which processes only ultra high temperature fluid milk products for distribution in aseptic packages. A plant qualifying as a distributing plant pursuant to this subparagraph shall be a pool plant on this Order irrespective of its route disposition in the marketing area of any other Order issued pursuant to the Act.

* * * * *

Proposal No. 2

Revise paragraph 1007.7(d) by adding a new subparagraph (4) to read as follows:

§ 1007.7 [Amended]

* * * * *

(d) * * *

(4) A plant qualified pursuant to paragraph (a) of this section which also meets the requirements of a fully regulated plant pursuant to the provisions of another Federal Order on the basis of distribution in such other marketing area and from which the Secretary determines route disposition, except filled milk, during the month in this marketing area is greater than route disposition in such other marketing area but which plant is, nevertheless, fully regulated under such other Federal Order.

Proposed by the Dairy Division, Agricultural Marketing Service:

Proposal No. 3

Make such changes as may be necessary to make the entire marketing agreement and the order conform with any amendments thereto that may result from this hearing.

Copies of this notice of hearing and the order may be procured from the Market Administrator, P.O. Box 49025, Atlanta, Georgia 30359, or from the Hearing Clerk, Room 1077, South Building, United States Department of Agriculture, Washington, D.C. 20250, or may be there inspected.

From the time that a hearing notice is issued and until the issuance of a final decision in a proceeding, Department employees involved in the decisional process are prohibited from discussing the merits of the hearing issues on an ex parte basis with any person having an interest in the proceeding. For this particular proceeding the prohibition applies to employees in the following organizational units:

Office of the Secretary of Agriculture
Office of the Administrator, Agricultural Marketing Service
Office of the General Counsel
Dairy Division, Agricultural Marketing Service (Washington Office only)
Office of the Market Administrator, Georgia Marketing Area.

Procedural matters are not subject to the above prohibition and may be discussed at any time.

Signed at Washington, D.C., on January 5, 1982.

William T. Manley,

Deputy Administrator, Marketing Program Operations.

[FR Doc. 82-532 Filed 1-7-82; 8:45 am]

BILLING CODE 3410-02-M

**NATIONAL CREDIT UNION
ADMINISTRATION**
12 CFR Part 701
**Deregulation of Accounting Manual for
Federal Credit Unions; Extension of
Comment Period**

AGENCY: National Credit Union Administration (NCUA).

ACTION: Proposed rule; extension of the Comment Period.

SUMMARY: Because of delays in distribution of the revised Accounting Manual, the NCUA Board is extending the comment period on the proposed rule.

DATE: Comments must be received on or before April 15, 1982.

ADDRESS: Send comments to Regulatory Development Coordinator, Robert Monheit, National Credit Union Administration, 1776 G Street NW., Washington, D.C. 20456

FOR FURTHER INFORMATION CONTACT:

Joseph Visconti, Surveillance Systems Officer, or Harry Moore, Accounting Officer, Office of Examination and Insurance, Telephone (202) 357-1065.

SUPPLEMENTAL INFORMATION: On October 13, 1981 (46 FR 48940), the National Credit Union Administration published for public comment a proposed rule which will remove the Accounting Manual from the incorporation by reference provisions of 12 CFR 701.2. The proposal also deletes 12 CFR 701.14 in its entirety because it essentially duplicates 12 CFR 701.2.

Because of problems encountered in the distribution of the revised version of the Accounting Manual, some credit unions did not receive the Accounting Manual in time to review that publication and comment on the proposed rule. In a companion action, the NCUA Board issued for public comment a proposed Interpretive Ruling and Policy Statement (IRPS 81-8) (46 FR 50387, October 13, 1981). The IRPS advises that by adhering to the accounting principles and standards in Section 2000, credit unions will be in compliance with the full and fair disclosure provisions of 12 CFR 702. Therefore, the comment periods on the IRPS and on the proposed deregulation are extended for an additional period of time.

Rosemary Brady,
Secretary of the Board.

December 30, 1981.

[FR Doc. 82-467 Filed 1-7-82; 8:45 am]

BILLING CODE 7535-01-M

**DEPARTMENT OF HEALTH AND
HUMAN SERVICES**
Food and Drug Administration
21 CFR Part 146

[Docket No. 80P-0352]

**Canned Fruit Juices; Advance Notice
of Proposed Rulemaking on the
Standard of Identity for Frozen
Concentrated Orange Juice**

AGENCY: Food and Drug Administration, HHS.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Food and Drug Administration (FDA) is considering a proposal to amend the standard of identity for frozen concentrated orange juice based on a joint petition by the State of Florida, Department of Citrus; the Florida Citrus Mutual; the Florida Citrus Processors Association; the United Growers and Shippers Association; and the Indian River Citrus League. The purpose of the proposed amendment would be to increase the minimum amount of orange juice soluble solids in the beverage when reconstituted according to label directions. The proposed amendment would reflect an increase in naturally occurring soluble solids ("Brix") of the oranges used in the production of frozen concentrated orange juice. The agency is publishing this notice to encourage interested persons to submit pertinent information and express their views on this subject.

DATE: Written comments by March 9, 1982.

ADDRESS: Written comments, data, or 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, DC 20204, 202-245-1164.

SUPPLEMENTARY INFORMATION: The State of Florida, Department of Citrus, P.O. Box 148, Lakeland, FL 33802; the Florida Citrus Mutual, P.O. Box 89, Lakeland, FL 33802; the Florida Citrus Processors Association, P.O. Box 780, Winter Haven, FL 33880; the United Growers and Shippers Association, P.O. Box 3611, Orlando, FL 32802; and the Indian River Citrus League, P.O. Box 519, Vero Beach, FL 32960, who represent the growers and processors of over 90 percent of the frozen concentrated orange juice packed in

retail-size containers in the United States, have submitted a joint petition to amend the U.S. standard of identity for frozen concentrated orange juice, § 146.146(a) (21 CFR 146.146(a)), to increase the minimum percent by weight of orange juice soluble solids contained in the product from 11.8 percent to 12.3 percent, exclusive of the solids of any added optional sweetening ingredients, when reconstituted according to label directions.

The petitioners state that, due to improved cultural practices, age of bearing trees, and harvesting better timed to coincide with optimum maturity, the approximate average of the soluble solids naturally occurring in oranges used for processing during the most recent 10-year period was 12.3 percent. Further, the petitioners state that all available data and records indicate the following average soluble solids content for oranges used for processing in domestic production areas:

Area	Average Brix	Source
Florida	12.3'	10-yr weighted average compiled by Florida Department of Agriculture.
Texas	In excess of 12.3'	Statements by representatives of TexSun and Texas Citrus Exchange.
California/Arizona	Valencia 12.2'; Navels 12.8'	Interpolated from data reported in USDA Handbook 456, November 1975.

The petitioners point out that, because Florida produces over 85 percent of the oranges grown in the United States that are suitable for use in the production of frozen concentrated orange juice, the proposed minimum soluble solids content of 12.3 percent represents the national average.

The petitioners noted the allegation that raising the U.S. minimum of 11.8 percent to 12.3 percent would, in effect, reduce the currently available volume of marketable product in California and other non-Florida domestic citrus-producing areas because non-Florida producers would be required to increase the soluble solids content of their product by 4 percent (i.e., 11.8 percent to 12.3 percent). However, the petitioners assert that their intention is not to reduce the non-Florida supply by 4 percent, but rather to end an unjustified pricing advantage that now exists in the non-Florida producer's favor by virtue of the minimum soluble solids differential between the two products.

The petitioners state that this amendment, which would increase the minimum soluble solids to an average of that occurring in the natural orange,

would benefit the total domestic frozen concentrated orange juice industry and U.S. consumers by making uniform the minimum soluble solids content for frozen concentrated orange juice in all domestic citrus-producing areas.

The petitioners also state that the requested amendment is limited solely to the U.S. standard of identity for frozen concentrated orange juice, § 146.146, and is not intended to apply to standards of identity for other orange juice products.

In a letter to FDA dated November 25, 1980, the Processors Council of the California-Arizona Citrus League, P.O. Box 7888, Valley Annex, Van Nuys, California 91409 (Processors Council), requested that the petition be denied on the grounds that there is no basis other than economics for increasing the ° Brix for frozen concentrated orange juice and that the increase in the ° Brix would have an adverse effect upon frozen concentrated orange juice processed in California and Arizona. The letter included the following comments:

1. Data compiled by Sunkist Growers, Inc., a California-Arizona processor, show that the average ° Brix of oranges they used for processing over the past seven seasons is about 11.9 ° Brix, with no apparent trend toward higher average ° Brix values.

2. California-Arizona frozen concentrated orange juice has greater consumer acceptability at 11.8 ° Brix due to the tart nature of California-Arizona frozen concentrated orange juice, and a cooked flavor as the ° Brix is increased above 11.8.

3. Frozen concentrated orange juice when reconstituted according to label directions, should have the same minimum ° Brix as orange juice from concentrate.

The agency has made a decision that the petition presents sufficient information to warrant further proceedings. However, the petition does not present sufficient data to fulfill the requirement placed on the agency by the Regulatory Flexibility Act (Pub. L. 96-354, 5 U.S.C. 603 and 604) to assess the economic impact on small businesses of any rule that may be adopted based upon the petition. The agency is aware, however, that the circumstances surrounding the ability of the petitioner to obtain all the needed data in fulfilling this requirement are unique. In this particular case, the petitioner may be at a disadvantage because pertinent information surrounding the economic impact on small businesses would have to be obtained from competitors both in other geographical areas of the United States and abroad. Because of this uniqueness, and recognizing the strong

positions held by opposing groups, the agency is providing an advance notice of the proposed rule to obtain data and views from interested persons on all issues posed by (1) the joint petition filed by the State of Florida, Department of Citrus; the Florida Citrus Mutual; the Florida Citrus Processors Association; the United Growers and Shippers Association; and the Indian River Citrus League and (2) the letter to FDA dated November 25, 1980, from the Processors Council of the California-Arizona Citrus League.

In particular, the agency requests the submission of information to enable it to determine whether to prepare an initial regulatory flexibility analysis as required by the Regulatory Flexibility Act. The agency has examined the economic data provided by the petitioner to determine if it is sufficient to make this determination and, if necessary, to prepare an initial regulatory flexibility analysis. The agency concludes that additional information is necessary to determine the economic impact of the petition on small businesses and to assess possible alternatives for relieving any burden. Using available information, the agency has prepared a preliminary economic assessment which is published along with this notice. This assessment is presented in the format prescribed for an initial regulatory flexibility analysis. It is intended to illustrate the aspects of this issue where additional economic data are needed. FDA particularly requests information on the total number of businesses that would be affected by the proposal, the number of small businesses that would be affected by the proposal, and the effect (in quantitative terms, where feasible) on each firm, including any small businesses.

Interested persons may, on or before March 9, 1982, submit to the Dockets Management Branch (address above) written comments regarding this advance notice of proposed rulemaking. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: December 31, 1981.

Arthur Hull Hayes, Jr.,

Commissioner of Food and Drugs.

Preliminary Economic Assessment

This preliminary economic assessment presents the available information on the small business

impact of an amendment to the standard of identity for frozen concentrated orange juice proposed by various Florida citrus interests. Their petition was submitted to the agency before enactment of the Regulatory Flexibility Act. It contains some information regarding the economic impact of the amended standard, but not all the information that is necessary to prepare a regulatory flexibility analysis.

The purpose of this preliminary assessment is to present available economic information in the format prescribed by section 603 of the Regulatory Flexibility Act in order to identify aspects of the issue where additional data are needed to complete the regulatory flexibility analysis.

I. Reason for Action

The petitioners believe that the ° Brix value in the existing standard of identity for frozen concentrated orange juice should reflect the average ° Brix value for orange juice, and that the approximate average of the soluble orange solids contained in juice of mature oranges is above the existing standard of 11.8 ° Brix. Due to improved cultural practices, age of bearing trees, and harvesting better timed to coincide with optimal maturity, the petitioners conclude that the approximate average of the soluble orange solids naturally occurring in oranges for processing during the most recent 10-year period was 12.3 ° Brix. Therefore, the petitioners propose that the existing standard be amended to increase the minimum percent of weight of orange juice soluble solids contained in a properly reconstituted product from 11.8 ° Brix to 12.3 ° Brix.

II. Statement of Objectives

The petitioners state that a uniform minimum ° Brix in all domestic citrus-producing areas will benefit both the total domestic frozen concentrated orange juice industry and consumers. The petition mentions the elimination of "an unjustified pricing advantage that now exists in California's favor by virtue of the minimum ° Brix differential between the two products" as a specific benefit from the amended standard. The petition supplies information on the average ° Brix of oranges from different regions (Florida—12.3 °, Texas—in excess of 12.3 °, California/Arizona—12.2 ° for valencia, 12.8 ° for navels).

The petition does not provide information on the extent to which the reported average ° Brix difference between Florida oranges and California valencia oranges is reflected in unjustified pricing. Some limited data,

however, suggest that the marketplace may already reflect ° Brix differentials. For example, one source¹ reported a 2 cent price spread for a national market private label 12 ounce can: 80 cents for Florida frozen concentrated orange juice, and 78 cents for non-Florida frozen concentrated orange juice. In the western market, Florida concentrated orange juice sells for about 5 cents more than non-Florida frozen concentrated orange juice. The fact that two products of different quality sell at different prices seems to indicate a healthy competitive environment that appropriately distinguishes the two levels of quality. If natural market forces and consumer selection produce sufficient price differentials between frozen concentrated orange juice with different ° Brix levels, amending the Federal standard to require non-Florida producers to conform to Florida standards may not eliminate unjustified pricing, but only reduce consumer choice for frozen concentrated orange juice.

Because the petition does not have sufficient economic data to determine the existence or extent of unjustified pricing, the agency requests additional information on this issue so that the economic need for the amendment can be more accurately determined.

III. Estimate of Small Businesses Affected

This proposal will affect growers of oranges with average ° Brix of less than 12.3° if their product is used for frozen concentrated orange juice. From the petitioners' data, it is anticipated that only growers of valencia oranges in California and Arizona will be affected. There are an estimated 4,059 growers of oranges in California and Arizona. Presumably, many could be classified as small businesses.

This proposal will also affect processors of frozen concentrated orange juice in those areas where the average Brix is less than 12.3°. It is anticipated that all of the estimated 27 processors in California and Arizona who produce frozen concentrated orange juice will be affected. Most of the 27 processors are believed to be small businesses.

IV. Nature of the Burden

Orange and orange juice producers in the United States may be initially viewed as Florida and non-Florida producers. The non-Florida producers are located primarily in California,

Arizona, and Texas. The Florida producers have an estimated 90 percent share of the market for frozen concentrated orange juice. Total production and production used for processing in the four orange-growing States in the 1980-1981 season are:

[In billions of pounds]

	Total production	Used for processing	Percent processed
Florida.....	15,516	14,777	95.2
Texas.....	368	126	34.2
California.....	4,969	2,082	41.6
Arizona.....	195	69	35.4
Total.....	21,048	17,054	81.0

Florida produces 87 percent of the oranges used for processing. However, Florida's share of frozen orange juice concentrate is probably even higher because, according to the U.S. Department of Agriculture, the Western States use more of the processed fruit for uses other than frozen concentrate. (However, there are no data on frozen orange juice concentrate only.)

The oranges grown in Florida and the Western States tend to vary uniformly in terms of the ° Brix, with Florida oranges generally being higher. The primary types of non-Florida oranges used in frozen concentrated orange juice are the valencia and the navel. The California-Arizona Citrus League reports an average ° Brix level of 11.9° for the valencia and 12.7° for the navel over the years 1972 through 1977. The yearly weighted average ° Brix levels for valencia oranges range from a freeze-year low of 10.6 to a "vintage year" high of 13.2.² Within any given year the monthly average ° Brix levels may vary by as much as 2.5, or as little as 1.0. Unlike the Florida data, there is no discernible trend toward higher ° Brix levels. Navel oranges, because of a bitter taste when juiced (as a result of a nonbitter precursor being progressively converted to limonin), are not used extensively for frozen concentrated orange juice.

An increase in the minimum ° Brix requirement of the Federal standard of identity to 12.3° would have several possible effects:

1. It would cause an increase in the bulk product cost for any processor using oranges with an average Brix of less than 12.3°. The petition estimates an increase of 4 percent for valencia processors. This results from the addition of more orange soluble solids to make the same amount of

reconstituted frozen concentrated orange juice.

2. The demand for California/Arizona frozen concentrated orange juice could decrease by as much as 5.7 percent because of the increase in product cost. This estimate is based on supplementary information provided by the petitioners.³

3. The California-Arizona Citrus League believes that an increase in the minimum ° Brix for frozen concentrated orange juice could also impair consumer acceptance for their product.⁴ Because of the tart nature of California/Arizona frozen concentrated orange juice, western processors believe their juice has greater consumer acceptability at 11.8° Brix than at higher levels.

Their belief is supported by a study called "The Pritchett Tongue." Generally, this study shows that consumers prefer a tart-light orange to a tart-heavy juice, and concomitantly, they prefer a sweet-heavy juice to sweet-light juice. In addition, California/Arizona processors have found that their frozen concentrated orange juice acquires a perceivable cooked flavor as the ° Brix is increased above 11.8.

It is difficult to aggregate and quantify these three possible effects based on the evidence available. It does, however, appear likely that the resultant effects would be adverse upon growers and processors of valencia oranges used in frozen concentrated orange juice. The extent to which they may be able to avoid any adverse effects by shifting their production to orange products other than frozen concentrated orange juice cannot be determined from available information.

Similarly, the beneficiaries of any reduction in frozen concentrated orange juice made from valencia oranges are also unclear. The California-Arizona Citrus League⁵ supplied a research paper that states:

The estimated future domestic supply-demand relationship is such that demand for orange juice will exceed Florida production at relatively constant real prices. This, in combination with anticipated excess Brazilian supplies, suggests that with average projected crops Florida will generally become a net importer in the near future. In contrast to projected U.S. market conditions, the

¹Elasticity estimates in the study of Ronald V. Ward and Daniel S. Tilly entitled "Time Varying Parameters With Random Components: The Orange Juice Industry," *Southern Journal of Agricultural Economics*, December 1980, pp. 5 to 13.

²Comments of California-Arizona Citrus League, November 25, 1980, p. 5.

³"Economics Information in Support of Three-Party Program Recommendations," 1980-1981, Gary F. Fairchild, Research Economist, Florida Department of Citrus, June 1980.

⁴Comments of California-Arizona Citrus League, November 25, 1980, p. 4.

⁵Based on a conversation with Jay B. (Skip) Havisser, Administrative and Legal Affairs Director, Florida Department of Citrus.

world processed orange market is forecast as a situation in which supply is growing at a faster rate than demand.

If this conclusion is accurate, any decrease in valencia orange frozen concentrated orange juice may cause an off-setting increase in the importation of Brazilian frozen concentrated orange juice. Additional information is needed to establish the likelihood of this consequence, and its implications for the domestic orange juice industry.

V. Overlap With Other Federal Statutes

This proposal would not overlap with any other Federal regulation. It is related to a Florida State law which established the minimum ° Brix of frozen concentrated orange juice as 12.8°. This level was subsequently reduced to 12.3° effective December 1, 1980 and then further reduced to 11.8° effective December 1, 1981. It is also related to an international standard recommended by the Food and Agriculture Organization/World Health Organization (FAO/WHO) Codex Alimentarius Commission. The Codex Alimentarius Commission has recommended to member nations the adoption of 11.0° Brix. The United States, as a member of the Food and Agriculture Organization of the United Nations and of the World Health Organization, is under obligation to consider all Codex standards.

VI. Alternatives to Relieve Burden on Small Businesses

The petition does not examine any alternatives; however, several are self-evident. One alternative would be to leave the ° Brix standard at its current level of 11.8°, thereby avoiding any possible adverse consequences on valencia orange growers and processors. A second alternative would be to adopt the Codex Alimentarius recommendation of 11.0° Brix and allow unfettered marketplace pricing to distinguish different grades of ° Brix above 11.0°. A third alternative would be to abandon a ° Brix level in the standard and replace it with a mandatory declaration of the percentage of orange juice soluble solids in the finished product.

Additional data are needed to assess the feasibility of alternatives and, in particular, their effects on small growers and processors.

[FR Doc. 82-465 Filed 1-7-82; 6:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF LABOR

Wage and Hour Division

29 CFR Part 5

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

AGENCY: Wage and Hour Division, Labor.

ACTION: Proposed rule.

SUMMARY: Pursuant to section 105 of the Contract Work Hours and Safety Standards Act, the Department of Labor proposes to amend § 5.14 of its Regulations (29 CFR 5.14) to provide a variation from the overtime pay requirements of section 102 of the Act with respect to pilots and co-pilots of fixed-wing and rotary-wing aircraft employed by a contractor or subcontractor on government contracts, the principal purpose of which is the furnishing of fire fighting or suppression and related services.

DATE: Comments must be received on or before February 8, 1982.

ADDRESS: Comments should be sent to the Administrator, Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Room S-3502, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

FOR FURTHER INFORMATION CONTACT: Dorothy P. Come, Assistant Administrator, Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Room S-3502, 200 Constitution Avenue, N.W., Washington, D.C. 20210, Telephone: 202-523-8333.

SUPPLEMENTARY INFORMATION: Section 102 of the Contract Work Hours and Safety Standards Act requires the payment of one and one-half times the basic rate of pay for all hours worked in excess of eight in a day and 40 in a workweek. Section 105 of the Contract Work Hours and Safety Standards Act authorizes the Secretary to prescribe regulations allowing reasonable variations from the Act's requirements if the Secretary finds it "necessary and proper in the public interest to prevent injustice of undue hardship or to avoid serious impairment of the conduct of Government business".

The National Air Tankers Operators Association has requested an exemption from the Act's overtime pay requirements based upon their submission that (1) pilots and co-pilots engaged in fire fighting and related activities are generally paid substantial amounts as a result of receiving a regular salary plus additional amounts for hours of flying time, (2) the majority of overtime hours are caused by fire needs and involve significant amounts of highly paid flying time, and therefore pilots in effect generally receive a premium pay for working overtime, (3) the contractor often has little control over the hours worked by his employees as this is dictated by the Government based upon the current fire danger and the Government's common contractual right to dispatch aircraft and crew from their designated home base to alternate bases throughout the United States, (4) the calculation of overtime pay would be costly and extremely difficult for an employer because the hours of overtime worked vary greatly from week to week, and the pilots are not only often located at a considerable distance from the employer's principal base of operation but are moved from one location to another in response to the needs of the Government, and (5) an exemption would be consistent with the intent of Congress expressed in other statutes involving labor standards for fire fighting activities. Given these circumstances the Secretary of Labor proposes that a conditional variance from the overtime provisions of the Act for contractors and subcontractors employing pilots and co-pilots of fixed and rotary-wing aircraft on Government contracts for fire fighting and related services is necessary and proper in the public interest to prevent hardship and to avoid serious impairment of the conduct of Government business. Under the proposed variation, qualifying contractors and subcontractors would not be subject to the overtime pay requirement provided certain conditions are met: (1) Pursuant to written agreement between the contractor and employee, the employee must receive gross wages of not less than \$300 per week regardless of the total number of hours worked, and the amount of wages paid the employee in a workweek must not be less than the amount the employee would receive if he were paid the minimum hourly wage required by the Service Contract Act plus one and one-half times this minimum for all

overtime hours worked; and (2) the contractor must maintain accurate records of the hours worked by each pilot and co-pilot.

The enumerated conditions to the variance insure the wage protection for the employees involved and conform with the Act's remedial purposes.

Classification

This rule is not classified as a "major rule" under Executive Order 12291 on Federal Regulations, because it is not likely to result in (1) an annual effect on the economy of \$100 million or more; (2) a major increase in cost 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. Accordingly, no regulatory impact analysis is required.

The Department believes that the proposed rule will have no "significant economic impact upon a substantial number of small entities" within the meaning of section 3(a) of the Regulatory Flexibility Act, Pub. L. No. 96-354, 91 Stat. 1164 (to be codified at 5 U.S.C. 605(b)). The Secretary has certified to the Chief Counsel for Advocacy of the Small Business Administration to this effect. This conclusion is reached because the number of affected business entities is not substantial. Accordingly, no initial regulatory flexibility analysis is required. However, the proposed variation would relieve a substantial administrative burden on the impacted entities and obviate the possible necessity of altering existing pay structures. Therefore, the proposed regulation is within the spirit of the Regulatory Flexibility Act.

Regulatory Flexibility Act Certification

I, Raymond J. Donovan, Secretary of Labor, hereby certify, pursuant to 5 U.S.C. 605(b), that the proposed rule contained in 29 CFR Part 5, concerning a conditional variation from the Contract Work Hours and Safety Standards act will not have a significant economic impact on a substantial number of small entities.

Signed at Washington, D.C. this 31st day of December 1981.

Raymond J. Donovan,
Secretary of Labor.

PART 5—LABOR STANDARDS PROVISIONS APPLICABLE TO CONTRACTS COVERING FEDERALLY FINANCED AND ASSISTED CONSTRUCTION (ALSO LABOR STANDARDS PROVISIONS APPLICABLE TO NONCONSTRUCTION CONTRACTS SUBJECT TO THE CONTRACT WORK HOURS AND SAFETY STANDARD ACT)

In accordance with the foregoing, it is proposed that 29 CFR 5.14 be amended by adding a new subparagraph (4) of § 5.14(d) as set forth below.

§ 5.14 Limitations variations, tolerances, and exemptions under the Contract Work Hours and Safety Standards Act.

(d) Variations. * * *

(4) Any contractor or subcontractor performing on a government contract the principal purpose of which is the furnishing of fire fighting or suppression and related services, shall not be deemed to be in violation of Section 102 of the Contract Work Hour and Safety Standards Act for failing to pay the overtime compensation required by Section 102 of the Act in accordance with the basic rate of pay as defined in subsection (c)(1) of this section, to any pilot or co-pilot of a fixed-wing or rotary-wing aircraft employed on such contract if:

(i) Pursuant to a written employment agreement between the contractor and the employee which is arrived at before performance of the work,

(A) The employee receives gross wages of not less than \$300 per week regardless of the total number of hours worked in any workweek, and

(B) Within any workweek the total wages which an employee receives are not less than the wages to which the employee would have been entitled in that workweek if the employee were paid the minimum hourly wage required under the contract pursuant to the provisions of the Service Contract Act of 1965 and any applicable wage determination issued thereunder for all hours worked, plus an additional premium payment of one-half times such minimum hourly wage for all hours worked in excess of 8 hours in any calendar day or 40 hours in the workweek;

(ii) The contractor maintains accurate records of the total daily and weekly hours of work performed by such employee on the government contract.

In the event these conditions for the exemption are not met, the requirements of section 102 of the Contract Work Hours and Safety Standards Act shall be applicable to the contract from the

date the contractor or subcontractor fails to satisfy the conditions until completion of the contract.

(40 U.S.C. 327-332; Reorganization Plan No. 14 of 1950, 5 U.S.C. Appendix; 5 U.S.C. 301)

Signed at Washington, D.C. this 31st day of December 1981.

Raymond J. Donovan,
Secretary of Labor.

[FR Doc. 82-222 Filed 1-7-82; 8:45 am]

BILLING CODE 4510-27-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Parts 870, 872, 874, 875, 877, 879, 882, 884, 886, and 888

Notice Extending the Public Comment Period on the Proposed Revision of the Abandoned Mine Land Reclamation Program Regulations

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Extension of public comment period.

SUMMARY: OSM is extending the period for public review and comment on the proposed revision of 30 CFR Chapter VII, Subchapter R, the Abandoned Mine Land Reclamation Program (AML) regulations because of requests from the public for an extension.

DATES: The comment period on the proposed rules will extend until 5:00 p.m., February 1, 1982. Comments received after that time will neither be considered nor included in the administrative record.

A public hearing will be held on January 8, 1982, from 9:00 a.m. to 12:00 noon at the following location: Main Auditorium, U.S. Department of the Interior, 18th and C Streets, NW, Washington, D.C. The public hearing is discussed under "Supplementary Information" below.

ADDRESSES: Written comments must be mailed to Administrative Record (AML-01), Office of Surface Mining, Room 5315, 1100 "L" Street, NW., Washington, D.C. 20240. Hand delivered comments may be carried to either: Office of Surface Mining, Room 239, South Interior Building, 1951 Constitution Ave., NW, Washington, D.C. or Office of Surface Mining, Room 5315, 1100 "L" Street, NW, Washington, D.C. All comments, notices of public meetings, and summaries of meetings will be available for inspection in Room 5315, 1100 "L" Street, NW, Washington, D.C.

FOR FURTHER INFORMATION CONTACT:
Don Willen, Chief, Division of
Abandoned Mine Land Reclamation,
Office of Surface Mining, U.S.
Department of the Interior, South
Interior Building, 1951 Constitution
Avenue, NW, Washington, D.C. 20240;
Telephone (202) 343-7951.

SUPPLEMENTARY INFORMATION:

Public Hearing

Individual testimony at the hearing will be limited to 15 minutes. The hearing will be transcribed. Filing of a written statement at the time of giving oral testimony would be helpful and facilitate the job of the court reporter. Submission of written statements to the person identified under "For Further Information Contact" in advance of the hearing date will assist the OSM officials by giving them an opportunity to consider appropriate questions which could be used to clarify the statement or elicit more specific information from persons testifying.

Those wishing to testify at the Washington, D.C. hearing should contact: Don Willen, Chief, Division of Abandoned Mine Land Reclamation, 1951 Constitution Avenue, NW, Washington, D.C. 20240, (202) 343-7951.

Persons in the audience who have not been scheduled to speak and wish to do so should register at the hearing and will be heard after the scheduled speakers. Persons not scheduled to testify assume the risk of having the hearing adjourned if they are not present when all scheduled speakers conclude.

Public Meetings

Representatives of OSM will be available to meet between December 11, 1981, and February 1, 1982 at the request of members of the public, State representatives, industry officials, labor representatives and environmental organizations to receive advice and recommendations concerning the content of the proposed regulations.

OSM representatives will be available for such meeting from 9:00 a.m. to noon and 1:00 p.m. to 4:00 p.m., local time, Monday through Friday, excluding holidays. Summaries of each meeting will be prepared and made available for public review in Room 153 of the South Interior Building.

Persons wishing to meet with representatives of OSM during this time period may request a meeting at the Washington Office or any of the five Regional Offices. Persons to contact to schedule such meetings are as follows: Washington—Don Willen, 202/343-7951
Charleston, W. Va.—Robert Biggi, 304/342-8125

Knoxville, Tennessee—Ralph Cox, 615/637-8060

Indianapolis, Indiana—Richard McNabb, 317/269-2646

Kansas City, Missouri—Dan Jones, 816/374-5162

Denver, Colorado—Wayne Oliver, 303/837-5918

Availability of Copies

Copies of these proposed regulations may be obtained from the Office of Surface Mining, Administrative Record Room (AML-01), Room 5315, 1100 L St., N.W., Washington, D.C. 20240, Telephone 202/343-7896 or any of OSM's regional offices.

Summary of Program

The Abandoned Mine Land Reclamation Program was established by the Surface Mining Control and Reclamation Act of 1977, (SMCRA) Pub. L. 95-87, 30 U.S.C. 1201 et seq. in response to concern over extensive environmental damage caused by past coal mining activities. The Abandoned Mine Reclamation Fund derives its financing from Title IV of SMCRA which establishes a fee on coal production for the purpose of financing specified Federal, State and Indian reclamation programs. Programs funded by congressional appropriation include grants to States and Indian Tribes to plan and carry out reclamation programs and projects; direct Federal reclamation projects carried out by the Secretary of the Interior through the Office of Surface Mining and other Interior agencies and the Rural Abandoned Mine Lands Program (RAMP) administered by the Secretary of Agriculture and carried out by the Soil Conservation Service.

On October 25, 1978, OSM published final regulations implementing an abandoned mine land reclamation program incorporating the provisions of Title IV of the Act. The regulations established procedures and requirements for the preparation and implementation of State and Indian reclamation programs, consisting of reclamation plans, submission of annual projects and applications for annual grants. Additional parts of this subchapter include provisions for Federal, State and Indian Abandoned Mine Reclamation Funds, general reclamation objectives, rights-of-entry, liens, emergency reclamation acquisitions, disposition of lands and waters, reclamation on private lands, and Indian reclamation programs.

Regulations relating to the amount and collection of fees were promulgated in 30 CFR Part 837 on December 31, 1977

(42 FR 62713). This part has since been redesignated as Part 870.

Information Collection and Recordkeeping Requirements

The information collection requirements in the existing AML rules were approved by the Office of Management and Budget (OMB) under 44 U.S.C. 3507. Those approvals were identified in "notes" at the introductions to 30 CFR Parts 870, 872, 877, 879, 882, 884, and 886. OSM will delete those "notes" and codify the OMB approvals under new sections 10 in each of those Parts that contain information collection requirements. OSM is requesting OMB approval of the following new information collection requirements being proposed in this rulemaking: Sections 870.15, 870.16, 877.11, 877.12(b), 879.11(b)(2) and 879.12(a). OSM is also requesting OMB to reapprove the following existing information collection requirements being repropounded in this rulemaking: Sections 870.12, 870.17, 872.11(b), 872.12 (a) & (b), 877.13(b) & (c), 879.13, 879.15, 882.12, 882.13(b), 882.14(b), 884.13, 884.15, 886.14, 886.15, 886.18(c)(2), and 886.24. This information is being collected to insure the adequate implementation of approved reclamation programs and to enforce the fee provisions of Pub. L. 95-87. OSM, States and Indian tribes will use the information.

The obligation to respond is required and will benefit the States and Tribes by enabling the allocation of funds for State/Indian reclamation plans and projects.

Extension of Public Comment Period

On December 11, 1981, OSM published notice (46 FR 60778-60798) of the public hearing and public comment period on the proposed revised rules. The public comment period was scheduled to close on January 11, 1982. Since that publication, OSM has received a number of requests to extend the public comment period. In order to ensure that all interested persons are afforded an adequate opportunity to comment, OSM is extending the comment period until 5:00 p.m., February 1, 1982. This announcement is made in keeping with OSM's commitment to ensuring maximum public participation as an integral part of the Surface Mining Control and Reclamation Act of 1977.

Date: January 4, 1982.

J. R. Harris,

Director, Office of Surface Mining,

[FR Doc. 82-446 Filed 1-7-82; 8:45 am]

BILLING CODE 4310-05-M

**ENVIRONMENTAL PROTECTION
AGENCY****40 CFR Part 65**

[Docket No. 9-82-3; AEN-FRL-2023-4]

**Proposed Delayed Compliance Order
for Hawaiian Electric Company, Inc.,
Kahe, Oahu, Hawaii****AGENCY:** Environmental Protection
Agency.**ACTION:** Proposed rule.

SUMMARY: EPA proposes to issue a Federal Delayed Compliance Order (DCO) to the Hawaiian Electric Company, Inc. (hereinafter "HECO") power plant at Kahe, Hawaii. Such Order would be applicable to Units 1-5 of the power plant and would be issued as an Innovative Technology Order under the Federal Clean Air Act (CAA). EPA has determined that compliance with Prevention of Significant Deterioration (PSD) Permit HI 78-02 is impracticable because of high fuel costs and therefore proposes to issue a DCO to HECO in order for HECO to achieve compliance through the use of a new means of emission control technology—a seawater scrubber. During the first two years the program will consist of a research program to determine the feasibility of installing a seawater scrubber as well as a monitoring program to determine the appropriate level of control. The permit requires the use of fuel oil containing no more than 0.5% sulfur by weight, but HECO will be allowed to burn sulfur fuel oil containing up to 2.0% sulfur by weight during the term of the DCO unless after the initial two (2) year research and monitoring program EPA determines either that constant control technology is not feasible or that a different level of sulfur control is adequate. A contingency plan to protect public health during adverse air quality conditions is also provided for during the term of the DCO. Source compliance with the DCO will preclude suits under the Federal enforcement and citizen suit provisions of the CAA for violations of the permit.

DATES: Written comments must be received on or before February 8, 1982, and requests for a public hearing must be received on or before January 25, 1982. All requests for public hearing should be accompanied by a statement of why the hearing would be beneficial and a text or summary of any proposed testimony to be offered at the hearing. If there is significant public interest in a hearing, it will be held after twenty-one days prior notice of the date, time, and place of the hearing has been given in this publication.

ADDRESSES: Comments and requests for a public hearing should be submitted to Director, Air and Hazardous Materials Division, EPA, Region 9, 215 Fremont Street, San Francisco, California 94105. The DCO, and supporting materials, including the research, monitoring, and contingency plans, and public comments received in response to this notice, may be inspected and copied (for appropriate charges) at this address during normal business hours. A copy of the DCO, and supporting materials may also be inspected and copied at the Hawaii office, EPA Region 9, Pacific Island Contact Office, 300 Ala Moana Boulevard, Room 1302, Honolulu, Hawaii. The research, monitoring, and contingency plans submitted by HECO will be approved by EPA after the public comment period, assuming that no significant adverse comments are received which would lead EPA to disapprove such plans or the underlying DCO.

FOR FURTHER INFORMATION CONTACT:

David P. Howekamp, Chief, Air Programs Branch, Air and Hazardous Materials Division, Environmental Protection Agency, Region 9, 215 Fremont Street, San Francisco, CA 94105, Phone: (415) 974-8250.

SUPPLEMENTARY INFORMATION:

HECO operates a power plant at Kahe consisting of six units approximately 18 miles West of the Honolulu metropolitan area on the Island of Oahu, Hawaii. All of the units are oil-fired steam generating units. In 1978 the Kahe facility consisted only of Units 1-5. HECO however proposed to construct a 6th unit and PSD Permit HI 78-02 was issued on January 25, 1979. This permit authorized construction of Kahe Unit No. 6, but also imposed conditions applicable to existing Units 1-5. The permit required that Units 1-5, as well as Unit No. 6, burn fuel containing no more than 0.5% sulfur by weight. The permit further required that the stack for Units 1-5 be raised to a height of 300 feet. At the time that the PSD permit was being considered for the Kahe facility, HECO considered a number of emission control options including a traditional limestone scrubber or a fuel oil desulfurization plant. HECO concluded that both of these options presented environmental problems and were substantially more expensive than low sulfur fuel oil. Seawater scrubbers at that time were not developed to a point where they were considered a reliable alternative and are still considered innovative. HECO's experience with the purchase of low sulfur fuel oil (LSFO) indicated that a price differential between low and high sulfur fuel was approximately 3%

making use of 0.5% sulfur fuel oil a significant less costly means of compliance. For these reasons the permit required the use of LSFO, as well as increasing the height of the existing stack, as the means for achieving compliance. Since the time the permit was issued HECO has examined its compliance efforts for Units 1-6 and has reportedly encountered two serious problems with the conditions of the permit. First, the economic conditions upon which original compliance was chosen have changed. Since the permit conditions were imposed, the price differential between low and high sulfur fuel oil (0.5% versus 2.0% sulfur content fuel) has escalated. The price differential between these fuels is approximately \$13.00 per barrel in late 1981 based on HECO's geographic location and present long term contract. Given HECO's current rate of fuel consumption at the Kahe facility, the additional cost associated with the use of LSFO, over the cost of the fuel used prior to the issuance of the permit, is approximately \$63 million per year. Most other locations in the United States are subject to a much lower price differential. For a remote island with the highest cost of living in the United States (except for Alaska) the increase in expenditures for electricity due to the cost of LSFO is extremely difficult for consumers to absorb. The Governor of Hawaii, the State legislature, the Hawaii Department of Health (DOH) and the City and County of Honolulu all have expressed serious concern over the implications of the current permit conditions. Secondly, HECO states that data and studies developed by HECO indicate that the PSD permit conditions may result in more stringent control than is required by the PSD regulations and that National Ambient Air Quality Standards (NAAQS) can be attained with less stringent permit conditions. HECO also contends that ground level monitoring that it has done supports this view.

During the initial technology development phase of the Order, data will be developed on the performance characteristics of this new technology. This Order is premised on Seawater Scrubbers providing equivalent emissions reduction at lower cost in terms of economic, energy, or non air environmental impact, as provided for in Section 113(d)(4)(C)(ii) of the Act. Should the data indicate the statutory criteria in Section 113(d)(4)(C)(ii) are not met, the Order provides for revision of the terms of the Order to require compliance by alternative means of emission limitation. HECO will develop data on the long-term feasibility of the

technology to achieve emission reductions under the conditions at Kahe. Information on environmental impacts, energy usage, and capital and operating costs of the system will also be developed for comparison with other means of emission limitation. The statute imposes no precise formula for weighing these factors, and some costs, such as long-term fuel prices, cannot be estimated with great accuracy. Other factors, such as reliability and risk of interruption of operations, must also be assessed in determining whether Seawater Scrubbers will achieve the emission reductions at lower cost.

The purpose of the Order and the initial development program is to insure that Seawater Scrubbers will achieve long-term compliance at lower cost. If, after the development stage of the Order, HECO determines that it does not appear Seawater Scrubbers will achieve the benefits contemplated by the statutory criteria of section 113(d)(4)(C)(ii) upon expiration of the Order, it may request revision of the Order. EPA will make the necessary revisions to the Order to provide for compliance by alternative means of emission limitation.

The Order may also be revised to reflect changes in the conditions of PSD Permit HI 78-02. The Order requires HECO to conduct an air quality monitoring program around the Kahe facility to provide additional data on the impact of emissions from the plant. Where the monitoring data indicate revised emission limitations for Kahe Units 1-5 are justified under applicable laws and regulations, EPA will promptly revise the permit to impose the alternative emission limitations, which may be more or less stringent than the current permit conditions. No permit revision imposing less stringent emission limitations will be granted unless HECO adheres strictly to the requirements of the air quality monitoring program. Because the Order is based on Kahe Units 1-5 controlling emissions to meet the current permit conditions, the Order provides for revision of the Order upon EPA's determination that it will change the underlying permit conditions.

During spring, summer, and fall months, the prevailing trade winds normally blow over the Island of Oahu from the northeast to the southwest, carrying the plumes out over the Pacific Ocean. Thus, it appears that only during the winter months is there any possibility of adverse air quality conditions. However, at Units 1-5 a contingency plan has been developed to require the use of LSFO during any such

air conditions. Unit No. 6 is unaffected by the DCO and will continue to be subject to applicable New Source Performance Standards (NSPS) and to the requirements of PSD Permit HI 78-02.

After a thorough evaluation, EPA has determined that HECO's proposed seawater scrubber does constitute a new means of emission limitation as defined by section 113(d)(4) of the CAA. In addition, EPA has determined that compliance at this time by HECO is impracticable because of the high fuel costs associated with compliance and that such compliance during the interim period covered by the proposed order is further impracticable because of such costs. In addition, EPA has determined that the use of LSFO during adverse air quality conditions, represents the best means of interim compliance as provided by section 113(d)(7). EPA, therefore, has determined that all requirements of 113(d)(4) are met and proposes to issue such Order. HECO has consented to the terms of the DCO and has agreed to meet the DCO's requirements during the period of this order. If the DCO is issued, compliance with its terms would preclude EPA enforcement against Units 1-5 of the HECO power plant for violation of PSD Permit HI 78-02 while the DCO is in effect. Enforcement against the source under the citizen suit provision of the Clean Air Act (section 304) would be similarly precluded.

Comments received by the date specified above will be considered in determining whether EPA should issue the DCO. Testimony given at any public hearing concerning the DCO will also be considered. After the public comment period and any public hearing, the Administrator of EPA will publish in the *Federal Register* the Agency's final action on the DCO in 40 CFR Part 65.

(Sections 113 and 301 of the Clean Air Act, as amended (42 USC 7413 and 7601).)

Dated: December 1, 1981.

Sonia F. Crow,

Regional Administrator, Environmental Protection Agency, Region 9.

In consideration of the foregoing, it is proposed to amend Subpart M of Part 65 of Chapter I, of Title 40 of the Code of Federal Regulations, as follows:

PART 65—DELAYED COMPLIANCE ORDER

§ 65.160 [Amended]

1. By amending the table in § 65.160 Federal delayed compliance orders issued under sections 113(d)(1), (3), and (4) of the Act, to reflect approval of the

following order: Docket No. 9-82-3. The text of the order reads as follows:

Before The United States Environmental Protection Agency—Region 9

In the matter of Hawaiian Electric Company, Inc. proceeding under section 113(d)(4) of the Clean Air Act, as Amended, Docket No. ———.

Delayed Compliance Order

This Order applicable to Units 1-5 at the Hawaiian Electric Company, Inc. (hereinafter "HECO") power plant at Kahe, Hawaii, is issued this date pursuant to section 113(d)(4) of the Clean Air Act, as amended (hereinafter referred to as the "Act"), 42 U.S.C. 7413(d)(4), and contains a schedule for compliance, interim control requirements, and reporting requirements. Public notice, opportunity for public hearing, and thirty (30) days' notice to the State of Hawaii have been provided pursuant to section 113(d)(1) of the Act.

Findings

1. HECO operates a power plant at Kahe, Oahu, Hawaii, consisting of six generating units. Prevention of Significant Deterioration (PSD) Permit HI 78-02 issued by the Regional Administrator, Environmental Protection Agency, Region 9 (hereinafter "U.S. EPA"), on January 25, 1979, authorizing construction of Kahe Unit No. 6, limits emission of sulfur dioxide from Kahe Units 1-5 as well as Unit No. 6 by requiring the use of fuel oil containing no more than 0.5 percent sulfur by weight.

2. Significant cost and fuel availability problems associated with the low sulfur fuel required by the permit make HECO's compliance with the permit conditions for Units 1-5 impracticable. Alternative control options should be established to insure compliance with Federal and State air pollution requirements, and innovative technologies may provide the most reliable alternative.

3. The Director of the State of Hawaii Department of Health (DOH) has agreed to the issuance of a Federal delayed compliance order (DCO) pursuant to section 113(d)(4) of the Act for Units 1-5 to allow HECO to develop and install means of emission limitation that will insure long-term compliance with National Ambient Air Quality Standards (NAAQS).

After a thorough investigation of all of the relevant facts, U.S. EPA has determined that:

1. HECO is proposing an alternative control system that is a new means of emission limitation for control of sulfur dioxide emissions from fossil-fuel fired steam electric plants of this size;

2. This new means of emission limitation is an innovative technology that is likely to be demonstrated upon expiration of this Order;

3. This new means of emission limitation has a substantial likelihood to achieve final compliance at lower cost in terms of economic, energy, or non-air quality environmental impact over conventional methods and technology;

4. Such new means of emission limitation is not likely to be used without this Order;

5. Compliance with the terms of PSD Permit No. HI 78-02 for Units 1-5 is impracticable prior to or during installation of the new means;

6. The issuance of this Order is consistent with the policy and intent of section 113(d)(4) of the Act;

7. The Order requires HECO to use the best practicable system of emissions reduction during the period the Order is in effect; and

8. The timetable and final compliance is as expeditious as practicable.

Order

After a thorough investigation of all relevant facts, including public comment, it is determined that the schedule set forth in this Order is as expeditious as practicable, and the terms of this Order comply with section 113(d) of the Act.

Therefore, it is hereby Agreed an Order that:

A. HECO shall proceed on a development program directed toward installation of the Flakt Hydro Flue Gas Desulfurization System or equivalent (hereinafter referred to as "Seawater Scrubbers") at the Kahe power plant as a means of continuous emission control in order to attain and maintain NAAQS for sulfur dioxide and to comply with PSD Permit HI 78-02.

B. The development program set out in paragraph A shall include biological and environmental research on the marine ecosystem and on other non-air environmental conditions around the Kahe facility, including potential adverse effects of Seawater Scrubbers, review of the optimum size and configuration of Seawater Scrubbers for the Kahe power plant, analysis of the technical and economic performance characteristics of Seawater Scrubbers in contrast to alternative means of emission limitation, and analysis of the long-term reliability of Seawater Scrubbers.

C. Such development program shall be known as the "HECO Development Program for Seawater Scrubbers at Kahe," as more particularly defined in that document bearing such name, approved by EPA on _____. The development program and the increments of progress set forth in such document shall be a part of this Order and enforceable under paragraph P.

D. HECO shall submit quarterly progress reports on its development program and the increments of progress contained therein to U.S. EPA in accordance with the following schedule:

(1) Within five months of the effective date of this Order, a report summarizing progress during the first three months of the program.

(2) Every three months thereafter, a quarterly report summarizing progress in the preceding quarterly period.

(3) A final report to be completed within 24 months following the effective date of this Order.

E. At the end of the 24-month period following issuance of this Order, HECO shall either:

(1) submit to U.S. EPA a schedule containing increments of progress (as

specified in 40 CFR 51.1(q)) for installation and operation of Seawater Scrubbers, or

(2) invoke the provisions of paragraph G of this Order.

F. Any compliance schedule submitted under paragraph E (1) shall require compliance with PSD Permit HI 78-02, or emission limitations for sulfur dioxide equivalent to those required by Permit HI 78-02, as expeditiously as practicable, but no later than February 20, 1986.

G. (1) The U.S. EPA and HECO recognize that the bases of this Order include:

(a) the requirement of PSD Permit HI 78-02 that Kahe Units 1-5 use fuel with sulfur content not exceeding 0.5 percent by weight, and

(b) the Administrator's determination that Seawater Scrubbers have a substantial likelihood of achieving continuous emission reduction equivalent to that required by PSD Permit HI 78-02 at lower cost within the meaning of section 113(d)(4)(C)(ii) of the Clean Air Act.

(2) U.S. EPA recognizes that a change in either of these two bases would constitute grounds for revision of the terms of this Order. Such a change could result from

(a) a determination by EPA that the 0.5 percent sulfur fuel requirement of PSD Permit HI 78-02 should be amended, as a result of the air quality monitoring program described in the document "Kahe Air Quality Monitoring Program," approved by EPA on _____, or

(b) a determination by HECO, based upon the development program referred to in paragraphs A-C of this Order and other relevant data, that Seawater Scrubbers no longer appear to have a substantial likelihood of achieving emission reductions upon expiration of this Order equivalent to those required by PSD Permit HI 78-02 at lower cost within the meaning of section 113(d)(4)(C)(ii) of the Clean Air Act.

(3) HECO may request a revision of this Order based upon EPA's determination that PSD Permit HI 78-02 should be amended or upon HECO's determination set forth in subparagraph (2)(b) of this paragraph G. Any such revision will be accomplished by notification to HECO by U.S. EPA of approval of the request and will thereupon be considered incorporated herein by reference. Such notification will be published in the **Federal Register**. EPA agrees to grant such approval for any request which is in accordance with the procedures and criteria of this paragraph G.

H. If this Order is revised under paragraph G to provide for compliance with PSD Permit HI 78-02 solely by means of the sulfur content of fuel oil, such compliance shall be as expeditiously as practicable but no later than six months from the date of approval by U.S. EPA of HECO's request. If this Order is revised under paragraph G to provide for compliance with PSD Permit HI 78-02 by other means, such compliance shall be as expeditiously as practicable but no later than February 20, 1986.

I. Within 60 days of completion of construction of the Seawater Scrubbers or

alternative control means, HECO shall achieve compliance with the requirements of PSD Permit HI 78-02 applicable to Units 1-5 or any revision thereto. HECO shall submit performance test results to U.S. EPA to demonstrate such compliance. Such performance tests shall be conducted in accordance with 40 CFR 60.8 and 60.46.

J. HECO shall provide the U.S. EPA and the DOH at least 30 days' notice prior to conducting any performance tests in order to afford EPA and DOH an opportunity to evaluate the proposed test methods and procedures to be used and to enable the agencies to have an observer present at such testing.

K. During the term of this Order, the sulfur content of the fuel oil burned at Units 1-5 of the Kahe power plant shall not exceed 2.0 percent sulfur by weight. EPA has determined that this is the best practicable system of emission reduction during the period the Order is in effect.

L. HECO shall be required to carry out the contingency plan described in the document "Kahe Contingency Plan" as approved by EPA on _____. Such Plan shall be a part of this Order, enforceable under paragraph P, and shall be implemented during adverse air quality conditions as more particularly described in the approved plan and shall remain in effect until the termination of this Order. If such contingency plan is amended at any time during the term of this Order a copy of such amended contingency plan shall be immediately submitted to EPA for approval. The requirements of the approved contingency plan shall remain in effect, unless and until such amended plan is approved by EPA. EPA has determined that the use of low sulfur fuel oil during adverse air quality conditions, as defined by the contingency plan, represents the best practicable system of interim emission reduction during the term of this Order and therefore satisfies the requirements of section 113(d)(7) of the Act.

M. HECO shall notify EPA in writing of its compliance or noncompliance (and reason therefor) with any incremental step or final compliance date provided in this Order within 15 days after the date the action was required. If any delay is anticipated in meeting any requirements of this Order, HECO shall immediately notify EPA in writing citing the reasons for the anticipated delay. Such notification does not excuse the delay. All submittals and notifications to EPA pursuant to this Order shall be made to the Regional Administrator, Region 9, U.S. EPA, 215 Fremont Street, San Francisco, California 94105, or such other persons as specified by EPA. In addition, all submittals and notifications to EPA required by this Order shall be transmitted simultaneously to the DOH.

N. Nothing contained in these Findings or Order shall affect HECO's responsibility to comply with State of Hawaii laws or regulations or other Federal laws or regulations during the term of this Order.

O. HECO is hereby notified that its failure to meet the interim requirements of this Order or to achieve final compliance by February 20, 1986, or such earlier date as may be required in a revised compliance schedule established in accordance with paragraph H. at the source covered by this Order may result in a requirement to pay a noncompliance penalty in accordance with section 120 of the Act, 42 U.S.C. 7420. In the event of such failure, HECO will be formally notified pursuant to section 120(b)(3), 42 U.S.C. 7420(b)(3) and any regulations promulgated thereunder of its noncompliance.

P. Violation of any requirement of this Order shall result in one or more of the following actions:

(1) Enforcement of requirements pursuant to section 113(a), (b) or (c) of the Act, 42 U.S.C. 7413(a), (b) or (c), including possible judicial action for any injunction and/or penalties and in appropriate cases criminal prosecution.

(2) Revocation of this Order, after notice and opportunity for public hearing, and subsequent enforcement of PSD Permit HI 78-02 in accordance with the preceding paragraph.

Q. HECO is protected by section 113(d)(10) of the Act against Federal enforcement action under section 113 of the Act and citizen suits under section 304 of the Act for violation of PSD Permit HI 78-02 as applicable to Units 1-5 during the period the Order is in effect and HECO remains in compliance with the terms of such Order.

R. Nothing herein shall be construed to be a waiver by the Administrator of any rights or remedies under the Act, including, but not limited to, section 303 of the Act, 42 U.S.C. 7603.

S. This Order shall be terminated in accordance with section 113(d)(8) of the Act if the Administrator or her delegate determines on the record, after notice and hearing, that an inability to comply with PSD Permit HI 78-02 no longer exists.

T. This Order shall become effective upon final promulgation in the Federal Register.

Dated:
Administrator, U.S. Environmental Protection Agency.

HECO has reviewed this Order, consents to the terms and conditions of this Order, and considers it to be a reasonable means by which HECO can achieve final compliance with PSD Permit HI 78-02 or any revision thereto adopted consistent with this Order.

Dated:
Hawaiian Electric Company, Inc.

Peter C. Lewis,
By its Vice President.
C. Dudley Pratt,
By its President.

[FR Doc. 82-413 Filed 1-7-82; 8:45 am]
BILLING CODE 6560-38-M

40 CFR Part 86

[AEN-FRL-2024-6]

Application for Waiver of Effective Date of 1981 Model Year Carbon Monoxide Emission Standard for Light-Duty Motor Vehicles; Request for Public Comments and Opportunity for Hearing

AGENCY: Environmental Protection Agency (EPA).

ACTION: Request for public comments and notice of opportunity for a hearing.

SUMMARY: This notice requests public comment and provides interested parties with an opportunity to request a hearing to consider an application that General Motors Corporation (GM) submitted to EPA on December 17, 1981. The application is for a waiver of the 1981 model year carbon monoxide (CO) exhaust emission standard for its 3.8 liter(L), 4.4L and 5.0/5.7L engine families. Based on information currently before me, and assuming the public comments and testimony, if any, do not persuade me to the contrary, I am inclined to grant a waiver for these engine families because they all appear to qualify according to the same rationale under which EPA has granted CO waivers to other engine families.

DATES: EPA has scheduled a public hearing on January 27, 1982, beginning at 9:00 a.m. to consider GM's waiver application. Parties desiring to testify should notify the Manufacturers Operations Division, as noted below, not later than January 25, 1982.

Interested parties may also submit written comments to the public docket on this waiver application until January 29, 1982, to ensure that I can consider these comments in my evaluation of this waiver application. If no party testifies at the hearing, EPA will consider the waiver application based on written submissions to the record.

ADDRESSES: The hearing will be held at the Manufacturers Operations Division Conference Room, 499 South Capitol St., S.W., 3rd floor, Washington, D.C. 20460. Parties wishing to testify at the hearing should notify Mr. Michael Chernekoff as noted below. Parties wishing to submit written comments should direct their submissions to the Director, Manufacturers Operations Division (EN-340), U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460.

Information submitted by GM, as well as any comments received from interested parties, will be available for public inspection and copying in EPA Public Docket EN-81-6, located in EPA's

Central Docket Section (A-130), Gallery I, 401 M Street, S.W., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Michael Chernekoff, Attorney/Advisor, Manufacturers Operations Division (EN-340), 401 M St., S.W., Washington, D.C. 20460, (202) 382-2521.

SUPPLEMENTARY INFORMATION: Section 202(b)(5) of the Clean Air Act, as amended (Act) (42 U.S.C. 7521(b)), authorizes EPA to waive application of the 1981 and 1982 model year statutory CO emission standard applicable to light-duty motor vehicles and engines upon the request of a manufacturer for a specific vehicle model if the Administrator makes certain findings specified under section 202(b)(5)(C) of the Act.

On December 17, 1981, GM submitted an application for a waiver of the 1981 model year statutory CO standard for its 3.8L, 4.4L and 5.0/5.7L engine families. These engine families were manufactured by GM's Chevrolet Motor Division and were used in 1981 GM A-Body, B-Body and F-Body cars. The GM application asserted that these engine families qualify for waivers under the same rationale EPA used to grant waivers in EPA's other CO waiver decisions. After my initial review of GM's submission it appears that the three GM engine families will likely qualify for a waiver under that rationale.

GM's states that service information indicates that vehicles of these engine families are experiencing unanticipated problems with their emission control hardware. Specifically, GM explains that the pelleted dual-bed catalytic converter on some vehicles of these engine families become "plugged" causing high back pressure in the exhaust system. This converter plugging condition, which is occurring at relatively low mileage, manifests in poor engine performance which causes a noticeable loss of power and thus adversely affects vehicle driveability.

GM indicated that a waiver of the 3.4 grams per mile (g/mi) statutory standard to an interim standard of 7.0 g/mi could enable GM to install replacement pelleted single-bed (three way) converters on affected cars. GM has not fully diagnosed the problem, though GM considers this to be its most expeditious solution at the present time. Data submitted by GM indicate that these engine families, when utilizing the single-bed converter, generally exhibit CO emissions slightly above the 3.4 g/mi statutory standard, but also generally exhibit higher fuel economy and lower oxides of nitrogen (NO_x) emissions.

Therefore, GM has applied for waivers for these engine families, indicating that waivers could provide GM with the flexibility to restore these vehicles, which constituted a significant portion of GM's 1981 model year production, to their original level of driveability. The improved driveability as well as better fuel economy of these vehicles potentially realized by the replacement catalytic converter could make them more attractive to consumers, and could improve the competitiveness of GM's entire product line.

The serious financial difficulties from which certain automobile manufacturers, GM included, currently are attempting to recover are well known, as are the problems which those difficulties pose for the national economy and employment. In light of the current market situation, GM could use the flexibility which waivers could provide to benefit its market competitiveness and, thereby, continue to improve its financial position.

The concerns which GM has identified in its application are comparable to those which the Court in *International Harvester v. Ruckelshaus*, 478 F. 2d 615 (D.C. Cir. 1973), indicated EPA should take into account in weighing the risks of erroneously denying a request for a one year suspension of the effective date of two statutory standards mandated by the 1970 version of the Act. At a time when members of the automobile industry are facing significant problems in many areas, the public interest to be served by granting waivers must be carefully balanced against the environmental benefits which denials in this instance would likely achieve. EPA relied upon concerns of these types in recent CO waiver decisions. In those decisions, EPA granted waivers, in part, because it recognized the significance of the current economic circumstances and the flexibility which waivers could provide to manufacturers experiencing economic difficulties to improve the fuel economy, driveability or cost of the engine families receiving waivers.

At this point in the proceeding, it appears that GM's 3.8L, 4.4L and 5.0/5.7L engine families fit under the same rationale that EPA employed to grant waivers in those CO waiver decisions. A thorough analysis of GM's application and any public comments and testimony must still be undertaken. However, based on my initial review of the information presently before me, I am inclined to grant CO waivers for these engine families based on the rationale described above.

I am now requesting public comments and providing an opportunity for a public hearing. EPA plans to hold the hearing on January 27, 1982. The procedures under which the hearing will be held are the same as those EPA has employed for previous CO hearings (See 46 FR 21629 (April 7, 1981)).

Interested parties may submit written comments to the public docket until January 29, 1982, to ensure that I can consider those comments in formulating this waiver decision. At the hearing, the Agency will make a verbatim record of the proceeding. Interested persons may obtain a copy of the transcript from the Manufacturers Operations Division or the Public Docket by so arranging with the reporter during the hearing. I will base determinations with regard to GM's waiver requests on the record of the public hearing, if any, and on any other relevant written submissions submitted to, or otherwise included in, the record. This information will be available for public inspection at the EPA Central Docket Section in docket number EN-81-6. Interested parties may obtain copies of documents in the public docket as provided in 40 CFR Part 2.

Under Executive Order 12291, EPA must judge whether an action is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. This action is not major because it only announces the Agency's inclination regarding a waiver request for three models produced by one manufacturer, and requests comments and provides an opportunity for a hearing on that waiver request. This action does not grant or deny the request. Moreover, if EPA does eventually grant the request it is not likely to 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 applicant, GM, indicated that if EPA granted the waiver, GM would be able to restore these vehicles to their original level of driveability. Improved driveability as well as better fuel economy could enable GM to improve its competitive position in the marketplace.

Dated: December 31, 1981.

John W. Hernandez, Jr.,
Acting Administrator.

[FR Doc. 82-479 Filed 1-7-82; 8:45 am]
BILLING CODE 6560-26-M

40 CFR Part 799

[OPTS-42008; TSH-FRL-2005-2]

Phenylenediamines; Response to Interagency Testing Committee

AGENCY: Environmental Protection Agency (EPA).

ACTION: Advance notice of proposed rulemaking.

SUMMARY: Section 4(e) of the Toxic Substances Control Act (TSCA) established an Interagency Testing Committee to recommend to the Administrator of the EPA a list of chemical substances and mixtures to be considered for the development of test rules under TSCA section 4(a). On May 28, 1980, the ITC recommended that the class phenylenediamines be considered for testing for their toxic effects on human health and the environment. EPA currently feels that toxicological data for the phenylenediamines and the exposure potential of thirteen PDAs are sufficient to warrant proposing those 13 of the 47 chemicals recommended by the ITC for testing under section 4(a)(1)(A). EPA is considering the desirability of placing 34 additional phenylenediamines whose production is low or unknown or that are not currently in production, under other regulatory authority such as section 5(a) significant new use rule or a section 8(a) reporting rule.

DATE: Written comments should be submitted on or before March 9, 1982.

ADDRESSES: Written comments should be addressed to: Document Control Officer, (TS-793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-401, 401 M St., SW., Washington, D.C. 20460.

Comments should bear the identifying notation OPTS 42008. The administrative record, including comments, is available for public inspection in Rm. E-107 at the address noted above from 8:00 a.m. to 4:00 p.m. Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: Dr. Douglas Bannerman, Acting Director, Industry Assistance Office (TS-799), Office of Toxic Substances, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460, Toll

free: (800-424-9065). In Washington D.C.: (554-1404). Outside the USA: (Operator-202-544-1404).

SUPPLEMENTARY INFORMATION:

I. Introduction

Section 4(a) of TSCA authorizes the Administrator of EPA to promulgate regulations requiring testing of chemical substances and mixtures in order to develop data relevant to determining the risks that such chemicals may present to health and the environment.

In order to make a section 4(a)(1)(A) finding, EPA must determine that the manufacture, distribution in commerce, processing, use or disposal of a chemical substance or mixture, or any combination of such activities, may present an unreasonable risk of injury to health or the environment, that insufficient data exist to characterize the potential effects of that chemical to human health and the environment, and that testing is necessary to develop such data. In order to make a section 4(a)(1)(B) finding, EPA must determine that a substance is produced in substantial quantities and that there is or may be significant or substantial human exposure or substantial environmental release of that substance, that there are insufficient data to characterize the potential effects of that chemical to human health and the environment, and that testing is necessary to develop such data.

Section 4(e) of TSCA established the Interagency Testing Committee (ITC) to recommend chemicals to the Administrator of EPA for priority consideration for test rules under section 4(a). The Committee may at any one time designate up to 50 of its recommendations for priority attention by EPA. Within 12 months of that designation, EPA either must initiate rulemaking to require testing or publish in the *Federal Register* reasons for not doing so.

The ITC's Sixth Report to the Administrator published in the *Federal Register* of May 28, 1980 (45 FR 35897), included a recommendation that the phenylenediamines be tested for their effects on human health and the environment.

The phenylenediamines (PDAs) were defined by the ITC as: "all nitrogen-unsubstituted phenylenediamines with zero to two substituents on the ring selected from the same or different members of the group of halo, nitro, hydroxy, hydroxy-lower alkoxy, lower-alkyl and lower-alkoxy. For this purpose, the term 'lower' is defined as a group containing between one and four carbons." The ITC listed 50 PDA's as

occurring on the TSCA Public Inventory. EPA's review has identified 47 of these chemicals (listed in Table A) that fall within the stated definition. Note that, in the Sixth ITC Report, #18 and #32 are the same chemical and #29 and #38 are the same chemical. Number 22 (CAS 1477550) on the ITC list is a xylene derivative that does not fit the definition. The total number of CAS numbers listed in Table A, which is based upon the original ITC list, is 49, while the total number of chemicals is 47.

There is some ambiguity in the counting of PDA owing to possible equivalency of free bases and their salts. EPA has for the present chosen to use the ITC list as its reference point, retaining various salts of a single PDA as individual entries.

Thus, for example, the 13 compounds listed in Table C represent only nine distinct PDA bases. For purposes of EPA's preliminary determination of exposure potential, the total production of all base and salt forms of a particular PDA was used. Public comments on this ANPR will help the Agency to decide how to treat this kind of redundancy.

Table A—Phenylenediamines, (as adapted from the May 28, 1980 Federal Register List) ¹

CAS No. and Name

- | | |
|-------------|---|
| (1) 95545 | o-Diaminobenzene |
| (2) 95705 | 2,5-Diaminotoluene |
| (3) 95807 | 1,3-Diamino-4-methylbenzene |
| (4) 95830 | o-Phenylenediamine, 4-chloro- |
| (5) 99569 | o-Phenylenediamine, 4-nitro- |
| (6) 106503 | p-Diaminobenzene |
| (7) 108452 | m-Diaminobenzene |
| (8) 108714 | 3,5-Diaminotoluene |
| (9) 137097 | 2,4-Diaminophenol dihydrochloride |
| (10) 496720 | 1,2-Diamino-4-methylbenzene |
| (11) 541695 | m-Phenylenediammonium dichloride |
| (12) 541708 | m-Phenylenediamine, sulfate (1:1) |
| (13) 614948 | m-Phenylenediamine, 4-methoxy-, dihydrochloride |

¹ The list published in the *Federal Register* has been edited and validated so that only those chemicals adhering to the ITC definition are included. One chemical, number 22, a,a'-Diamino-m-xylene (CAS No. 1477550) has been deleted from the list. Number 22 is deleted because it does not adhere to the ITC's definition of a phenylenediamine given in the *Federal Register*.

Note also that for CAS No. 6369591 (*Federal Register* No. 33, No. 32 in Table A) that the correct name is 1,4-Benzenediamine, 2-methyl-, sulfate, not 1,4-Benzenediamine, ethanedioate (1:1) as listed in the *Federal Register*. Numbers 29 and 38 are the same chemical with two different CAS numbers.

The names of the chemicals are the names listed on the Ninth Collective Index. There may be differences within the test of some of the CAS numbers. The names of the chemicals used in the text are the names for the chemicals which are found in the literature.

- | | |
|---------------|---|
| (14) 615054 | m-Phenylenediamine, 4-methoxy- |
| (15) 616281 | 1,2-Phenylenediamines dihydrochloride |
| (16) 615452 | 1,4-Benzenediamine, 2-methyl-, dihydrochloride |
| (17) 615463 | p-Phenylenediamine, 2-chloro-, dihydrochloride |
| (18) 615509 | 2,5-Diaminotoluene sulfate (1:1) |
| (19) 624180 | p-Phenylenediamine dihydrochloride |
| (20) 823405 | 2,6-Diamino-1-methylbenzene |
| (21) 1197371 | o-Phenylenediamine, 4-ethoxy- |
| (22) 2687254 | 1,2-Diamino-3-methylbenzene |
| (23) 3663238 | o-Phenylenediamine, 4-butyl- |
| (24) 5042557 | m-Phenylenediamine, 5-nitro- |
| (25) 5131588 | m-Phenylenediamine, 4-nitro- |
| (26) 5131602 | m-Phenylenediamine, 4-chloro- |
| (27) 5307028 | p-Diaminoanisole |
| (28) 5307142 | p-Phenylenediamine, 2-nitro- |
| (29) 6219676 | p-Phenylenediamine, 2-nitro- |
| (30) 6219712 | p-Phenylenediamine, 2-nitro- |
| (31) 6219778 | o-Phenylenediamine, 4-nitro-, sulfate |
| (32) 6369591 | 1,4-Benzenediamine, 2-methyl-, dihydrochloride |
| (33) 15872738 | 4,6-Diamino-o-cresol |
| (34) 16245776 | p-Phenylenediamine sulfate |
| (35) 13266529 | p-Phenylenediamine, 2-nitro-, dihydrochloride |
| (36) 20103097 | p-Phenylenediamine, 2,5-dichloro- |
| (37) 25376458 | Diaminotoluene |
| (38) 39156417 | 2,4-Diaminoanisole sulfate |
| (39) 42389300 | 1,2-Benzenediamine, 5-chloro-3-nitro- |
| (40) 62654175 | 1,4-Benzenediamine, ethanedioate (1:1) |
| (41) 65879449 | 4,6-Diamino-2-methylphenol, hydrochloride |
| (42) 66422955 | Ethanol, 2-(2,4-diaminophenoxy)-, dihydrochloride |
| (43) 67801063 | 1,3-Benzenediamine, 4-ethoxy-, dihydrochloride |
| (44) 68015985 | 1,3-Benzenediamine, 4-ethoxy-sulfate (1:1) |
| (45) 68239805 | m-Phenylenediamine, 4-chloro-, sulfate |
| (46) 68239827 | 1,2-Benzenediamine, 4-nitro-, sulfate (1:1) |
| (47) 68239838 | 1,4-Benzenediamine, 2-nitro-, sulfate (1:1) |
| (48) 68459983 | 1,2-Benzenediamine, 4-chloro-, sulfate (1:1) |
| (49) 68966847 | 1,3-Benzenediamine, ar-ethyl-ar-methyl |

The ITC recommended that the untested and inadequately tested compounds should be evaluated through testing for carcinogenicity, mutagenicity, teratogenicity, and for other health effects (with particular emphasis on blood, bone marrow and nervous system disorders), through epidemiological studies on those phenylenediamines for which there is significant human exposure potential, and through assessment of environmental effects, particularly on organisms repeatedly exposed from constant release sources. The ITC felt that the high production levels of some phenylenediamines and the "demonstrated or suspected health

TABLE B.—TOXICITY OF PHENYLENEDIAMINES*—Continued

	Carcinogenicity**							Mutagenicity		Chromosome damage	Cell transformation	Teratogenicity	Reproduction	Neurotoxicity	Other
	BL	K	F	L	M	T	S	Bacteria	Eukaryotes						
3,4-toluenediamine (496720).								+							
2,5-diaminoanisole (5307028).								+							
2,4-diaminoanisole (615054).								+	+						
2,4-diaminoanisole sulfate (39156417)*.		±	±	± ^c	±	+	+								
4-methoxy-m-phenylenediamine (6219676).									+						
4-ethoxy-m-phenylenediamine (68015985)								+							

After: Brennan, et al. 1981 and Sontag 1981.
 *Positive response = +; Negative response = -; Low frequency observed or possible dose related response = ±; equivocal response = ?; blank space = response not observed for cancer and not documented for mutagenicity, chromosome damage, and cell transformation, carcinogenicity responses not otherwise noted are for rats.
 **Bladder = BL, Kidney = K, Fore stomach = F, Liver = L, Mammary gland = M, Thyroid gland = T, Skin and skin glands = S.
 * 78 week treatment.
^b 103 week treatment.
^c Carcinogenicity in mice, too.
^d Significant only in mice.
^e Rat micronucleus test = -; Human peripheral blood lymphocyte, Chinese hamster prostrate, and C3H/10T mouse cells = +.
^f Equivocal response in L5178Y mouse lymphocytes; positive *Drosophila melanogaster*.
^g Reported as non-carcinogenic, but data not available.
^h Subcutaneous injection 5, 50 mg/kg, between days 7-14 in mice caused skeletal abnormalities.
ⁱ Embryotoxic without showing teratogenic activity (Marks 1980).
^k Medullary and spinal type convulsions within 20-30 min. after injection (Hanzlik 1923).

TABLE C.—EFFECTS FOR WHICH TESTING IS BEING CONSIDERED

CAS No. and chemical name	(1,000 lbs) production and imports	Exposure NIOSH predicted	Oncogenicity	Teratogenicity	Reproductive toxicity	Mutagenicity	Acute toxicity	Chronic toxicity	Epidemiology	Chemical fate	Aquatic toxicity*	Avian toxicity	Plant toxicity	Bioconcentration
(1) 95807 2,4-diaminotoluene.	139,400-233,500			X	X	X	X	X	X	X	X	X	X	X
(2) 823405 2,6-diaminotoluene.	21,000-110,000		X											
(3) 25376458 diaminotoluene, unspecified isomers.	50,000-100,010	7281	X	X	X	X	X	X	X	X	X	X	X	X
(4) 106503 p-phenylenediamine.	36,500-48,000	81537	X	X	X	X	X	X	X	X	X	X	X	X
(5) 16245775 p-phenylenediamine sulfate.	1-10		X	X	X	X	X	X	X	X	X	X	X	X
(6) 624180 p-phenylenediamine dihydrochloride.	<1		X	X	X	X	X	X	X	X	X	X	X	X
(7) 2687254 2,3-diaminotoluene.	2,000-22,000		X	X	X	X	X	X	X	X	X	X	X	X
(8) 496720 3,4-diaminotoluene.	500-6,000		X	X	X	X	X	X	X	X	X	X	X	X
(9) 108452 m-phenylenediamine.	100-1,136	12590		X	X			X	X	X	X	X	X	X
(10) 541708 m-phenylenediamine sulfate (1:1).	<1		X	X	X	X	X	X	X	X	X	X	X	X
(11) 95705 2,5-diaminotoluene.	100-1,000		X	X	X	X	X	X	X	X	X	X	X	X
(12) 6369591 2,5-diaminotoluene sulfate (unspecified ratio).	3-113	8680	X	X	X	X	X	X	X	X	X	X	X	X
(13) 95545 o-phenylenediamine.	100-200 (1700-1800)		X	X	X	X	X	X	X	X	X	X	X	X

() Values estimated by Mathtech (1980).
 *Both vertebrate and invertebrate testing are being considered.

TABLE D.—USES OR POTENTIAL USES OF 47 PHENYLENEDIAMINE COMPOUNDS—Continued

CAS	Unknown	Synthesize fungicides	Dye intermediate	Hair dye	Dye other than hair	Chemical intermediate	Photographic developing agent	Identification agent	Synthesize drugs	Curing agent	Reagent	Synthesize antioxidants/antiozonants	Fiber production	Vulcanization acceleration
(27) 5307-02-8				Y										
(28) 5307-14-2				X	X									
(29) ¹ 6219-67-6				X	X									
(30) 6219-71-2				X	Y								Y	
(31) 6219-77-8	X													
(32) ¹ 6369-59-1														
(33) 15872-73-8	X													
(34) 16245-77-5	X													
(35) 18266-52-9	X													
(36) 20103-09-7	X													
(37) 25376-45-8					Y	X				Y				
(38) ² 39156-41-7				X	X									
(39) 42389-30-0				Y										
(40) 62654-17-5	X													
(41) 65879-44-9	X													
(42) 66422-95-5	X													
(43) 67801-06-3	X													
(44) 68015-98-5				Y	Y									
(45) 68239-80-5	X													
(46) 68239-82-7	X													
(47) 68239-83-8				X	Y									
(48) 68459-98-3	X													
(49) 68966-84-7	X													

X—Indicates use for the stated purpose.

Y—Indicates possible use for the stated purpose.

¹ Numbers 18 and 32 are the same chemical with two different CAS numbers.

² Numbers 29 and 36 are the same chemical with two different CAS numbers.

(Sutta et al. 1981a)

It is apparent from the uses of PDAs summarized in Table D that TSCA-covered exposure to these substances is most likely to occur in various workplace situations. However, there are a few applications that could cause a large number of consumer exposures, including use in photographic developers to which amateur darkroom workers may be exposed, and use in dyes, to the extent that such dyes are sold for consumer use or may migrate from fabrics in contact with human skin. Furthermore, human exposure to PDAs may also occur indirectly via substances that are made from PDAs and which retain the PDA moiety (or substructure) in a form that may be chemically or biologically regenerated as a PDA. Examples of such substances include toluene diisocyanate, some photographic developers, and materials

formed in synthetic fiber production (Sutta et al. 1981c).

In addition, there seems to be interchangeability among PDAs for some uses, and the Agency must take into account the possibility that, if a particular commercial PDA is ordered to be tested, or found to be hazardous, it may be replaced by another PDA, previously of little or no commercial importance, that is poorly characterized toxicologically. For example, dyes containing different PDAs which produce similar colors on hair can be substituted for each other (Sutta, et al. 1981c). Thus, the Agency is aware that 2,4-toluenediamine (2,4-TDA), 4-methoxy-m-phenylenediamine (MMPDA) and 4-ethoxy-m-phenylenediamine (EMPDA) have served as substitutes for each other as

hair dye intermediates ¹, that all three are mutagenic to bacteria and that 2,4-TDA and MMPDA are carcinogenic to rats (Prival et al. 1980). Sutta, et al (1981c) also report that a product brochure for a 35:65 mixture of 2,3- and 3,4-diaminotoluene lists it as an alternative for o-phenylenediamine.

EPA is aware that p-phenylenediamine, m-phenylenediamine, 2,5-diaminotoluene sulfate, 4-nitro-o-phenylenediamine, 4-methoxy-m-phenylenediamine sulfate, 4-nitro-m-phenylenediamine, 2-chloro-p-phenylenediamine sulfate, m-phenylenediamine dihydrochloride, 4-methoxy-m-phenylenediamine dihydrochloride, 4-ethoxy-m-phenylenediamine sulfate (1:1), p-

¹ Both 2,4-TDA and MMPDA are reported as having been used in dyes other than hair.

diaminoanisole, and 2-nitro-p-phenylenediamine sulfate have substantial uses in the manufacture of hair dye either as active ingredients in permanent hair dyes or as intermediates in the synthesis of semipermanent dyes. Approximately 15 million individuals per year are potentially exposed to these PDAs as a result of either personal use or in the application of hair dyes to other people (Sutta et al., 1980). However, the use of phenylenediamine hair dyes falls under the authority of the Food Drug and Cosmetic Act of 1938. Because section 3 of TSCA excludes cosmetics subject to the Food, Drug and Cosmetic Act from TSCA jurisdiction, exposure potential as a result of hair dye use is not being considered as a basis for testing in this Notice. The TSCA usage and exposure potential of the first three chemicals listed above appear to be sufficient to justify their inclusion among the PDAs for which EPA is tentatively considering proposing testing. If information is furnished that there is minimal or no TSCA usage of the remaining substances named above, the Agency will reconsider its tentative determination to retain these substances in the broader group of PDAs for the purpose of this rulemaking evaluation.

B. Environmental Release of Phenylenediamines

Data for environmental release of phenylenediamines are sparse. A materials balance analysis for 2,4-diaminotoluene (2,4-DAT) indicates that of the 433 million pounds (196,900 kkg) produced, over 23.3 million lbs (10,600 kkg) of 2,4-DAT was potentially released to the environment during its production and use in 1977 (Johnston et al. 1980). Sutta, et al. (1981c) estimated that, during the production of toluene diisocyanate (TDI), less than 4 percent of the total volume of phenylenediamines consumed during TDI production would be released into the environment. From this predicted release, these authors projected the annual PDA release from this activity into environmental compartments to be 11-18 million pounds (4.4-7.2 kkg) to land, 3-4.5 million lbs. (1.2-1.8 kkg) to water, and 120 lbs (48 kg) to the atmosphere.

EPA has found little information on the loss of PDAs to the environment when used as additives; p-phenylenediamine used as an anti-oxidant in rubber for pipejoints in sewer mains did not leach into the water after 8 years (Mulcock, 1976). EPA has no information on whether the other PDAs demonstrate similar immobility when they serve as additives in dyes, plastics, rubber, etc.

C. Environmental Persistence and Fate

Aromatic amines are relatively reactive compounds that may undergo fairly rapid transformation in the environment, for example the oxidation of o- and p-PDAs to quinones. Thus the lifetime of some PDAs could be short under environmental conditions. The compounds m-phenylenediamine, o-phenylenediamine, p-phenylenediamine, and 2,4-diaminotoluene can undergo some biodegradation in both soil and water environments (Pitter 1976, Horitsu et al. 1977, Richardson 1980). In laboratory experiments, activated sludge biodegraded the concentrations of p-, m-, and o-phenylenediamines to 80 percent, 60 percent, and 33 percent, respectively, of their original concentrations within 120 hours (Pitter 1976, Pitter and Radkova 1974, Verschuere 1977). Under actual use conditions, however, even assuming biodegradation rates of this magnitude, PDAs may enter terrestrial and aquatic ecosystems at levels that will result in a net accumulation of substance over time. Furthermore, the PDAs include a broad range of structure types, some of which may be considerably more stable than others, for example because of the presence of deactivating substituents such as nitro groups, or because of the formation of stable complexes with metals (in the case of o-PDAs). Pesticides derived from the aromatic amine 3,4-dichloroaniline undergo soil microbial or chemical transformation to 3,3', 4,4'-tetrachloroazobenzene, a highly toxic chemical (Bartha 1971, Bartha & Prama 1967, Bartha & Pramer 1968). Similar reactions are theoretically possible with phenylenediamines, but the Agency is unaware of any studies that would clarify the point.

As illustrated in Table E, the octanol/water partition coefficient is low for the eight PDAs for which Log P_{oct} has been determined. Hence, there appears to be little potential for bioaccumulation of these PDAs. However, data have not been identified to substantiate this prediction.

TABLE E.—PHYSICAL PROPERTIES OF PHENYLENEDIAMINES

Name Cas No.	MW	Lg P_{oct}/w	MP °C	BP °C
2,5 diaminotoluene 95705.	122.17	0.25	64	273/274.
2,4 diaminotoluene 95907.	122.17	.50	99	292.
3,5 diaminotoluene 108714.	122.17	NA	40	283-285.
3,4 diaminotoluene 496720.	122.17	.65	88.5	265 (subl).
2,6 diaminotoluene 823405.	122.17	.5	105	
2,3 diaminotoluene 2687254.	122.17	.65	63/64	255.

TABLE E.—PHYSICAL PROPERTIES OF PHENYLENEDIAMINES—Continued

Name Cas No.	MW	Lg P_{oct}/w	MP °C	BP °C
p-phenylenediamine 106503.	108.15	-.25	145/147	267.
m-phenylenediamine 108452.	108.15	0	61/64	282/284.
o-phenylenediamine 95545.	108.15	.15	102/103	256/258.

(Brennan & Siczek 1981.)

D. Toxic Effects Potential

The carcinogenic activities of 14 PDAs in mice and rats have been studied (USEPA 1980a). Six PDAs are reported as being carcinogenic (Table B). Of these, o-phenylenediamine, 2,4-diaminoanisole, and 4-chloro-o-phenylenediamine were carcinogenic to both rats and mice. Eight PDAs were not carcinogenic under the reported experimental conditions (NCI 1978c, NCI 1978d, NCI 1979c, USEPA 1980a). Bladder, liver, kidney, thyroid and skin cancer have been noted to occur at low frequencies during shorter term chronic tests of PDAs in rats and mice (Table B). Long term (103+ weeks) chronic studies have shown that bladder tumors may be caused by chemicals which, tested for a shorter period such as 78 weeks, did not provide clear evidence for induction of bladder cancers (Sontag 1981).

The Agency's preliminary study of the reports of the carcinogenicity testing has generated concern that the actual concentrations of phenylenediamine being received by the test animals may have been lower than the concentration of PDA mixed with the feed. In the studies evaluated to date, administration of PDAs has been in the feed. These reports indicate that the mixing of a PDA into the feed resulted in an uneven distribution of PDA within the sample (NCI 1979c, NCI 1979d, NCI 1980). The chemical properties of PDAs are such that PDAs could be partially oxidized in the feed before the experiment was completed. E. I. du Pont de Nemours & Co. (1980) reports that when o-PDA was mixed with animal feed, only 75 percent of the initially mixed concentration could be recovered by extraction after 24 hours and that less than 50 percent could be recovered after 7 days. Only for 2,6-toluenediamine dihydrochloride was the compound concentration reported as being stable for 2 weeks at temperatures up to 45° C (NCI 1980).

Eight PDAs are reported as being mutagenic to bacterial cells and not,

further tested; six phenylenediamines have been shown to be mutagenic to both bacteria and eukaryotes (Table E). 2,5-Diaminoanisole (CAS 5307028) is reported as being mutagenic to bacteria and not to L5178Y mouse lymphoma cells. 4-Nitro-o-phenylenediamine (CAS 99569) and 2-nitro-p-phenylenediamine (CAS 99569) and 2-nitro-p-phenylenediamine (CAS 5307142) are reported to cause chromosome damage to Chinese hamster prostate cells and to C3H/10T $\frac{1}{2}$ mouse cells. 4-Methoxy-m-phenylenediamine sulfate (CAS 6219-676) is reported to be mutagenic to *Drosophila* and to have ambiguous mutagenic effects on mouse lymphoma cells (USEPA 1980a). The preliminary analysis of mutagenicity data indicates that untested PDAs have a potential to cause both gene mutations and chromosomal aberrations.

Teratogenic activity has been identified for three PDAs. Subcutaneous injections of 2,5-diaminotoluene into mice during days 7-14 of gestation resulted in skeletal anomalies, exencephaly and congenital facial cleft (Inouye and Murakami 1977). In a separate experiment subcutaneous injections of 2-nitro-p-phenylenediamine and 4-nitro-o-phenylenediamine were teratogenic to mice. However, 2,5-diaminotoluene was not teratogenic in this experiment (Marks et al 1980). The Marks et al (1980) experiment does provide evidence of a potential adverse reproductive effect of 2,5-diaminotoluene since embryotoxicity was noted during this experiment. No teratogenic activity was observed when PDAs were mixed into hair dyes and topically administered to rabbits and rats prior to and during gestation (Wernick et al 1975, Hogan and Rinehart 1977).

A potential for neurotoxic effects of PDAs is indicated by one study in which unspecified doses of injected m-PDA and p-PDA caused convulsions in four mammalian species, with neuromuscular effects in frogs (Hanzlik 1923).

Other toxic effects have been noted during the range-finding determinations for the NCI bioassays, such as slight hematopoietic effects and cytoplasmic vacuolation of hepatocytes and bile duct hyperplasia for 2,4-diaminotoluene and renal medullary hemorrhage for 2,6-toluenediamine dihydrochloride. 2,4-Diaminoanisole sulfate did not produce noticeable abnormalities in rats and mice during the range finding tests.

2,4-Diaminotoluene induces methemoglobinemia; because this effect is characteristic of many aromatic amines (de Bruin 1978), other PDAs besides 2,4-DAT are suspect for this property.

Although the Agency has little information on the environmental effects of PDAs, other better characterized aromatic amines, such as anilines, are known to be toxic to aquatic invertebrates and vertebrates.

PDAs have the potential to be converted metabolically and nonbiologically to a variety of compounds that may still be toxicologically active in humans or other organisms. Quinones, hydroxylated or acetylated derivatives, and azo or azoxy derivatives (see above, Unit III.C) are possible examples. o-PDAs are potential metal-chelating agents that could disturb physiological systems dependent on metal ions. The Agency has little information on the metabolic fate either of those PDAs that have undergone some toxicological testing or those that have not.

IV. Issues

1. Are the exposure-related data on which EPA is basing its tentative section 4(a)(1)(A) testing decision accurate? In order to help the Agency refine its analysis of the phenylenediamines, EPA solicits the submission of more detailed exposure information on individual PDAs, including the numbers of workers at manufacturing, processing, and use sites actually involved with PDAs, use patterns, and potential exposure of workers, consumers and the general public. The Agency is likewise soliciting information on the release, potential release, disposal, transformation products, persistence and bioaccumulation of individual phenylenediamines. The Agency is particularly interested in receiving occupational and environmental monitoring data for these chemicals or their transformation products. The Agency will reconsider which PDAs should be tested if new production and other exposure-related data on the compounds warrant this.

2. The Agency is considering monitoring the future production of the 34 PDAs listed in Table F, and any other PDAs which might be manufactured and which conform to the ITC definition, under TSCA section 5(a) significant new use rule (SNUR) or under a TSCA section 8(a) reporting rule.

TABLE F.—PHENYLENEDIAMINES FOR WHICH ALTERNATIVE ACTION UNDER TSCA IS BEING EVALUATED

CAS	
1. Phenylenediamines produced but with no production data published	
108714	3,5-diaminotoluene.
1197371	4-ethoxy-o-phenylenediamine.
5042557	5-nitro-m-phenylenediamine.

TABLE F.—PHENYLENEDIAMINES FOR WHICH ALTERNATIVE ACTION UNDER TSCA IS BEING EVALUATED—Continued

CAS	
3663238	4-butyl-o-phenylenediamine.
68966847	1,3-benzenediamine ar-ethyl-ar-methyl.
615281	o-phenylenediamine dihydrochloride.
68239827	4-nitro-o-phenylenediamine sulfate.
5131602	4-chloro-m-phenylenediamine.
2. Phenylenediamines not produced commercially	
615452	2,5-diaminotoluene dihydrochloride.
62654175	p-phenylenediamine ethandioate.
541695	m-phenylenediamine dihydrochloride.
614948	4-methoxy-m-phenylenediamine dihydrochloride.
67801063	4-ethoxy-m-phenylenediamine dihydrochloride.
68015985	4-ethoxy-m-phenylenediamine sulfate (1:1).
5307028	p-diaminoanisole.
18266529	2-nitro-p-phenylenediamine dihydrochloride.
68239838	2-nitro-p-phenylenediamine sulfate.
42389300	5-chloro-3-nitro-o-phenylenediamine.
6219778	4-nitro-o-phenylenediamine dihydrochloride.
68239805	4-chloro-m-phenylenediamine sulfate.
68459988	4-chloro-m-phenylenediamine sulfate.
615463	2-chloro-p-phenylenediamine dihydrochloride.
20103097	2,5-dichloro-p-phenylenediamine.
15872738	4,6-diamino-o-cresol.
65879449	4,6-diamino-o-cresol hydrochloride.
66422955	2-(2,4-diaminophenoxy) ethanol = dihydrochloride.
3. Phenylenediamines with production levels reported to be less than 1 million pounds or which are used primarily in hair dyes	
5307142	2-nitro-p-phenylenediamine.
5131588	4-nitro-m-phenylenediamine.
95830	4-chloro-o-phenylenediamine.
6219712	2-chloro-p-phenylenediamine sulfate.
137097	2,4-diaminophenol dihydrochloride.
39156417	4-methoxy-m-phenylenediamine sulfate.
99569	4-nitro-o-phenylenediamine.
615054	4-methoxy-m-phenylenediamine.

The Agency has identified eight PDAs from the ITC listing that have been reported as being produced but for which production data are not published (Table F, Part 1). Eighteen PDAs on the ITC list have been characterized as not commercially available (Table F, Part 2). Eight PDA's have been identified whose current production volume appears to be quite low or whose use and exposure patterns result primarily or exclusively from their use in hair dyes (Table F, Part 3). In light of the large number of PDAs that have shown some form of serious toxicity such as carcinogenicity or mutagenicity, and the possible interchangeability of PDAs, some form of alternative action appears to be the best way to avoid requiring testing of relatively low production and exposure PDAs now but still protect the public against substitution of a poorly characterized, potentially hazardous PDA in the future. The Agency invites comments on the alternatives to testing discussed below.

(A) A significant new use rule (SNUR) under section 5(a) would define certain new uses of PDAs as "significant new uses." A person responsible for manufacturing or processing for a use defined by the rule would be required to submit a notice of intent under section 5(a)(1) at least 90 days before

manufacturing or processing for the new use occurs. The information required to be submitted includes identity of the compound and byproducts, projected uses, amounts of substance to be produced and processed for each use, environmental and health data, numbers of persons expected to be exposed and duration of the exposure, and the manner in which the material is to be disposed. The Agency would be responsible for reviewing data on any significant new use to assess its effect on human health and the environment. A SNUR would let EPA take appropriate followup action if a significant increase in exposure is projected. EPA has a period of 90 days in which to review the health and environmental implications of the new use, but may extend the period up to an additional 90 days for good cause.

(B) Placing PDAs on the 5(b)(4) list in combination with issuing a SNUR for these chemicals would provide EPA the information and opportunity for followup action in alternative (A) and also provide additional data that may help EPA assess the potential risks of these chemicals. Section 5(b)(2)(A) requires persons submitting a notice on chemicals subject to a SNUR that are also on the 5(b)(4) list to submit data which they believe show that the manufacturing, processing, distribution in commerce, use and disposal of the chemical substance will not present an unreasonable risk of injury to health or the environment.

(C) A section 8(a) reporting rule would require the same information to be reported as a SNUR in alternative (A). However, there are differences in who is required to report and the frequency of reporting. For example, a section 8(a) rule could require regular periodic reporting or could require persons to report when certain events occurred. Furthermore, it would extend to all manufacturers and processors (except small ones), unlike a SNUR which reaches only persons manufacturing and processing a chemical for a new use. Unlike a SNUR, a section 8(a) rule, on its own, could not require reporting by small manufacturers and processors.

(D) Placing PDAs on the 5(b)(4) list in combination with a section 8(a) reporting requirement would have the same effect as alternative (C) but would also subject small manufacturers and processors to the section 8(a) reporting requirement.

3. Is environmental fate and effects testing of PDAs needed? EPA has encountered little information that sheds light on the environmental fate of PDAs. Because of the known biological activity

of PDAs, their release potential and their potential to undergo a variety of transformations that may not be detoxifying, and the known hazards of aromatic amines, such as anilines, to aquatic organisms, the Agency is considering proposing both fate and environmental toxicity testing for all of the chemicals listed in Table C. However, the Agency has tentatively decided that testing for bioaccumulation is not necessary for PDAs whose Log P_{oct} values are known to be lower than 1. Octanol/water partition coefficient determination is being considered as a requirement for the remaining PDAs listed in Table C.

The Agency would welcome the submission of data on environmental fate and persistence of these substances, including monitoring data obtained near known points of release. The Agency is also interested in obtaining information on potentially harmful transformation products and bioaccumulation of individual phenylenediamines, and on additional testing which will adequately characterize the environmental toxicity of PDAs.

4. For a given test organism, should some or all PDAs be administered as salts rather than as free bases? This would be expected to increase the stability of the materials, but changes the possible exposure routes and pharmacokinetic properties (for example, vapor pressures of the salts are lower than those of the free bases, while water solubilities are much greater). Resolution of the compound stability question discussed in Unit III.D will influence decisions on which chemicals should be tested and the most reliable means of administration of the chemical to test organisms. Should all PDAs be administered by the same route? This would increase comparability of results, but might result in some discrepancies between actual and experimental exposure routes.

5. How many individual phenylenediamines should be tested? The Agency is aware that requiring full testing of the entire class or even the 13 PDAs listed in Table C may be impractical and unnecessary.

As mentioned in Unit II.B, phenylenediamines are a complex structural class. Within the class, there do not appear to be any clear structural relationships with respect to PDA oncogenic activity. The 22 PDAs for which at least one toxicological study has been completed to date have all shown some adverse biological activity. It is highly likely that the remaining untested PDAs will also show biological activity when they are tested. The Agency is therefore considering

proposing testing for the 13 substances that are reported to be produced in quantities exceeding one million pounds (454 kkg). EPA is soliciting opinions as to both the number of PDAs to be proposed for testing and the specific PDAs that should be proposed for testing (Issues 6 and 7 bear on this question). Should full testing be required of all PDAs selected for testing? Full testing for some and short term tests for others? Should a representative sampling be chosen? If so, what basis should be used to select the sample chemicals?

6. Which of the PDAs not characterized for carcinogenicity should be individually tested for their carcinogenic activity? In its Sixth Report published in the Federal Register of May 28, 1980 (45 FR 35897), the ITC argued that, since aromatic (mono- & polycyclic) amines have been shown to be carcinogenic, then the phenylenediamines would "... *a priori* ... (be) suspect as a result of belonging to a chemical class known to have certain properties associated with carcinogenicity." Because most of the oncogenicity tests on PDAs were relatively short-duration tests, and because aromatic amines have been associated with slowly induced bladder tumors, the negative results cited for 8 PDAs (see Unit III.D) should be interpreted with caution. Should the chemicals for which negative results were reported under these conditions be retested?

The Agency is considering proposing oncogenicity testing of all inadequately characterized PDAs listed in Table C (including additional testing of some of those chemicals already tested in less than full term bioassays). Because 4-chloro-o-phenylenediamine, 4-chloro-m-phenylenediamine, 2-nitro-p-phenylenediamine, 2,4-toluenediamine and 4-methoxy-m-phenylenediamine, sulfate are oncogenic under experimental conditions, EPA has tentatively decided not to consider additional oncogenicity testing for these chemicals.

The Agency is interested in receiving comment on the adequacy of the existing experimental data to characterize the oncogenicity of the tested phenylenediamines.

7. Should all phenylenediamines be tested for mutagenicity in bacteria or does the large number of positive bacterial mutagenicity tests (see Unit III.D) indicate that only tests in higher organisms need to be conducted?

In general, EPA believes that a positive bacterial mutagenicity test should be followed by testing in

Drosophila. The results of the *Drosophila* testing would then be used to determine whether additional *in vivo* or *in vitro* mutagenicity would be recommended. Of the compounds in Table E, only 2,6-diaminotoluene and 2,3-diaminotoluene have not undergone bacterial mutagenicity testing and would ordinarily be under tentative consideration for such testing. However, because 14 PDAs are reported positive in bacterial tests, the Agency is considering whether all PDAs should be presumed to have mutagenic potential for the purpose of determining how many PDAs should be subjected to the next stage of mutagenicity testing. The Agency welcomes comments on this issue.

8. Should all of the uncharacterized PDAs selected for testing be tested for teratogenic, reproductive, neurological and other chronic effects? Data on the toxic effects, other than mutagenicity and oncogenicity, are sparse. The data analysed to date for 2,5-diaminotoluene, 2-nitro-p-phenylenediamine, 4-nitro-o-phenylenediamine, m-phenylenediamine, p-phenylenediamine, 2,4-diaminotoluene, and 2,6-toluenediamine dihydrochloride tentatively suggest that teratogenic, reproductive, neurotoxic and other adverse effects may be demonstrated by other members of the class. The Agency welcomes comments on these potential effects of concern.

V. Development of Rulemaking

EPA, after analysis of the comments to the ITC Report and preliminary review of available data, believes that there is reason to proceed with detailed consideration of the recommendations for testing under the rulemaking process identified in TSCA section 4(b).

The purpose of the rule to be proposed is to obtain data which may be evaluated to determine the effect of the chemicals on health and the environment. These data once submitted will be assessed to determine whether sufficient risk is presented to pursue regulatory control. EPA in publishing this ANPR wishes to receive early comment on its tentative basis for requiring testing and on the tests the Agency believes necessary to characterize the effects of the phenylenediamines. The Agency plans to publish a Notice of Proposed Rulemaking by October, 1982.

The Agency will analyze all comments received in response to this ANPR on toxicological effects, exposure, production and use information and other issues. The Agency will also accept any voluntary testing plans submitted for review and comment.

These testing plans need not be final for inclusion in the ANPR comments, but should be formal protocols for proper review.

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(Sec. 4, 90 Stat. 2003 (15 U.S.C. 2601))

Dated: December 30, 1981.

John W. Hernandez, Jr.,

Acting Administrator.

[FR Doc. 82-415 Filed 1-7-82; 8:45 am]

BILLING CODE 6560-31-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 2, 73, and 74

[Gen. Docket No. 81-911; RM-3533; FCC 81-596]

Reallocate Frequency Bands to Television and Radio Respectively in the State of Alaska

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The FCC proposes to revise its Rules which up until now allowed Government and non-Government licensees to use certain frequencies in Alaska for fixed communications instead of conventional TV and FM Radio. Under this proposal, these frequencies would be returned to the broadcast services. The Alaska Public Broadcasting Commission stated in its petition that there is a shortage of TV and FM Channels available in Alaska. This action contemplates the shared use of these frequencies by the broadcasters and fixed licensees, provided the former do not cause harmful interference to existing fixed licensees. New fixed licensees will operate on a secondary (non-interference) basis. The reallocation action proposed herein would make possible the allotment and assignment of additional VHF-TV and FM radio channels to Alaska.

DATES: Comments must be received on or before February 16, 1982, and replies on or before March 3, 1982.

ADDRESS: Federal Communications Commission 1919, M Street, NW., Washington D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Maureen Cesaitis, Office of Science and Technology, Washington, D.C. 20554 (202) 653-8164—Room 7310.

SUPPLEMENTARY INFORMATION:

In the matter of amendment of Parts 2 of the Commission's Rules governing Frequency Allocations, 73 of the Commission's rules governing the Radio Broadcast Services, and 74 governing Experimental, Auxiliary and Special Broadcast and Other Program Distributional Services to reallocate the frequency bands 76-88 and 88-100 MHz to television and radio respectively in the State of Alaska.

Adopted: December 24, 1981.

Released: January 7, 1982.

1. In 1955, the Commission amended its Rules and Regulations to allow Government and non-Government fixed operations in the frequency band 76-100 MHz in the State of Alaska (Docket 11140 19 FR 5378). The spectrum in question is allocated to the Broadcast Services in the continental U.S. and is commonly referred to as VHF Television Channels 5 and 6 (76-88 MHz) and FM Radio Channels 201-260 (88-100 MHz); The frequencies were needed for the Department of the Air Force's Alaska Communications System and at the time it was generally believed that the foreseeable population of Alaska would not support a need for TV and FM broadcasting between 76 and 100 MHz. Indeed, no assignments had been made to TV or FM broadcast stations in the Territory of Alaska in that frequency range at that time.

2. On November 30, 1979, the Alaska Public Broadcasting Commission (APBC) filed a petition for rule making (RM-3533) requesting amendment of the FCC's Rules to allocate TV Channels 5 and 6 and FM Channels 201-260 to the State of Alaska. Comments were filed by Alascom, Inc. (Alascom), Association of Maximum Service Telecasters (MST), Division of Communications of the State of Alaska (State of Alaska), and Capital Community Broadcasting, Inc. (CCBI). All four parties supported the APBC petition, although Alascom qualified its support by suggesting that the reallocation provide for its (Alascom's) continued fixed use of the 76-100 MHz frequency band. Alascom is the only non-Government licensee currently operating under the provisions created in 1955 and set forth in Footnote US23 of Part 2 (§ 2.106) of the Rules. Alascom's use of these frequencies is in support of oil exploration and recovery and is

largely limited to remote areas. The support of MST extends only to the reallocation of the two VHF-TV Channels because MST's interest is with Television and therefore does not include the FM Radio Channels.

3. As a result of Alascom's comments, the Commission's staff met with Alascom and petitioner's attorneys to work out a sharing agreement which would be mutually agreeable. The result of the meeting was an agreement to share the 76-100 MHz band, with Broadcast Services having primary access to the frequencies and new Common Carrier Rural Radio Services having secondary status.¹ Existing fixed operations, which are listed in Appendix B, shall be protected from harmful interference from VHF-TV and FM stations operating in the 76-100 MHz band. This shared arrangement is practicable because Alascom's Fixed use is in remote areas where there should be no conflict with broadcast use. If this proposed sharing agreement proves acceptable to the public and subsequent allotments to Alaska are made, the Alaskan population should benefit from the availability of considerably more TV and FM Radio Channels as well as the continued use of the same spectrum for telephone service in certain remote locations.

4. The Commission recently had another rule making in progress, Docket 80-710, in which the bands 76-88 and 98-108 MHz were reallocated in Hawaii for Broadcast uses by the adoption of a Report and Order on September 17, 1981. In a subsequent action in that proceeding, the Commission will consider the issue raised by the petitioner, Lee M. Holmes, of assignment of one or more of the Channels to the Hawaiian market(s). In the instant proceeding APBC has not requested a channel assignment to a specific community and in the interest of maintaining the simplicity of the reallocation matter, no requests for individual communities should be submitted in comments or reply comments. Rather they should wait until a decision is made in this proceeding.

¹ According to § 2.105(g)(3) of Part 2 of the rules and Geneva Radio Regulation No. 139, "Stations of a secondary service: (a) Shall not cause harmful interference to stations of primary or permitted services to which frequencies are already assigned or to which frequencies may be assigned at a later date; (b) cannot claim protection from harmful interference from stations of a primary or permitted service to which frequencies are already assigned or may be assigned at a later date; (c) can claim protection, however, from harmful interference from stations of the same or other secondary service(s) to which frequencies may be assigned at a later date."

5. Accordingly, the Commission is issuing this Notice of Proposed Rule Making for reallocation from the Fixed Service of the bands 76-88 MHz (TV Channels 5 and 6) to the TV Broadcast Service and 88-100 MHz (FM Channels 201-260) to the FM Broadcast Service in Alaska by deletion of footnote US23 to the Table of Frequency Allocations, § 2.106. Both bands will remain available for Fixed use on a secondary basis. Existing fixed licensees, which are listed in Appendix B, shall be protected from harmful interference according to the terms of new footnote NG129.

6. The proposed amendments to Parts 2, 73 and 74 of the Rules, as set forth in Appendix A, are issued pursuant to the Communications Act of 1934, as amended.

7. Pursuant to Section 605 of the REgulatory Flexibility Act (Pub. L. 96-354, September 19, 1980, 94 Stat. 1164; 5 U.S.C. 601 et seq.) the Commission certifies that the action proposed herein will not have a significant economic impact on a substantial number of small entities. There is only one radio common carrier, Alascom, operating in the Fixed Service in Alaska in the 76-100 MHz range, and that entity is not a small business according to the Small Business Administration's criteria. The availability of additional TV and FM Channels would have a positive impact on any prospective Alaskan broadcaster.

8. Pursuant to applicable procedures set forth in § 1.415 of the Commission's Rules, interested persons may file comments on or before February 16, 1982, and reply comments on or before March 3, 1982. All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding. In reaching its decision, the Commission may take into consideration information and ideas not contained in the comments, provided that such information or a writing indicating the nature and source of such information is placed in the public file, and provided that the fact of the Commission's reliance on such information is noted in the Report and Order.

9. For purposes of this non-restricted notice and comment rule making proceeding, members of the public are advised that ex parte contacts are permitted from the time the Commission adopts a notice of proposed rule making until the time a public notice is issued stating that a substantive disposition of the matter is to be considered at a forthcoming meeting or until a final order disposing of the matter is adopted by the Commission, whichever is earlier.

In general, an ex parte presentation is any written or oral communication (other than formal written comments/pleadings and formal oral arguments) between a person outside the Commission and a Commissioner or a number of the Commission's staff which addresses the merits of the proceeding. Any person who submits a written ex parte presentation must serve a copy of that presentation on the Commission's Secretary for inclusion in the public file. Any person who makes an oral ex parte presentation addressing matters not fully covered in any previously-filed written comments for the proceeding must prepare a written summary of that presentation; on the day of oral presentation, that written summary must be served on the Commission's Secretary for inclusion in the public file, with a copy to the Commission official receiving the oral presentation. Each ex parte presentation described above must state on its face that the Secretary has been served, and must also state by docket number the proceeding to which it relates. See generally, § 1.1231 of the Commission's rules, 47 CFR 1.1231.

10. It is ordered, that a copy of this Notice shall be sent to the Chief Counsel for Advocacy of the Small Business Administration.

11. In accordance with the provisions of § 1.419 of the Commission's Rules, an original and five copies of all statements, briefs or comments filed shall be furnished to the Commission. Responses will be available for public inspection during business hours in the Commission's Public Reference Room in its headquarters in Washington, D.C.

12. For further information concerning procedures to follow with respect to this rule making proceeding, contact Maureen Cesaitis (202) 653-8164. A summary of the Commission's procedures governing ex parte contacts in informal rule making is available from the Commission's Consumer Assistance Office, FCC, Washington, D.C. 20554, (202) 632-7000.

(Secs. 4, 303, 307, 48 Stat., as amended, 1065, 1082, 1083; 47 U.S.C. 154, 303, 307)

Federal Communications Commission.

William J. Tricarico,

Secretary.

Parts 2 and 73 of chapter I of Title 47 of the Code of Federal Regulations are proposed to be amended as follows:

PART 2—FREQUENCY ALLOCATION AND RADIO TREATY MATTERS GENERAL RULES AND REGULATIONS

§ 2.106 [Amended]

1. Section 2.106 is amended by removing footnote designator US23 in

column 5 for the bands 76-88 and 88-108 MHz.

2. Section 2.106 is amended by adding a new footnote, NG129, in column 7 for the bands 76-88 and 88-108 MHz.

3. Section 2.106 is amended by removing the text of footnote US23 from the list of footnotes following the Table of Frequency Allocations.

4. Section 2.106 is amended by adding a new footnote to the list of footnotes following the Table to read:

NG129 In Alaska, the bands 76-88 MHz and 88-100 MHz are also allocated to the Fixed service on a secondary basis to the Broadcast service. Broadcast stations operating in these bands shall not cause interference to non-Government fixed operations authorized prior to January 1, 1982.

PART 73—RADIO BROADCAST SERVICES

1. In § 73.220, paragraph (b) is revised to read as follows:

§ 73.220 [Amended]

* * * * *

(b) In Alaska, the frequencies 92.1-107.9 MHz (Channels 221-300) may be assigned to FM broadcast stations; however, these stations shall not cause harmful interference to non-Government fixed operations authorized to operate on these frequencies before January 1, 1982.

2. In § 73.501, paragraph (b) is revised to read as follows:

§ 73.501 [Amended]

* * * * *

(b) In Alaska, the frequencies 87.9-91.9 MHz (Channels 200-200) may be assigned to FM broadcast stations; however, these stations shall not cause harmful interference to non-Government fixed operations authorized to operate on these frequencies before January 1, 1982.

3. In § 73.603, paragraph (b) is revised to read as follows:

§ 73.603 [Amended]

* * * * *

(b) In Alaska, the frequency bands 76-82 MHz (Channel 5) and 82-88 MHz (Channel 6) may be assigned to television broadcast stations; however, these stations shall not cause harmful interference to non-Government fixed operations authorized to operate in these bands before January 1, 1982.

PART 74—EXPERIMENTAL, AUXILIARY, AND SPECIAL BROADCAST, AND OTHER PROGRAM DISTRIBUTIONAL SERVICES

1. In § 74.702, the last sentence of paragraph (b) (1) is revised and now reads as follows:

§ 74.702 Frequency assignment.

(a) ***

(b) (1) Any one of the 12 standard VHF Channels (2-13 inclusive) may be assigned to a VHF translator on condition that no interference is caused to the direct reception by the public of the signals of any television broadcast station operating on the same or any

adjacent channels. Channels 5 and 6 may be assigned in Alaska but such assignments shall not cause harmful interference to non-Government fixed operation authorized to operate on these frequencies before January 1, 1982.

2. In § 74.1202, paragraph (b) (3) is revised to read as follows:

§ 74.1202 [Amended]

(b) ***

(3) Channels 201-260 (88.1-99.9 MHz) may be assigned for use by FM translators in Alaska; however, such assignment shall not cause harmful interference to non-Government fixed operations authorized to operate on these frequencies before January 1, 1982.

APPENDIX B.—LIST OF RECEIVE SITES OF EXISTING FIXED OPERATIONS AS OF JANUARY 1, 1982, INCLUDING PROPOSED INTERFERENCE PROTECTION CRITERIA

Rx stations	Latitude	Longitude	Rx freq (MHz)	Rx occupied BW (KHz)	Rx threshold sensitivity (C/N-10dB) (dBm)	Antenna type	Antenna gain (dBi)	Ground elevation ft. AMSL	Antenna ft. AGL	Call sign	Antenna azimuth	Interference criteria (dBm)
Pelican	57°57'38.00"	136°13'50.00"	96.9000	510	-99	VC.004H (Andrew 3605A)	6.5	50	80	WGF39	318.02°	-118
Cape Spencer	58°11'56.00"	136°38'16.00"	93.8000	510	-99	VC.004H	6.5	70	40	WGF30	137.68°	-118
Cape Spencer	58°11'56.00"	136°38'16.00"	86.6000	510	-99	VY.005H (Scale CLFM)	7.0	70	40	WGF30	65.79°	-118
Gustavus	58°25'4.00"	135°41'43.00"	90.2000	510	-99	VY.005H	7.0	36	60	WGF35	246.59°	-118
Gustavus	58°25'4.00"	135°41'43.00"	82.4000	510	-99	VY.005H	7.0	96	60	WGF35	154.20°	-118
Hoonah	58°7'40'90"	135°25'50'88"	79.1000	510	-99	VY.005H	7.0	1,539	105	WGF826	334.43	-118
Hoonah	58°7'40'93"	135°25'50'88"	89.1000	264	-102	VY.005V	7.0	1,539	105	WGF826	194.89°	-121
Hoonah Village	58°6'29.00"	135°26'27.00"	93.1000	264	-102	VY.005V	7.0	75	30	WGF36	14.88°	-121
Boswell Bay	60°25'4.00"	146°9'8.00"	95.4000	510	-99	VY.005H	7.0	782	42	WGF70	57.57°	-118
Sand Point	55°21'3.00"	160°29'15.00"	83.0000	60	-106.5	VC.004H	6.5	299	88	WGF45	355.65°	-127

NOTE.—The interference criteria denote the maximum allowable received interference levels (in dBm) over the receiver occupied bandwidth exceeded no more than 10% of the time.

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BILLING CODE 6712-01-M

47 CFR Part 73

[BC Docket No. 81-897; FCC 81-586]

Applications for Voluntary Assignments or Transfers of Control

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The FCC, acting on its own motion, herein proposes to delete § 73.3597 (a) through (d) of its Rules. These sections comprise what is commonly known as the "three year rule", and require a broadcast application for assignment or transfer filed prior to completion of a three year holding period to be designated for hearing, unless there are certain specified extenuating circumstances or a meritorious waiver request. The FCC believes that the "three year rule" appears to serve no continuing public interest purpose.

DATES: Comments must be filed on or before March 1, 1982, and reply comments on or before March 31, 1982.

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

FOR FURTHER INFORMATION CONTACT: Steven A. Bookshester, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION: In the matter of amendment of § 73.3597 of the Commission's rules (Applications for

Voluntary Assignments or Transfers of Control).

Adopted: December 17, 1981.

Released: December 30, 1981.

1. The Commission, acting on its own motion, here proposes to delete § 73.3597 (a) through (d) of its rules. Section 73.3597 (a) through (d) comprise what is commonly known as the "three year rule." The rule requires a broadcast application for assignment or transfer filed prior to completion of this holding period to be designated for hearing, unless there are certain specified extenuating circumstances or a meritorious waiver request.

2. It is the Commission's view that its rules and policies should be drawn with an eye to the current social, technological and financial environments of licensees and applicants, so as to facilitate maximum service to the listening and viewing public while minimizing the cost induced by regulation. This approach to regulation, which is reflected in our actions in numerous recent rule making proceedings,¹ is consistent both with our

¹ See, for example, *Deregulation of Radio*, 84 F.C.C. 2d 968 (1981), *reconsid. denied*, 87 F.C.C. 2d 797 (1981); *Commission Policy Concerning the Noncommercial Nature of Educational Broadcast Stations*, 86 F.C.C. 2d 141 (1981); *Revision of Application for Renewal of License of Commercial and Noncommercial AM, FM and Television Licensees*, 46 Fed Reg. 28236, published May 11, 1981; *Representation of Stations by Representatives Owned by Competing Stations in the Same Area*, 87 F.C.C. 2d 668 (1981).

Communications Act and with the intent of such recent legislative enactments as the Regulatory Flexibility Act, 5 U.S.C. 601 et seq. As detailed below, we believe that when analyzed in this context, the "three year rule" appears to serve no continuing public interest purpose. We therefore propose elimination of the rule.

Background

3. The Commission has long concerned itself with the issue of possible "trafficking" in broadcast licenses and permits, defined in an early case as the licensee's acquisition of a station "for the purpose of reselling it at a profit rather than for the purpose of rendering a public service." *Powel Crosley, Jr.*, 11 FCC 3, 23 (1945).² Factors which have traditionally been considered in determining whether "trafficking" has occurred are time of operation, profit gained or expected from the sale, and intent.³

4. Although "trafficking" was an issue considered in numerous proceedings during the Commission's first quarter-

² See also *WMIE-TV, Inc.*, 11RR 1091, 1098 (1955); *Harriman Broadcasting Company*, 9 FCC 2d 731 (1967), *aff'd sub. nom. Crowder v. FCC*, 399 F.2d 569 (D.C. Cir. 1968), *cert. denied*, 393 U.S. 962 (1968).

³ *Combined Communications Corporation*, 72 FCC 2d 637, 646 (1979), *reconsid. denied*, 76 FCC 2d 445 (1980); *Thunderbird Broadcasting Co.*, 61 FCC 2d 1190, 1194 (1976); *PrairieLand Broadcasters*, 49 FCC 2d 1377, 1381 (Review Board, 1974); *Atlantic Coast Broadcasting Corporation of Charleston*, 22 RR 1045, 1051 (1962).

century of operation,⁴ was not until December, 1960, after significant Congressional attention had been focused on the matter, that a Notice was adopted in Docket No. 13864, FCC 60-1466, 25 FR 12898, proposing adoption of an anti-"trafficking" rule.⁵ The Commission observed in the Notice that "frequent turnover of a large number of broadcast stations" had been and was a matter of great concern to it and to the Congress. It stated that "voluntary sales of stations which have been held by their owners for short periods of time raise questions as to whether they are engaged in trafficking in broadcast interests; and whether the resultant uncertainty on the part of station personnel and disruption in operational continuity cause programming deterioration incompatible with programming in the public interest."

5. The proposed cure for these perceived problems was promulgation of what came to be known as the "three year rule."⁶ The rule was adopted in March, 1962, in the face of substantial industry opposition.⁷ The Commission's rationale for its adoption was in part

⁴ See in this regard Radio Regulation (1st Series), Digest Volume 2, at §§ 53.24Z(4), 53.24Z(7); Digest Volume 2-A, at § 53.24Z.

⁵ A staff study and public hearings addressed in part to the "trafficking" issue had been conducted by the Special Subcommittee on Legislative Oversight of the House Committee on Interstate and Foreign Commerce. The staff study, known as the "McMahon Report," was released as "Regulation of Broadcasting: Half A Century of Government Regulation of Broadcasting and the Need for Further Legislative Action," 85th Cong., 2nd Sess. (1958) (Subcommittee Print). The Subcommittee's hearings were published as "Investigation of Regulatory Commissions and Agencies," Part 8, 85th Cong., 2nd Sess. (printed 1959). Following the hearings, the Subcommittee issued the "Harris Report" (after the then-Chairman of the Subcommittee and the full Commerce Committee, Rep. Oren Harris), House Report No. 2711, 85th Cong., 2nd Sess. (printed 1959). See, also, House Report No. 1258, 86th Cong., 2nd Sess. (1962). On March 23, 1960, Chairman Harris introduced H.R. 11340, a bill which would have required, *inter alia*, that no broadcast license be transferred within the first three years after Commission grant or transfer from another licensee, unless a public hearing was first held in the station's service area at which "it is affirmatively established . . . that due to inadequacy of operating capital, death or disability of key management personnel, or other changed circumstances affecting the licensee, occurring subsequent to acquisition of the license, approval of the proposed transfer will serve the public interest, convenience and necessity." The bill died in the 86th Congress, but was reintroduced in the 87th Congress as H.R. 1165 on January 3, 1961, and remained pending at the time the Commission took final action in Docket No. 13864 in 1962.

⁶ *Pro forma* assignments or transfers, as well as transfers of translators or FM stations operated for more than three years with Subsidiary Communications Authorizations ("SCAs") held for a lesser period were excluded from the operation of the rule.

⁷ *Applications for Voluntary Assignments or Transfers of Control*, 32 FCC 689 (1962).

that the requirement that a hearing be held on the transfer or assignment application of a station operated less than three years by the present licensee would comport with its "special obligation" to insure that "the very high ratio of transfer and assignment applications involving short-term ownership of stations" since 1955 did not involve "trafficking."⁸ However, emphasis at least equal to that placed upon the anti-"trafficking" nature of the rule was also given to the possible detriment to service which might result from the sales trend. The Commission noted that while it agreed with opponents of the new rule that "trafficking, standing alone, is to a considerable extent a subjective problem," and that the Commission "has adequate authority to deal with it on a case-to-case basis," this did not "undermine the desirability of the general procedural policy" being adopted. This was particularly the case, the Commission stated, because it was not only "trafficking," but also the trend in broadcast sales, which was being addressed.⁹

Proposal

6. Our review of the stated purposes and apparent impact of the "three year rule" leads us to the view that the rule has outlived whatever validity and utility it may have had, and that its continuance in effect would not serve the public interest. As we have noted, the rule was adopted almost twenty years ago, when many television and most FM radio stations were newly established and broadcasting was not nearly so successful a business enterprise as it has come to be. There generally were fewer stations serving each community. It may well have been appropriate at that time for the Commission to be concerned that what appeared to be a high rate of transfers of these newly-established, not-yet-profitable stations might lead to a deterioration in service to the public. The broadcasting marketplace has, however, changed substantially since

⁸ "Trafficking" was defined as speculation, barter or trade in licenses to the detriment of the public interest.

⁹ The Commission commented that if, in a case designated for hearing under the rule, " . . . a transferor establishes that he has not engaged in trafficking, that he has made a good faith effort to fulfill his programming representations or adjust his programming to the needs of his area, that no unwarranted interruption or deterioration in programming service has occurred, or will occur, incompatible with broadcasting in the public interest, and that he has a valid reason for transferring the station after only a brief period of operation, it may be reasonably concluded that the application would be granted."

the "three year rule" was adopted. The number of operating stations has almost doubled. FM and UHF have attained overall profitability. Radio stations, and, in the larger markets, some television stations as well, have turned to more specialized programming in an effort to obtain a meaningful share of the audience. And, quite significantly, over-the-air broadcasters are increasingly being faced with competition from cable and other services.

7. The conclusion we draw from observation of this well-established over-the-air broadcasting system, operating in an ever more competitive environment, is that it will be the rare case in which sale of a station held less than three years leads to a deterioration of service. We believe, rather, that continuing the rule in effect is more likely to have such an impact. This is because the "three year rule" artificially restricts a station from going to its "higher valued use." A buyer ready and willing to utilize its resources to pay the required price for a given property is more likely to provide the service most desired in a community than an unwilling owner restricted from selling a property it no longer desires only by Commission fiat. Further, the rule's restrictions impose an undesirable cost upon both the present owner, who may be forced to suffer financial loss or forego more appropriate investment opportunities, and upon the public, which may suffer reduced service from a failing operation or lose the opportunity to receive better service which an influx of new capital or a more willing operator might provide.

8. Because of the incentives today present in the marketplace, we also believe that consideration of "trafficking" as it has traditionally been defined in broadcast cases is no longer appropriate. Commission concern regarding "trafficking" has been premised in part on the view that "speculation in licenses" would lead to increased station prices, allowing "only wealthy individuals or businesses" to purchase broadcast properties, and possibly leading the new ownership to decrease the quality of programming and increase the quantity of commercials in an effort to recover its investment. This concern has its basis in what we now believe to be the false dichotomy between purchase of a station for profitable resale and purchase in order to render a public service. Purchase of a station is an investment decision in which consideration of potential profits in resale will frequently be a relevant factor. This consideration does not,

however, negate the possibility of service in the public interest during the time of ownership. Indeed, public service by the broadcaster and audience acceptance of that service is the *sine qua non* of profitable station operation, which in turn enhances resale value. Thus, the "station doctor" who purchases a failing property, turns it into a success, and sells soon after, has, in our view, made a significant contribution to listener or viewer welfare—even though he or she may well have purchased the station as a speculative business venture.

9. Additionally, we do not believe that artificially restricting the transfer of broadcast licenses through use of the "three year rule" reduces station sale prices. Such restrictions may in fact increase prices for the limited number of available properties. Entry into broadcasting for those of lesser means is, thus, not likely to be eased by anti-"trafficking" prohibitions on transfers and assignments, but by expanding the possibilities for entry. The Commission has a number of proposals under consideration which are directed to this purpose.¹⁰ Finally, we do not believe that high station prices lead to increased commercialization. As we have found in the radio deregulation proceeding, competition and other forces present in the marketplace serve to prevent overcommercialization.¹¹ Overcommercialization will, in today's competitive environment, likely drive away listeners or viewers, thus decreasing present profitability and future resale value.

10. We are aware that the "three year rule" appears to have reduced the number and percentage of transfer and assignment applications in the years immediately following its adoption.^{12 13} Further, we have no doubt that cases have occurred in which transfers or assignments have been delayed primarily to comply with the three year holding period. We do not believe,

¹⁰ Modification of FM Broadcast Station Rules to Increase the Availability of Commercial FM Broadcast Assignments, 78 F.C.C. 2d 1235 (1980); Table of Television Allotments, 45 Fed. Reg. 72902, published November 3, 1980; Low Power Television Broadcasting, 82 F.C.C. 2d 47 (1980). See, also, Clear Channel Broadcasting in the AM Broadcast Band, 78 F.C.C. 2d 1345 (1980), *reconsid. denied*, 48 R.R. 2d 1077 (1980).

¹¹ Deregulation of Radio, *supra*, at 999-1008.

¹² See Appendix "A" for a summary of transfer and assignment cases. Fluctuations since that time do not reveal any discernable pattern, and do not appear to be attributable to the rule as such. Factors such as the increased cost of purchase of established AM and VHF stations, and the relative ease of entry into FM or UHF through establishment of a new station may, until recently, have had a significant impact on the number and percentage of assignment/transfer applications.

however, that this effect of the rule, which could reasonably be expected, provides us with any basis to continue the rule in effect. Conversely, we believe that allowing the marketplace to operate as to transactions involving on-air stations will undoubtedly lead to better broadcasting in the public interest. We therefore propose elimination of the rule and the underlying policy.¹⁴

11. Section 73.3597 (e) and (f) of the rules restrict payments upon transfer or assignment of a construction permit to reimbursement of expenses, and limit the equity interest which the transferor or assignor may retain in the permittee to a proportion equal to the transferor's or assignor's capital contribution. The prohibition terminates once a station has commenced program test operations. This appears to be an era in which sections 301 and 304 of the Communications Act, as well as general public interest concerns, dictate that regulation should be continued. Sections 301 and 304 provide, *inter alia*, that licenses issued by the Commission convey no property interest. To allow a permit to be transferred in a situation in which the station seller obtains a profit, prior to the time that program tests have commenced, would appear to violate this prohibition. The permittee would appear to have nothing to convey for profit other than the mere expectation of future profits, which appends to the permit itself. Additionally, the permittee has, implicit in its application, indicated to the Commission that it intends to construct and to initiate service. To maintain the integrity of the Commission's processes, and to further the public interest objective of expeditious introduction of new service, it would appear that Sections 73.3597 (e) and (f) should remain in force. Comment on the appropriateness of these tentative conclusions is solicited.

Regulatory Flexibility Act—Initial Analysis

12. Reason for action. The Commission believes that its rules and

¹³ Support for the view that the impact of the rule was likely not as great as had been contemplated at its inception is the relative ease with which exemption from its impact through one of the specified exceptions or through waiver was provided by the Commission. Available data indicate that in the 1962-1979 period, 697 transfer or assignment cases were considered in which the three year limitation would ordinarily have applied. In 543 of these cases, approval was granted under one of the three exemptions built into the rule: unavailability of capital—370; death or disability—128; and changed circumstances—45. In an additional 142 cases, the party seeking transfer apparently did not qualify for any of the three exemptions; but waiver was granted. The remaining 12 cases were approved through "By direction" letters.

¹⁴ We would, of course, stand ready to reenter this area should circumstances so dictate.

policies should be reviewed in the context of current social, technological and financial environments in which licensees and applicants operate, so that service to the public may be facilitated while the least regulatory cost is imposed. It is in this light that it is considering modifications to § 73.3597 of its Rules.

13. *The objectives.* The Commission proposes to delete § 73.3597 (a) through (d) from its rules, in order to free marketplace forces to operate in broadcast station sales and thus enhance provision of desired service to the public.

14. *Legal basis.* Action proposed herein is taken pursuant to sections 4(i) and 303(g) and (r) of the Communications Act of 1934, as amended, which charge the Commission with regulation in the public interest, convenience and necessity, so as to, *inter alia*, generally encourage the larger and more effective use of radio. The specific rules considered herein also relate to sections 301 and 304 of the Act, which provide that licenses issued by the Commission convey no property interest, to section 310(d) of the Act, which requires that a proposed transfer or assignment of a construction permit or license be approved by the Commission only upon a finding that such transfer or assignment would serve the public interest, convenience and necessity, and to related provisions of sections 308 and 309.

15. *Description, potential impact and number of small entities affected.* The proposals set forth herein would eliminate the three year holding period of station ownership presently imposed on broadcast licensees. Virtually all broadcasters are small entities. This action would be expected to have an immediate impact on those licensees presently operating a station for less than three years who desire to sell the station prior to expiration of the three year period but would be precluded from doing so by operation of the rule. Over a period of time, the number of such entities would obviously expand. This will be of benefit to entities operating a failing station which might otherwise be precluded from station sale, to present station owners seeking alternative business opportunities but prevented from doing so by operation of the rule, and to entities seeking to acquire broadcast properties but limited in this activity by operation of the rule. Other small entities on which there may be an impact include:

(a) Station brokers, approximately 50 in number, whose business may be increased by elimination of the "three

year rule" limitation on transfers and assignments;

(b) Small entities involved in financing of broadcast station sales, of which the number cannot be ascertained, who may derive increased business if elimination of the rule leads to an increase in transfers and assignments;

(c) Management, programming, financial and technical consultants and ratings services, believed to be a number less than 1,000, which may gain new clients and lose others if elimination of the rule increases the rate of transfers and assignments;

(d) Local businesses supplying stations, the number unascertainable, which may both gain and lose accounts if an increased number of new owners seek new sources of supply, and which may obtain increased broadcast-related business if the changes in ownership lead to greater station success and consequent increases in purchasing.

16. *Recording, record keeping and other compliance requirements.* The proposed change will reduce such requirements.

17. *Federal rules which overlap, duplicate or conflict with this rule.* None.

18. *Any significant alternatives minimizing impact on small entities and consistent with the stated objective.* None.

Procedural Matters

19. Authority for action taken herein is found in sections (4)(i), and 303 (g) and (r) of the Communications Act of 1934, as amended. Pursuant to the applicable provisions set forth in § 1.415 of the Commission's rules, interested parties may file comments on or before March 1, 1982, and reply comments on or before March 31, 1982. All relevant and timely comments and reply comments will be considered by the Commission before final action is taken in this proceeding. In reaching its decision, the Commission may take into consideration information and ideas not contained in the comments, provided that the fact of the commission's reliance on such information is noted in the Report and Order.

20. For further information concerning this proceeding, contact Steven A. Booksheter, Broadcast Bureau, (202) 632-7792. For purposes of this non-restricted notice and comment rule making proceeding, members of the public are advised that *ex parte* contacts are permitted from the time the Commission adopts a Notice of

Proposed Rule Making until the time a public notice is issued stating that a substantive disposition of the matter is to be considered at a forthcoming meeting or until a final order disposing of the matter is adopted by the Commission, whichever is earlier. In general, an *ex parte* presentation is any written or oral communication (other than formal written comments/pleadings and formal oral arguments) between a person outside the Commission and a Commissioner or a member of the Commission's staff which addresses the merits of the proceeding. Any person who submits a written *ex parte* presentation must serve a copy of that presentation on the Commission's Secretary for inclusion in the public file. Any person who makes an oral *ex parte* presentation addressing matters not fully covered in any previously filed written comments for the proceeding must prepare a written summary of that presentation; on the day of oral presentation, that written summary must be served on the Commission's Secretary for inclusion in the public file, with a copy to the commission official receiving the oral presentation. Each *ex parte* presentation described above must state on its face that the Secretary has been served, and must also state by docket number the proceeding to which it relates. See generally, § 1.1231 of the Commission's rules, 47 CFR 1231.

21. In accordance with the provisions of § 1.419 of the Commission's Rules, an original and five copies of all comments, replies, pleadings, briefs and other documents shall be furnished the Commission. Members of the general public who wish to participate informally in the proceeding may submit one copy of their comments, specifying the docket number in the heading. All filings in this proceeding will be made available for public inspection during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C. 20554.

22. The Secretary shall cause a copy of this Notice, including the initial regulatory flexibility analysis, to be sent to the Chief Counsel for Advocacy of the Small Business Administration, in accordance with section 603(a) of the Regulatory Flexibility Act.

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083; 47 U.S.C. 154, 303, 307)

Federal Communications Commission.

William J. Tricarico,
Secretary.

APPENDIX "A".¹—TRANSFER AND ASSIGNMENT APPLICATIONS FY 1960-FY 1979

Fiscal year	Authorized stations ²	Assignment and transfer applications filed	Percent of stations filing for transfer or assignment
1960	5391	1102	20.4
1961	5785	1064	18.5
1962	6019	966	16.0
1963	6199	920	14.8
1964	6464	907	14.0
1965	6748	1054	15.6
1966	7078	983	13.9
1967	6962	862	12.4
1968	7218	1045	14.5
1969	7358	1059	14.4
1970	7450	1004	13.5
1971	7560	998	13.2
1972	7664	1099	14.3
1973	7758	1124	14.5
1974	7939	1013	12.8
1975	8089	1020	12.6
1976	8236	1099	13.3
1977	8430	1332	15.8
1978	8568	(*)	(*)
1979	8741	1297	14.8

¹ Source: FCC Annual Reports.

² Prior to 1967, noncommercial stations were not separated in the data. However, since this number is reflected in both operating stations and applications, the percentages as well as the conclusions one draws from the table should not be prejudiced.

³ Not available.

[FR Doc. 82-426 Filed 1-7-82; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[EE-169-78]

Certain Cash or Deferred Arrangements Under Employee Plans

AGENCY: Internal Revenue Service, Treasury.

ACTION: Extension of time for comments and requests for a public hearing.

SUMMARY: This document provides notice of an extension of time for submitting comments and requests for a public hearing concerning the notice of proposed rulemaking relating to certain cash or deferred arrangements under employee plans. The extended deadline for submission of comments and requests for a public hearing is February 15, 1982.

DATE: Written comments and requests for a public hearing must be delivered or mailed by February 15, 1982.

ADDRESS: Send comments and requests for a public hearing to Commissioner of Internal Revenue, Attn: CC:LR:T (EE-169-78), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: Charles M. Watkins of the Employee

Plans and Exempt Organizations
Division, Office of Chief Counsel,
Internal Revenue Service, 1111
Constitution Avenue, N.W., Washington,
D.C. 20224, 202-566-3430, not a toll free
call.

SUPPLEMENTARY INFORMATION: On
November 10, 1981, the *Federal Register*
published proposed regulations relating
to certain cash and deferred
arrangements (46 FR 55544). Some
members of the public have inquired
whether, under the proposed
regulations, prohibited discrimination
may be avoided through withdrawal (or
recharacterization as voluntary
contributions) of certain contributed
amounts within 30 days after the end of
the plan year. The proposed regulations
do not permit this practice. This
document extends the comment period
to February 15, 1982, so that members of
the public may comment on this issue. A
transitional rule for years before 1982
will be considered.

This document does not meet the
criteria for significant regulations set
forth in paragraph 8 of the Treasury
Directive on improving government
regulations appearing in the *Federal
Register* for Wednesday, November 8,
1978.

By direction of the Commissioner of
Internal Revenue:

Jonathan P. Marget,

*Assistant Director, Employee Plans and
Exempt Organizations Division.*

[FR Doc. 82-704 Filed 1-7-82; 12:04 pm]

BILLING CODE 4830-01-M

Notices

Federal Register

Vol. 47, No. 5

Friday, January 8, 1982

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

Upland Cotton: Study Committee To Study Alternative Methods of Establishing Value of Premiums and Discounts for the Upland Cotton Loan Program

AGENCY: Agricultural Stabilization and Conservation Service, USDA.

ACTION: Notice of invitation for persons to serve on a study committee on premiums and discounts for upland cotton.

SUMMARY: The Secretary of Agriculture is preparing to appoint a study committee to study alternative methods of establishing values of premiums and discounts for grade, staple and micronaire for the upland cotton loan program. The study committee is required by the Agricultural Act of 1949, as amended by the Agriculture and Food Act of 1981. The purpose this notice is to invite interested persons and organizations to nominate individuals to serve on the study committee.

EFFECTIVE DATE: Nominations must be received by January 25, 1982.

ADDRESS: Mail nominations to Director, Analysis Division, ASCS, USDA, Room 3741 South Building, P.O. Box 2415, Washington, D.C. 20013, 202-447-3391.

FOR FURTHER INFORMATION CONTACT: Charles V. Cunningham, Acting Deputy Director, Analysis Division, ASCS, USDA, Room 3741 South Building, P.O. Box 2415, Washington, D.C. 20013, 202-447-7954

SUPPLEMENTARY INFORMATION: This notice has been reviewed under USDA procedures established to implement Executive Order 12291 and Secretary's Memorandum No. 1512-1 and has been

determined not to be a rule or regulation as defined in the Executive Order; therefore, the executive order does not apply to this notice.

The title and number of the Federal assistance program that this notice applies to are: Title—Commodity Loans and Purchases; Number 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, review as established by 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 the Secretary of Agriculture 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.

Section 403 of the Agricultural Act of 1949 (7 U.S.C. 1423) as amended by Section 507 of the Agriculture and Food Act of 1981 provides 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. Beginning with the 1959 crop, in adjusting the support price for cotton on the basis of grade, the Secretary shall establish separate price support rates for split grades and for full grades substantially reflecting relative values. In determining support prices for the 1966 and 1967 crops of rice the Secretary shall, notwithstanding the foregoing or any other provision of law, use head and broken rice value factors for the various varieties which (1) are not lower than those used with respect to the 1965 crop and (2) do not differ as between any two varieties by a greater amount than the value factors used with respect to the 1965 crop for such two varieties differed.

Beginning with the 1982 crop, the quality differences (premiums and discounts for grade, staple and micronaire) for the upland cotton loan program shall be established by the

Secretary by giving equal weight to (1) loan differences for the preceding crop and (2) the market differences for such crop in the nine designated United States spot markets. The Secretary shall establish a study committee of ten members, eight of whom shall be representatives of cotton producers selected to equally represent each of the four major geographic regions which produce and market upland cotton, one of whom shall be a representative of cotton merchants, and one of whom shall be a representative of the textile manufacturers. The committee shall study alternative methods of establishing values of premiums and discount for grade, staple, and micronaire for the upland cotton loan program that will accurately represent true relative market values and reflect actual market demand for upland cotton produced in the United States. The committee shall submit the results of such study to the Secretary at the earliest practicable date together with such recommendations as the committee considers appropriate. The Secretary may, prior to the announcement of loan rate differences for the 1982 crop of upland cotton, review the procedures and criteria, including the recommendations made by the study committee and the formula provided for in the fifth sentence of this section for determining quality differences, including the loan differentials for grade, staple, and micronaire for the upland cotton loan program and, on the basis of such review, revise such procedures and criteria to accurately reflect the actual market value of upland cotton produced in the United States."

Notice

Interested persons and organizations are invited to nominate persons and alternates to serve on the study committee. Nominations shall be written and must include a biographical sketch of the nominees showing: name, date of birth, place of birth, residence address (include congressional district), employer (include sub-divisions and affiliate, business address, and occupation), major source of income, membership and offices held, education, and civic activities.

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

C. Hoke Leggett,

Acting Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 81-37478 Filed 12-31-81; 11:31 am]

BILLING CODE 3410-05-M

1982 Crop of Extra Long Staple Cotton: Results of Referendum

AGENCY: Agricultural Stabilization and Conservation Service, USDA.

ACTION: Notice of results of national marketing quota referendum for 1982 crop extra long staple cotton.

SUMMARY: The purpose of this notice is to proclaim the result of the national marketing quota referendum with respect to the 1982 crop of extra long staple cotton held during the period December 7-11, 1981, each inclusive. The Agricultural Adjustment Act of 1938, as amended, requires that the result of the referendum be proclaimed within thirty days after the referendum. This notice is needed to satisfy this statutory requirement.

EFFECTIVE DATE: January 25, 1982.

FOR FURTHER INFORMATION CONTACT: Charles V. Cunningham, Acting Deputy Director, Analysis Division, USDA-ASCS, P.O. Box 2415, Washington, D.C. 20013, (202) 447-7954.

The Final Impact Statement describing the options considered and the impact of implementing each option is available on request from the above named individual.

SUPPLEMENTARY INFORMATION: This notice of determination has been reviewed under USDA procedures established in accordance with Executive Order 12291 and Secretary's Memorandum No. 1512-1, and has been classified as "not major." It has been determined that these provisions 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 effects on competition, employment, investment, productivity, innovation or on the ability of U.S.-based industries to compete with foreign-based enterprises in domestic or foreign markets.

As found in the Catalog of Federal Domestic Assistance, the title and number of the federal assistance programs that this notice applies to are: Title: Cotton Production Stabilization; Number: 10.052.

This action will not have a significant impact specifically on area and

community development. Therefore, review as established by OMB Circular A-95 was not used to assure that units of local Government are informed of this action.

It has been determined that the Regulatory Flexibility Act is not applicable to this notice since the Agricultural Stabilization and Conservation Service is not required by 5 U.S.C. 533 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this notice.

Effective October 15, 1981, the Secretary of Agriculture proclaimed in accordance with section 347 of the Agricultural Adjustment Act of 1938 (1938 Act) that a national marketing quota of 157,000 bales would be applicable for the 1982 crop of extra long staple (ELS) cotton if such marketing quotas were approved by farmers engaged in the production of such cotton (See 46 FR 51555).

In accordance with Section 343 of the Act, a referendum with respect to marketing quotas for cotton was conducted by the Agricultural Stabilization and Conservation Service (ASCS) during the period December 7-11, 1981, to determine whether farmers were in favor of or opposed to the marketing quota proclaimed by the Secretary of Agriculture for the 1982 crop of ELS cotton.

It is essential that this notice be made effective as soon as possible since the proclamation of the result of the referendum is required by Section 343 of the 1938 Act not later than thirty days after the referendum. Accordingly, it is hereby found and determined that compliance with any further rulemaking requirements of 5 U.S.C. 533 is impracticable and contrary to the public interest. Therefore, this document shall be effective upon filing with the Director, Office of the Federal Register.

Accordingly, the following notice sets forth the results with respect to marketing quotas for the 1982 crop of ELS cotton.

Notice

Result of the national marketing quota referendum for the 1982 crop of extra long staple cotton.

(1) *Referendum period.* The national marketing quota referendum for the 1982 crop of extra long staple cotton was held by mail ballot during the period December 7 to 11, 1981, each inclusive, in accordance with 7 CFR Part 717.

(2) *Farmers voting.* A total of 790 farmers engaged in the production of the 1981 crop of extra long staple cotton voted in the referendum. Of those voting, 699 farmers, or 88.5 percent,

favored the 1982 national marketing quota, and 91 farmers, 11.5 percent, opposed the 1982 national marketing quota.

(3) *1982 national marketing quota continues in effect.* The national marketing quota for the 1982 crop of extra long staple cotton of 157,000 bales proclaimed at 46 F.R. 51555 shall continue in effect since two-thirds or more of the extra long staple cotton farmers voting in the referendum favored the quota.

(Sec. 343, 63 Stat. 670, as amended (7 U.S.C. 1343))

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

C. Hoke Leggett,

Acting Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 81-37477 Filed 12-31-81; 11:29 am]

BILLING CODE 3410-05-M

Soil Conservation Service

Elm Creek (1250) Watershed, Texas

Note.—This document originally appeared in the Federal Register for Thursday, January 7, 1982. It is reprinted in this issue to meet requirements for publication on the Tuesday/Friday schedule assigned to the Soil Conservation Service.

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of availability of record of decision.

FOR FURTHER INFORMATION CONTACT: George C. Marks, State Conservationist, Soil Conservation Service, P.O. Box 648, Temple, Texas 76503, telephone: 817-774-1214.

Notice

George C. Marks, responsible Federal official for projects administered under the provisions of Public Law 83-566, 16 U.S.C. 1001-1008, in the State of Texas, is hereby providing notification that a record of decision to proceed with the installation of the Elm Creek (1250) watershed project is available. Single copies of this record of decision may be obtained from George C. Marks at the above address.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention. Office of Management and Budget Circular A-95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable)

Dated: December 28, 1981.

George C. Marks,
State Conservationist.

[FR Doc. 82-357 Filed 1-6-82; 8:45 am]

BILLING CODE 1505-02-M

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket No. 1-82]

Proposed Foreign-Trade Zone— Mobile, Alabama; Application and Public Hearing

Notice is hereby given that an application has been submitted to the Foreign-Trade Zones Board (the Board) by the City of Mobile, Alabama, requesting authority to establish a general-purpose foreign-trade zone in Mobile, within the Mobile Customs port of entry. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a-81u), and the regulations of the Board (15 CFR Part 400). It was formally filed on January 4, 1982. The applicant is authorized to make this proposal under Act No. 498 of the Regular Session of the Alabama Legislature, approved May 11, 1977.

The applicant proposes to establish the zone within the Brookley Industrial Complex, a 115-acre municipally-owned facility at Brookley Airport on Mobile Bay. It would cover 13 acres west of Brookley runway 18-36 and immediately south of Avenue G. The zone project will be financed and developed by the City as part of the area's economic development plans and operated by the Brookley Manager.

The application contains evidence of the need for zone services in the Mobile area. Several prospective tenants have indicated an interest in using the zone for warehousing, distribution, staging, processing and assembly of products such as excavation equipment and components, small aircraft engines, valves for oxygen cylinders, and fishing equipment.

In accordance with the Board's regulations, an examiners committee has been appointed to investigate the application and report to the Board. The committee consists of: Dennis Puccinelli (Chairman), Foreign-Trade Zones Staff, U.S. Department of Commerce, Washington, D.C. 20230; Harvey L. Perry, District Director, U.S. Customs Service, Region V, P.O. Box 2748, 250 N. Water Street, Mobile, Alabama 36601; and Colonel Robert H. Ryan, District Engineer, U.S. Army Engineer District Mobile, P.O. Box 2288, Mobile, Alabama 36628.

As part of its investigation, the Examiners Committee will hold a public hearing on February 5, 1982, beginning at 9:00 a.m., in the Conference Room of Building A, City Hall, Dauphin Street and I-65, Mobile, Alabama 36633. The purpose of the hearing is to help inform interested persons about the proposal, to provide an opportunity for their expression of views, and to obtain information useful to the examiners.

Interested parties are invited to present their views at the hearing. They should notify the Board's Executive Secretary of their desire to be heard in writing at the address below or by phone (202/377-2862) by January 29, 1982. Instead of an oral presentation, written statements may be submitted in accordance with the Board's regulations to the examiners committee, care of the Executive Secretary, at any time from the date of this notice through March 8, 1982. Evidence submitted during the post-hearing period is not desired unless it is clearly shown that the matter is new and material and that there are good reasons why it could not be presented at the hearing. A copy of the application and accompanying exhibits will be available during this time for public inspection at each of the following locations:

U.S. Customs District Office, 250 N. Water Street, Mobile, Alabama 36601
Office of the Executive Secretary,
Foreign-Trade Zones Board, U.S.
Department of Commerce, Room 3721,
14th and E Streets, NW., Washington,
D.C. 20230

Dated: January 4, 1982.

John J. Da Ponte, Jr.,
Executive Secretary.

[FR Doc. 82-463 Filed 1-7-82; 8:45 am]

BILLING CODE 3510-25-M

International Trade Administration

Clear Sheet Glass 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 November 16, 1981, the Department of Commerce published the preliminary results of its administrative review of the antidumping finding on clear sheet glass from Italy. The review for the five known exporters covered various periods through November 30, 1980.

Interested parties were given an opportunity to submit oral or written

comments on these preliminary results. We received no comments.

EFFECTIVE DATE: January 8, 1982.

FOR FURTHER INFORMATION CONTACT:
Brian Kelly or David R. Chapman, Office
of Compliance, International Trade
Administration, Washington, D.C. 20230
(202-377-2923/2657).

SUPPLEMENTARY INFORMATION:

Background

On December 9, 1971, the Treasury Department published in the *Federal Register* an antidumping finding with respect to clear sheet glass from Italy (T.D. 71-294, 36 FR 23360). On November 16, 1981, the Department of Commerce ("the Department") published in the *Federal Register* a notice of the preliminary results of its administrative review of the finding (46 FR 56227). The Department has now completed that administrative review.

Scope of the Review

Imports covered by this review are shipments of clear sheet glass from Italy, currently classifiable under various provisions of the Tariff Schedules of the United States Annotated (TSUSA), ranging from item number 543.2100 through 543.3100.

The Department knows of a total of five Italian firms which have engaged in the manufacture and exportation of clear sheet glass to the United States. This review covers various periods through November 30, 1980.

Final Results of the Review

The Department received no comments on the preliminary results of its review. Therefore the final results are the same as the preliminary results, and we determine that the following weighted average margins exist:

Exporter	Time period	Margin (per- cent)
Societa Italiano Vetro	1/1/74 to 11/30/80	19.62
Vernante Pennitalia	1/1/74 to 11/30/80	44.56
Vetrella Italiana Balzaretti- Modigliani	5/1/70 to 11/30/80	137.40
Vetrella Milanese Lucchini	7/1/71 to 11/30/80	143.90
Vetrobrel	5/1/70 to 11/30/80	159.80

¹ No shipments during period.

The Department shall determine, and the U.S. Customs Service shall assess, dumping duties, if applicable, on all entries with purchase dates during the periods involved. Individual differences between purchase price and foreign market value may vary from the percentages stated above. The Department will issue appraisal instructions separately for each exporter directly to the Customs Service.

Further, as provided for by § 353.48(b) of the Commerce Regulations, a cash deposit based on the dumping margins above shall be required on all shipments by these firms of clear sheet glass 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 shipment occurred.

These deposit requirements shall remain in effect until publication of the final results of the next administrative review. The Department intends to conduct the next administrative review by the end of December 1982.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act of 1930 (19 U.S.C. 1675(a)(1)) and section 353.53 of the Commerce Regulations (19 CFR 353.53).

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

January 4, 1982.

[FR Doc. 82-473 Filed 1-7-82; 8:45 am]

BILLING CODE 3510-25-M

Acrylic Sheet From Japan; 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 20, 1981, the Department of Commerce published the preliminary results of its administrative review of the antidumping finding on acrylic sheet from Japan. The review covered the 14 known firms and 1 third-country shipper presently covered by the finding for various periods through July 31, 1980.

Interested parties were given an opportunity to submit written comments or request a hearing on these preliminary results. Based on comments received from one interested party the Department has made adjustments which result in a new weighted-average margin for the third-country shipper. The margins in the preliminary results of review remain unchanged for the remaining firms.

EFFECTIVE DATE: January 8, 1982.

FOR FURTHER INFORMATION CONTACT: Susan Crawford or John Kugelmann,

Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230 (202-377-2209/5289).

SUPPLEMENTARY INFORMATION:

Background

On August 30, 1976, a dumping finding with respect to acrylic sheet from Japan was published in the *Federal Register* as Treasury Decision 76-240 (41 FR 36497). The finding excluded one firm, Mitsubishi Rayon Co., Ltd. On August 20, 1981, the Department of Commerce ("the Department") published in the *Federal Register* a notice of "Preliminary Results of Administrative Review of Antidumping Finding" (46 FR 42314). The Department has now completed that administrative review.

Scope of the Review

Imports covered by this review are shipments of acrylic sheet, which is made by polymerizing methyl methacrylate into a stiff, transparent, high molecular weight polymer with resistance to ultraviolet radiation, and includes sheet, whether or not cast, extruded, drilled, milled or ground on the edges. Acrylic sheet is currently classifiable under items 771.4100, 771.4500, and 771.5500 of the Tariff Schedules of the United States Annotated (TSUSA).

The Department knows of a total of 14 Japanese firms and 1 third-country shipper engaged in the manufacture and exportation of acrylic sheet to the U.S. and currently covered by the finding. The only other known firm is Mitsubishi Rayon. This review covers separate time periods for each of the firms up to July 31, 1980. The Treasury Department reviewed all prior time periods.

Analysis of Comments Received

An importer of merchandise exported by the third-country shipper, I. J. Langleb, presented clarifying information that a commission which the Department deducted from purchase price was in actuality a separate charge. We have eliminated that deduction.

Final Results of the Review

As a result of the adjustment made based on the comments received, we determine that the following weighted-average margins exist:

Manufacturer and exporter	Time period	Margin (per cent)
Asahi Chemical Ind. Co./Taikyo Sangyo Co.	4/1/79 to 7/31/80	13.15
C. Itoh & Co.	1/1/77 to 7/31/80	0

Manufacturer and exporter	Time period	Margin (per cent)
Kanase Industries Co., Ltd.	4/1/78 to 7/31/80	1.36
Kanematsu Goshu	7/1/79 to 7/31/80	11.98
Kyowa Gas Chemical Ind., Ltd.	4/1/79 to 7/31/80	48.9
Kyowa Gas Chemical/K. Sakai.	9/1/79 to 7/31/80	7.5
Marubeni Corporation	4/1/78 to 12/31/78 1/1/79 to 7/31/80	0 0
Midorikawa Chemical Ind. Co./Mitsubishi Corp.	7/1/79 to 7/31/80	7.5
Nitto Jushi Kogyo Co.	4/1/78 to 3/31/79 4/1/79 to 7/31/80	10.86 10.86
S. P. International	4/1/78 to 12/31/78 1/1/79 to 7/31/80	0 0
Sumitomo Chemical Co.	4/1/79 to 7/31/80	128.5
Taikyo Sanyko Co., Ltd.	4/1/79 to 7/31/80	13.15
Tsutsunaka Plastic Ind. Co./Toyo Menka Kaisha.	4/1/78 to 3/31/79 4/1/79 to 7/31/80	30.29 30.29
Tsutsunaka Plastic Ind. Co./K. Sakai & Co.	4/1/78 to 3/31/79	4/1/79 to 3/31/80

¹ No shipments during this period.

Third-country shipper (country)	Time period	Margin (per cent)
I. J. Langleb Ltd. (Hong Kong).	1/1/76 to 7/31/80	0.88

The Department shall determine, and the U.S. Customs Service shall assess, duties on all entries with purchase dates during the periods involved. Individual differences between United States price and foreign market value may vary from the percentages stated above. The Department will separately issued appraisal instructions directly to the Customs Service.

Further, as provided for by § 353.48(b) of the Commerce Regulations, a cash deposit based on the most recent of the margins calculated above shall be required on all shipments by these firms 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 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. These deposit requirements shall remain in effect until publication of the final results of the next administrative review. The Department intends to conduct the next administrative review by the end of August 1982.

This administrative review and notice are in accordance with section 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).

Gary N. Horlick,
Deputy Assistant Secretary for Import
Administration.

December 31, 1981.

[FR Doc. 82-462 Filed 1-7-82; 8:45 am]

BILLING CODE 3510-25-M

Minority Business Development Agency

Financial Assistance Application Announcement; Baltimore, Md.

AGENCY: Minority Business Development Agency, Commerce.

ACTION: Notice.

SUMMARY: The Minority Business Development Agency (MBDA) announces that it is soliciting applications for a cooperative agreement under its Business Development Center (BDC) program to operate a pilot project for a 12-month period beginning May 1, 1982 in the Baltimore, Maryland SMSA. The cost of the project is estimated to be \$410,000. The maximum federal participation amount is \$369,000. The minimum amount required for non-federal participation is \$41,000. The project number is 03-10-82003-01.

Applicants shall be required to contribute at least 10% of the total program costs through non-federal funds. Cost sharing contributions can be in the form of cash contributions, fee for services or in-kind contributions.

CLOSING DATE: February 8, 1982. Applications should be submitted in triplicate and mailed to the following address: Washington Regional Office, Minority Business Development Agency, 1730 K Street N.W., Suite 420, Washington, D.C. 20006, Phone (202) 634-7883. For further information contact Ms. Beverly Ivery at (202) 634-7883.

SUPPLEMENTARY INFORMATION:

A. Scope and Purpose of This Announcement

Executive Order 11625 authorizes MBDA to fund projects which will provide technical and management assistance to eligible clients in areas related to the establishment and operation of businesses. The BDC program is specifically designed to assist those minority businesses that have the highest potential for success. In order to accomplish this, MBDA offers Cooperative Agreements that can: coordinate and broker public and private sector resources on behalf of minority individuals and firms; offer

them a full range of management and technical assistance; and serve as a conduit—through which and from which information and assistance to and about minority businesses are funneled.

B. Eligible Applicants

Awards shall be open to all individuals, non-profit organizations, for-profit firms, local and state governments, American Indian tribes and educational institutions.

C. Evaluation Process

All proposals received as a result of this announcement will be evaluated by a MBDA review panel.

D. Evaluation Criteria for Business Development Center Application

The evaluation criteria is designed to facilitate an objective evaluation of competitive applications for the Business Development Center program.

MBDA reserves the right to reject any or all applications, including the application receiving the highest evaluation, and will exercise this right when it is determined that it is in the best interest of the Government to do so (e.g., the apparent successful applicant has serious unresolved audit issues from current or previous grants, contracts or cooperative agreements with an agency of the Federal Government).

Evaluation of proposals will employ the following criteria:

I. Capability and Experience of Firm/Staff

Provide information that demonstrates the organization's capabilities and prior experiences in addressing the needs of minority business individuals and firms. Provide information that demonstrates the staff's capabilities and prior experiences in providing management and technical assistance to minority individuals and firms. Indicate previous experience in MBE community to be served in terms of: inventorying resources and opportunities; the brokering thereof; and providing management and technical assistance.

The following are key factors to be considered in this section:

Firm

- The organization's receptivity in the MBE community to be served, i.e., business contacts in the public and private sector; leadership responsibilities; and experience in assisting MBE business persons and firms. (references from clients assisted are pertinent.)
- Background credentials and references for the owners of the organization and a capability

statement of what the organization can do.

- Knowledge of the geographic area to be served in terms of the needs of minority businesses and past ongoing relationships with local public and private entities—that can possibly enhance the BDC program effort—i.e., Chambers of Commerce, trade associations, venture capital organizations, banks, SBA, HUD, state, city and county government agencies, etc.

Staff

- List personnel to be used. Indicate their salaries, educational level and previous experiences. Provide resumes for all professional staff personnel.
- Demonstrate competence among staff to effectuate mergers, acquisitions, spin-offs and joint-ventures.
- Provide organization chart, job descriptions and qualification standards involving all professional staff persons to be utilized on the project.
- If any contractors are to be utilized, identify and indicate areas and level of experience. *Primary consideration will be given to inhouse capability.*

Note.—All contracting proposed should be in accordance with procurement standards in Attachment O of OMB Circulars A-110 or A-102.

II. Techniques and Methodology

Specify plans for achieving the goals and objectives of the project. This section should be developed by using the outline of the Work Requirements and the BDC responsibilities as *guides* and will become part of the award document. Include start-up plan and example of work plan format. Fully explain the procedures for: outreach, screening, assisting and monitoring clients; developing and maintaining the profile inventory of minority business; and brokering of new business ownership, market and capital opportunities. In summary, address how, when and where work will be done and by whom. Include level of performance.

III. Resources

Address technical and administrative resources, i.e. computer facilities, voluntary staff time and space; and financial resources in terms of meeting MBDA's 10% cost sharing requirement to include a fee for services for assistance provided clients. The fee for services will be 10% for firms with gross sales of \$500,000 or less and 25% for firms with gross sales of over \$500,000.

Cost sharing is that portion of project costs not borne by the Federal Government. The composition and amount of cost sharing are key factors that will be considered in determining the merit of this section. The cost sharing requirement can be met through the following order of priority: 1. cash contributions; 2. fee for services; and 3. in-kind contributions.

A. Cash contribution—Means cash that is contributed or donated by the recipient, by other non-federal, public agencies and institutions, private organizations, corporations and individuals.

B. Fee for services—Are charges to the client for assistance provided by BDC.

C. In-Kind contribution—Represent the value of non-cash contributions provided by the recipient and non-federal parties. The order of priority for in-kind contributions are: high technology systems to be utilized to achieve program objectives; top level staff personnel and real and personal property donated by other public agencies, institutions and private organizations. Property purchased with Federal funds will not be considered as the recipient's in-kind contribution.

IV. Costs

Demonstrate in narrative format that costs being proposed will give the minority business client and the government the most effective program possible in terms of quality, quantity, timeliness and efficiency.

Include the principal costs involved for achieving work plan under Cooperative Agreement by completing Part III—the Budget Information Section of the Request for Application.

Provide cost sharing plan information in terms of methodology and format for billing the cost of management and technical assistance to clients.

Total project costs will be evaluated in terms of:

—Clear explanations of all expenditures proposed, and

—The extent to which the applicant can leverage federal program funds and operate with *economy* and *efficiency*.

In conclusion, the applicant's schedule for start of BDC operation should be included in Part Two. Part Two will be known as the applicant's plan of operation and will be incorporated into the Cooperative Agreement award.

A detailed justification of all proposed costs is required for Part Four and each item must be fully explained.

The failure to supply information in any given category of the criteria will result in the application being considered non-responsive and

consequently, dropped from competition.

All information submitted is subject to verification by MBDA.

E. Disposition of Proposals

Notification of awards will be made by the Grants Officer. Organizations whose proposals are unsuccessful will be advised by the Regional Director.

F. Proposal Instructions and Forms

Questions concerning the preceding information, copies of application forms, and applicable regulations can be obtained at the above address.

Nothing in this solicitation shall be construed as committing MBDA to divide available funds among all qualified applicants. The program is subject to OMB Circular A-95 requirements.

G. Pre-Application Conference

A Pre-Application conference to assist all interested applicants will be held at the following address on Wednesday, January 20, 1982 at 10:00 A.M.: Fallon Federal Bldg., #31 Hopkins Plaza, Room G-30, Baltimore, Maryland 21201.

Luis G. Encinias,
Regional Director.

December 28, 1981.

[FR Doc. 82-471 Filed 1-7-82; 8:45 am]

BILLING CODE 3510-21-M

Financial Assistance Application Announcement; Pittsburgh, Pa.

AGENCY: Minority Business Development Agency, Commerce.

ACTION: Notice.

SUMMARY: The Minority Business Development Agency (MBDA) announces that it is soliciting applications for a cooperative agreement under its Business Development Center (BDC) program to operate a pilot project for a 12-month period beginning May 1, 1982 in the Pittsburgh, Pennsylvania SMSA. The cost of the project is estimated to be \$250,000. The maximum federal participation amount is \$225,000. The minimum amount required for non-federal participation is \$25,000. The project number is 03-10-82005-01.

Applicants shall be required to contribute at least 10% of the total program costs through non-federal funds. Cost sharing contributions can be in the form of cash contributions, fee for services or in-kind contributions.

CLOSING DATE: February 8, 1982. Applications should be submitted in triplicate and mailed to the following address: Washington Regional Office,

Minority Business Development Agency, 1730 K Street N.W., Suite 420, Washington, D.C. 20006, Phone (202) 634-7883. For further information contact Ms. Beverly Ivery at (202) 634-7883.

SUPPLEMENTARY INFORMATION:

A. Scope and Purpose of This Announcement

Executive Order 11625 authorizes MBDA to fund projects which will provide technical and management assistance to eligible clients in areas related to the establishment and operation of businesses. The BDC program is specifically designed to assist those minority businesses that have the highest potential for success. In order to accomplish this, MBDA offers Cooperative Agreements that can: coordinate and broker public and private sector resources on behalf of minority individuals and firms; offer them a full range of management and technical assistance; and serve as a conduit—through which and from which information and assistance to and about minority businesses are funneled.

B. Eligible Applicants

Awards shall be open to all individuals, non-profit organizations, for-profit firms, local and state governments, American Indian tribes and educational institutions.

C. Evaluation Process

All proposals received as a result of this announcement will be evaluated by a MBDA review panel.

D. Evaluation Criteria for Business Development Center Application

The evaluation criteria is designed to facilitate an objective evaluation of competitive applications for the Business Development Center program.

MBDA reserves the right to reject any or all applications, including the application receiving the highest evaluation, and will exercise this right when it is determined that it is in the best interest of the Government to do so (e.g., the apparent successful applicant has serious unresolved audit issues from current or previous grants, contracts or cooperative agreements with an agency of the Federal Government).

Evaluation of proposals will employ the following criteria:

1. Capability and Experience of Firm/Staff

Provide information that demonstrates the organization's capabilities and prior experiences in addressing the needs of minority business individuals and firms.

Provide information that demonstrates the staff's capabilities and prior experiences in providing management and technical assistance to minority individuals and firms. Indicate previous experience in MBE community to be served in terms of: inventorying resources and opportunities; the brokering thereof; and providing management and technical assistance.

The following are key factors to be considered in this section:

Firm

- The organization's receptivity in the MBE community to be served, i.e., business contacts in the public and private sector; leadership responsibilities; and experience in assisting MBE business persons and firms. (References from clients assisted are pertinent.)
- Background credentials and references for the owners of the organization and a capability statement of what the organization can do.
- Knowledge of the geographic area to be served in terms of the needs of minority businesses and past ongoing relationships with local public and private entities—that can possibly enhance the BDC program effort—i.e., Chambers of Commerce, trade associations, venture capital organizations, banks, SBA, HUD, state, city and county government agencies, etc.

Staff

- List personnel to be used. Indicate their salaries, educational level and previous experiences. Provide resumes for all professional staff personnel.
- Demonstrate competence among staff to effectuate mergers, acquisitions, spin-offs and joint-ventures.
- Provide organization chart, job descriptions and qualification standards involving all professional staff persons to be utilized on the project.
- If any contractors are to be utilized, identify and indicate areas and level of experience. *Primary consideration will be given to inhouse capability.*

Note.—All contracting proposed should be in accordance with procurement standards in Attachment O of OMB Circulars A-110 or A-102.

II. Techniques and Methodology

Specify plans for achieving the goals and objectives of the project. This section should be developed by using the outline of the Work Requirements and the BDC responsibilities as guides and will become part of the award

document. Include start-up plan and example of work plan format. Fully explain the procedures for: outreach, screening, assisting and monitoring clients; developing and maintaining the profile inventory of minority business; and brokering of new business ownership, market and capital opportunities. In summary, address how, when and where work will be done and by whom. Include level of performance.

III. Resources

Address technical and administrative resources, i.e. computer facilities, voluntary staff time and space; and financial resources in terms of meeting MBDA's 10% cost sharing requirement to include a fee for services for assistance provided clients. The fee for services will be 10% for firms with gross sales of \$500,000 or less and 25% for firms with gross sales of over \$500,000.

Cost sharing is that portion of project costs not borne by the Federal Government. The composition and amount of cost sharing are key factors that will be considered in determining the merit of this section. The cost sharing requirement can be met through the following order of priority: 1. cash contributions; 2. fee for services; and 3. in-kind contributions.

A. Cash contribution—Means cash that is contributed or donated by the recipient, by other non-federal, public agencies and institutions, private organizations, corporations and individuals.

B. Fee for services—Are charges to the client for assistance provided by BDC.

C. In-Kind contribution—Represent the value of non-cash contributions provided by the recipient and non-federal parties. The order of priority for in-kind contributions are: high technology systems to be utilized to achieve program objectives; top level staff personnel and real and personal property donated by other public agencies, institutions and private organizations. Property purchased with Federal funds will not be considered as the recipient's in-kind contribution.

IV. Costs

Demonstrate in narrative format that costs being proposed will give the minority business client and the government the most effective program possible in terms of quality, quantity, timeliness and efficiency.

Include the principal costs involved for achieving work plan under Cooperative Agreement by completing Part III—The Budget Information Section of the Request for Application.

Provide cost sharing plan information in terms of methodology and format for

billing the cost of management and technical assistance to clients.

Total project costs will be evaluated in terms of:

- Clear explanations of all expenditures proposed, and
- The extent to which the applicant can leverage federal program funds and operate with *economy* and *efficiency*.

In conclusion, the applicant's schedule for start of BDC operation should be included in Part Two. Part Two will be known as the applicant's plan of operation and will be incorporated into the Cooperative Agreement award.

A detailed justification of all proposed costs is required for Part Four and each item must be fully explained.

The failure to supply information in any given category of the criteria will result in the application being considered non-responsive and consequently, dropped from competition.

All information submitted is subject to verification by MBDA.

E. Disposition of Proposals

Notification of awards will be made by the Grants Officer. Organizations whose proposals are unsuccessful will be advised by the Regional Director.

F. Proposal Instructions and forms

Questions concerning the preceding information, copies of application forms, and applicable regulations can be obtained at the above address.

Nothing in this solicitation shall be construed as committing MBDA to divide available funds among all qualified applicants. The program is subject to OMB Circular A-95 requirements.

G. Pre-Application Conference

A Pre-Application conference to assist all interested applicants will be held at the following address on Friday, January 22, 1982 at 10:30 A.M.: William S. Moorhead, Federal Bldg., 1000 Liberty Avenue, Room 610, Pittsburgh, Pennsylvania 15222.

Luis G. Encinas,
Regional Director.

Dated: December 28, 1981.

[FR Doc. 82-470 Filed 1-7-82; 8:45 am]

BILLING CODE 3510-21-M

National Oceanic and Atmospheric Administration

Emergency Striped Bass Study; Public Meeting

AGENCY: National Marine Fisheries Service, National Oceanic and

Atmospheric Administration,
Commerce.

SUMMARY: The National Marine Fisheries Service and the U.S. Fish and Wildlife Service will hold a joint meeting to discuss progress on the Emergency Striped Bass Study as authorized by the amended Anadromous Fish Conservation Act (Pub. L. 96-118).

DATE: The meeting will convene on Wednesday, January 27, 1982, at 10:00 a.m., and will adjourn at approximately 5:00 p.m. The meeting is open to the public; however, space is limited.

ADDRESS: National Marine Fisheries Service, Room 401, Page Building #2, 3300 Whitehaven Street, N.W., Washington, D.C. 20235.

FOR FURTHER INFORMATION CONTACT: Richard H. Schaefer, State Federal Division, Office of Resource Conservation and Management, National Marine Fisheries Service, Washington, D.C. 20235, Telephone: (202) 634-7454.

Dated: December 30, 1981.

E. Craig Felber,

Chief, Management Services Staff, National Marine Fisheries Service.

[FR Doc. 82-442 Filed 1-7-82; 8:45 am]

BILLING CODE 3510-22-M

Japan Deep Sea Trawlers Association, et al.; Issuance of General Permits To Take Marine Mammals Incidental to Commercial Fishing Operations

On December 22, 1981, general permits to incidentally take marine mammals during commercial fishing operations in 1982 were issued to:

1. The Japan Deep Sea Trawlers Association, No. 601 Daito Building, 3-6, Kandaogawacho, Chiyodaku, Tokyo, Japan, in Category 1: Towed and Dragged Gear to take 21 phocid seals, 20 otariid seals and one cetacean.

2. The National Federation of Medium Trawlers, Toranomom Chuo Building, VI, 1-16, Toranomom, 1-Chome, Minatoku, Tokyo, Japan, in Category 1: Towed and Dragged Gear, to take 10 otariid seals, and to cetaceans.

3. The North Pacific Longline-Gillnet Association, Zenkeiren Building, 2-7-2, Hirakawa-cho, Chiyodaku, Tokyo, Japan, in Category 5: Other Gear to take by harassment only.

4. The Asociacion Nacional de Armadores de Buques Congeladores de Pesquerias Varias, Vigo, Spain, in Category 1: Towed and Dragged Gear to take 20 phocid seals and 20 cetaceans.

All takings are incidental to commercial fishing operations within the United States Fishery Conservation Zone, pursuant to 50 CFR 216.24 (45 FR

72187-72196). These general permits are available for public review in the Office of the Assistant Administrator for Fisheries, 3300 Whitehaven Street, N.W., Washington, D.C.

Dated: December 30, 1981.

E. Craig Felber,

Chief, Management Services Staff, National Marine Fisheries Service.

[FR Doc. 82-441 Filed 1-7-82; 8:45 am]

BILLING CODE 3510-22-M

S.E.E. Okeansky Ribolov; Receipt of Application for General Marine Mammals Permit

Notice is hereby given that the application has been received to take marine mammals incidental to the pursuit of commercial fishing operations within the U.S. fishery conservation zone, as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), and the regulations thereunder.

S.E.E. Okeansky Ribolov, Burgas, Bulgaria has applied for a Category 1: "Towed or Dragged Gear" general permit to incidentally take 8 otariid seals, 8 phocid seals, and 8 cetaceans within the U.S. fishery conservation zone in 1982.

The application is available for review in the Office of the Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, N.W., Washington, D.C.

Interested parties may submit written views on the application on or before February 8, 1982, to the Assistant Administrator for Fisheries, National Marine Fisheries Service, Washington, D.C. 20235.

Dated: January 4, 1982.

Richard B. Roe,

Acting Director, Office of Marine Mammals and Endangered Species, National Marine Fisheries Service.

[FR Doc. 82-439 Filed 1-7-82; 8:45 am]

BILLING CODE 3510-22-M

Solace Enterprises; Issuance of Marine Mammals Permit

On November 12, 1981, notice was published in the Federal Register (46 FR 55738) that an application had been filed with the National Marine Fisheries Service by Dr. John D. Hall, Solace Enterprises, 8410 Owen Circle, Anchorage, Alaska 99502, for a permit to take humpback whales (*Magaptera novaeangliae*), killer whales (*Orcinus orca*), minke whales (*Balaenoptera acutorostrata*), fin whales (*Balaenoptera physalus*), and Dall's porpoise

(*Phocoenoides dalli*), by inadvertent harassment for the purpose of scientific research.

Notice is hereby given that on December 30, 1981, and as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), and the Endangered Species Act of 1973 (16 U.S.C. 1531-1543), the National Marine Fisheries Service issued a Scientific Research Permit to Dr. John D. Hall for the above taking subject to certain conditions set forth therein.

Issuance of this permit, as required by the Endangered Species Act of 1973, is based on a finding that such permit: (1) Was applied for in good faith; (2) will not operate to the disadvantage of the endangered species which are the subject of the permit; and (3) will be consistent with the purposes and policies set forth in section 2 of the Endangered Species Act of 1973.

The permit and related documents are available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, N.W., Washington, D.C.; and
Regional Director, National Marine Fisheries Service, Alaska Region, P.O. Box 1668, Juneau, Alaska 99802.

Dated: December 30, 1981.

E. Craig Felber,

Chief, Management Services Staff, National Marine Fisheries Service.

[FR Doc. 82-440 Filed 1-7-82; 8:45 am]

BILLING CODE 3510-22-M

University of California, Los Angeles; Issuance of Marine Mammals Permit

On November 20, 1981, notice was published in the Federal Register (46 FR 57104), that an application had been filed with the National Marine Fisheries Service by Drs. Jennifer Buchwald, Carl Shipley, and Robin Fisher, Department of Physiology and Brain Research Institutes, University of California, Los Angeles, California 90024 to take four (4) northern elephant seals (*Mirounga angustirostris*) for the purpose of scientific research.

Notice is hereby given that on January 4, 1982, and as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), the National Marine Fisheries Service issued a Scientific Research Permit for the above taking to Drs. Buchwald, Shipley, and Fisher subject to certain conditions set forth therein.

The Permit is available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, N.W., Washington, D.C.; and

Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, California 90731.

E. Craig Felber,

Chief, Management Services Staff, National Marine Fisheries Service.

January 4, 1982.

[FR Doc. 82-438 Filed 1-7-82; 8:45 am]

BILLING CODE 3510-22-M

Fishermen's Contingency Fund; Notice of Claims

AGENCY: National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Commerce.

ACTION: Notification of claims pursuant to Title IV of the Outer Continental Shelf Lands Act Amendments of 1978 (Title IV). Notification 02-82.

SUMMARY: 50 CFR 296.6 required that the Chief, Financial Services Division (FSD), publish in the **Federal Register** a notice of claims received under the title IV Program. Any interested person may, on or before February 8, 1982 submit to the Chief, FSD, National Marine Fisheries Service (NMFS), evidence concerning the claim or a request to be admitted as a party to any hearing concerning the claim.

IMPORTANT DATE: Any evidence concerning any claim described in this Notice, and any request to be admitted as a party to any hearing concerning any such claim, must be submitted, in writing, to the Chief, FSD, on or before February 8, 1982.

ADDRESS: Send evidence and any request to be admitted as a party to any hearing to: Mr. Michael L. Grable, Chief, Financial Services Division, Attention: Charles L. Cooper, National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Washington, D.C. 20235 (telephone 202-634-4688).

SUPPLEMENTARY INFORMATION: Title IV establishes a Fishermen's Contingency Fund (FCF) to compensate fishermen for eligible claims for actual and consequential damages, including lost profits, due to damages to, or loss of, fishing vessels or fishing gear by items associated with oil and gas exploration, development, or production on the Outer Continental Shelf (OCS). Title IV regulations require that upon receipt of a timely-filed claim which is not clearly ineligible because of statutory

exemptions from eligibility, the chief, FSD publish a 30-day notice of the claim in the **Federal Register**. Upon the expiration of the 30-day period following publication of the **Federal Register** notice, the claim will be referred to the Administrative Law Judge (ALJ). (50 CFR 296.6(a)(1)(iii)).

Dated: December 30, 1981.

E. Craig Felber,

Chief, Management Services Staff, National Marine Fisheries Service.

The following claims have been received:

Claim No.	Nature of loss and location	Amount
FCF-03-82.....	On 10-11-81 claimant lost 2 60 ft. trawling nets while trawling for shrimp at the following coordinates: 29°34'44.11"N 93°49'43.51"W	\$2,000—Gear Loss; \$0—Economic Loss; \$0—Consequential Loss; \$2,000—Total.
FCF-04-82.....	On 10-13-81 claimant lost a 60 ft. trawling net and damaged the other net while trawling for shrimp at the following coordinates: 23°39'05.90"N 93°44'59.44"W.	\$1,300—Gear Loss; \$0—Economic Loss; \$0—Consequential Loss; \$1,300—Total.

[FR Doc. 82-550 Filed 1-7-82; 8:45 am]

BILLING CODE 3510-22-M

National Technical Information Service

Government-Owned Inventions; Availability for Licensing

The inventions listed below are owned by agencies of the U.S. Government and are available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally funded research and development. Foreign patents are filed on selected inventions to extend market coverage for U.S. companies and may also be available for licensing.

Technical and licensing information on specific inventions may be obtained by writing to: Office of Government Inventions and Patents, U.S. Department of Commerce, P.O. Box 1423, Springfield, Virginia 22151.

Please cite the number and title of inventions of interest.

Douglas J. Campion,

Office of Government Inventions and Patents, National Technical Information Service, Department of Commerce.

SN 6-294,096 Enhancement of Color Quality of Lumber During Drying. Filed 18 Sep 81 by the Dept. of Agriculture. Inventor: Howard Rosen

SN 6-302,008 Process for Modifying Cellulosic Fabrics for Improved Heat Transfer Printing. Filed 15 Sep 81 by Dept. of Agriculture. Inventor: Eugene Blanchard

SN 6-272,842 Zwitterion Compounds as Catalysts in Easy-Care Finishing. Filed by Dept. of Agriculture on 12 Jun 81. Inventor: Robert M. Reinhardt

SN 6-276,768 Bromine-Containing 2, 4-Diaminotriazines. Filed 24 Jun 81 by the Department of Agriculture. Inventor: Leon H. Chance

SN 6-294,095 New Surface in Cellulosic Fibers by Use of Radiofrequency Plasma of Ammonia. Filed 19 Aug 81 by the Dept. of Agriculture. Inventor: Truman L. Ward

SN 6-290,540 Method for Sampling Flying Insect Populations Using Low-Frequency Sound Detecting and Ranging in Conjunction with a Biologically Active Chemical/Pheromone. Filed 6 Aug 81 by Department of Agriculture. Inventor: D. E. Hendricks

SN 6-308,350 Antimicrobial Glycolic Acid Derivatives. Filed 5 Oct 81 by the Department of Agriculture. Inventor: August V. Bailey

SN 6-311,587 Apparatus for Continuous Injection of Chemically-Impregnated Filament. Filed 15 Oct 81 by the Department of Agriculture. Inventor: Jim E. Dale

SN 6-308,743 Antimicrobial Glycolic Acid Derivatives. Filed by Department of Agriculture on 5 Oct 81. Inventor: August V. Bailey

SN 6-311,702 Apparatus to Extract Dust and Fine Trash from Opened Cotton. Filed 15 Oct 81 by the Department of Agriculture. Inventor: Charles Shepard

SN 6-302,007 Textile Finishing Agents from Reaction Products of Carbamates and Glutaraldehyde. Filed 15 Sep 81 by Dept. of Agriculture. Inventor: John G. Frick

SN 6-294,203 Nondenaturing Zwitterionic Detergents for Membrane Biochemistry. Filed 26 Aug 80 by Dept. of Health and Human Services. Inventor: Leonard Hjelmeland

SN 6-180,373 Nitroimidazoles of Low Toxicity and High Activity as Radiosensitizers of Hypoxic Tumor Cells. Filed 2 Aug 80 by Dept. of Health & Human Services. Inventor: W. W. Lee

[FR Doc. 82-477 Filed 1-7-82; 8:45 am]

BILLING CODE 3510-04-M

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Procurement List 1982; Addition and Deletions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Addition to and deletions from procurement list.

SUMMARY: This action adds to and deletes from Procurement List 1982 commodities to be produced by and

services to be provided by workshops for the blind and other severely handicapped.

EFFECTIVE DATE: January 8, 1982.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, 2009 14th Street North, Suite 610, Arlington, Virginia 22201.

FOR FURTHER INFORMATION CONTACT: C. W. Fletcher, (703) 557-1145.

SUPPLEMENTARY INFORMATION: On October 9, 1981 and November 6, 1981, the Committee for Purchase from the Blind and Other Severely Handicapped published notices (46 FR 50094, 46 FR 55133, and 46 FR 55134) of proposed addition to and deletions from Procurement List 1982, November 12, 1981 (46 FR 55740).

Addition

After consideration of the relevant matter presented, the Committee has determined that the commodities listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46-48c, 85 Stat. 77.

Accordingly, the following commodities are hereby added to Procurement List 1982:

Class 8440

Suspenders, Trousers
8440-00-221-0852

Deletions

After consideration of the relevant matter presented, the Committee has determined that the commodities and services listed below are no longer suitable for procurement by the Federal Government under 41 U.S.C. 46-48c, 85 Stat. 77.

Accordingly, the following commodities and services are hereby deleted from Procurement List 1982:

Class 7430

Cover, Typewriter
7430-00-823-8080
7430-00-823-8081
7430-00-823-8082
7430-00-823-8083
7430-00-823-8084
7430-00-823-8085
7430-00-823-8090
7430-00-823-8086
7430-00-823-8087

Class 7510

Binder, Looseleaf
7510-00-782-2664

Class 8315

Buckle, Belt, Trousers
8315-00-543-3724

Class 9905

Sign (U.S. Property—No Trespassing)
9905-00-559-2971

SIC 7399

Affix Labels—U.S. Patent Documents, U.S. Department of Commerce, Patent and Trademark Office, Crystal City, Arlington, Virginia

SIC 7841

Furniture Rehabilitation
Cleveland, Ohio, plus 25-mile radius

C. W. Fletcher,
Executive Director.

[FR Doc. 82-502 Filed 1-7-82; 8:45 am]

BILLING CODE 6820-33-M

Procurement List 1982; Proposed Additions and Deletions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Proposed additions to and deletions from procurement list.

SUMMARY: The Committee has received proposals to add to and delete from Procurement List 1982 commodities to be produced by and services to be provided by workshops for the blind and other severely handicapped.

COMMENTS MUST BE RECEIVED ON OR BEFORE: February 10, 1982.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, 2009 14th Street North, Suite 610, Arlington, Virginia 22201.

FOR FURTHER INFORMATION CONTACT: C. W. Fletcher, (703) 557-1145.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2), 85 Stat. 77. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

Additions

If the Committee approves the proposed additions, all entities of the Federal Government will be required to procure the commodity and services listed below from workshops for the blind or other severely handicapped.

It is proposed to add the following commodity and services to Procurement List 1982, November 12, 1981 (46 FR 55740):

Class 6530

Pad, Cooling, Chemical
6530-00-133-4299

SIC 7349

Janitorial/Elevator Operator, Department of Treasury, Bureau of Engraving and Printing, Public Debt Building, 14th and C Streets, S.W., Washington, D.C.

Janitorial/Custodial, Federal Building and U.S. Post Office, Boise, Idaho
U.S. Army Reserve Center, Burrstone Road, Utica, New York
Customs House, Norfolk, Virginia

Deletions

It is proposed to delete the following commodities from Procurement List 1982, November 12, 1981 (46 FR 55740):

Class 6530

Pad, Examining Table
6530-00-960-6616
Pad, Hospital Stretcher
6530-00-269-0004

C. W. Fletcher,
Executive Director.

[FR Doc. 82-501 Filed 1-7-82; 8:45 am]

BILLING CODE 6820-33-M

DEPARTMENT OF DEFENSE

Department of the Air Force

USAF Scientific Advisory Board; Meeting

The USAF Scientific Advisory Board TAC Cross-Matrix Panel will meet at Langley AFB, VA on 27 and 28 January 1982. The purpose of the meeting will be to review TAC's role in air defense of the United States. The meeting will convene at 0900 and adjourn at 1700 on the 27th and will convene at 0900 and adjourn at 1200 on the 28th.

The meeting concerns matters listed in section 552b(c) of Title 5, United States Code, specifically subparagraph (1) thereof, and accordingly, will be closed to the public.

For further information, contact the Scientific Advisory Board Secretariat at 697-4648.

Carol M. Rose,

Air Force Federal Register Alternate Liaison Officer.

[FR Doc. 82-476 Filed 1-7-82; 8:45 am]

BILLING CODE 9910-01-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

[Docket No. ERA-FC-81-025; OFC Case No. 67001-9020-08-77]

The Upjohn Co., Portage Road Plant, Boiler No. 8; Eligibility and Amended Request for Classification

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of eligibility and amended request for classification.

SUMMARY: On October 27, 1981, The Upjohn Company (Upjohn) filed with the Economic Regulatory Administration (ERA) a motion entitled "Request for Modification of Order," seeking reconsideration of ERA's determination, transmitted by letter dated January 8,

1980, that Upjohn had failed to demonstrate its eligibility pursuant to § 515.10 of ERA's Revised Interim Rule to Permit Classification of Certain Powerplants and Installations as Existing Facilities (44 FR 17464 (March 21, 1979)) to request classification of its boiler number 8, located at Upjohn's Portage Road Plant in Kalamazoo, Michigan, as an existing facility under the Powerplant and Industrial Fuel Oil Act of 1978 (42 U.S.C. 8301 *et seq.* ("FUA" or "the Act")). The determination, reflected in ERA's letter of January 8, 1980, left Upjohn's boiler number 8 classified as a new facility, subject to the statutory oil and natural gas use prohibitions of Title II of FUA. In light of ERA's determination herein that Upjohn is eligible to request classification as an existing unit, the purpose of this notice is to invite interested persons to submit written comments prior to a final determination of Upjohn's request for classification as existing. In accordance with § 515.26 of ERA's Revised Interim Rule, no public hearing will be held.

DATE: Written comments are due on or before January 29, 1982.

ADDRESS: Ten (10) copies of written comments shall be submitted to: Department of Energy, Economic Regulatory Administration, Case Control Unit (Fuel Use Act), 2000 M St., N.W., Room 6114, Washington, D.C. 20461. Docket No. ERA-FC-81-025 should be printed clearly on the outside of the envelope and the document contained therein.

FOR FURTHER INFORMATION CONTACT:

Robert Goodie (Case Manager) (Office of Fuels Programs), Economic Regulatory Administration, Department of Energy, Room 6317, 2000 M Street, N.W., Washington, D.C. 20461, (202) 653-3400

Allan J. Stein (Office of the General Counsel), Department of Energy, Room 6B-178, Forrestal Building, 1000 Independence Ave., S.W., Washington, D.C. 20585, (202) 252-2967

SUPPLEMENTARY INFORMATION: In order to meet "swing load" requirements for projected production expansion, Upjohn decided in 1970 to construct at its Portage Road Plant in Kalamazoo, Michigan a boiler house addition to accommodate two new 120,000 lb/hour boilers, designed to burn residual fuel oil or natural gas. This boiler house facility was to be constructed adjacent to the larger existing boiler house, containing six coal-fired boilers. As discussed under "Eligibility," *infra*, contracts were executed in 1970 for engineering designs and, according to

Upjohn, for "construction of the base footings and walls as well as the entire housing structure and * * * major appurtenances (including fuel lines)" for both of the planned units.

Boiler number 7 was installed and became operational in the new facility, as planned, in 1971. Because of a slowed growth of steam demand, however, the planned installation in 1973 of boiler number 8 in the boiler house addition was postponed. Over the next several years, Upjohn experienced production expansion and increased steam demand, and in 1976 the company again decided to proceed with the installation of boiler number 8. A contract for further engineering specifications for the unit was executed in 1976, and detailed specifications were prepared in July of 1978.

During the 1976-1978 period, the former Federal Energy Administration (FEA) undertook an analysis of boiler number 8 as a potential candidate for issuance of a Construction Order under the Energy Supply and Environmental Coordination Act of 1974 (ESECA), which would prohibit construction of the unit without coal burning capability. Based upon its analysis, FEA notified Upjohn on July 27, 1977 that it would not issue a Construction Order because boiler number 8 was then beyond the "early planning process" under ESECA, and issuance of such an order "would result in significant financial and operational detriment to the Upjohn Company," as defined under ESECA. On December 15, 1978, approximately one month after the enactment of FUA, Upjohn executed a purchase order for shop-fabricated boiler number 8, and the unit, designed to burn natural gas or oil at a fuel heat input rate of 150 MM Btu's per hour, was installed and became operational in May, 1979.

On May 5, 1979, just prior to the effective date of FUA, Upjohn requested ERA to classify boiler number 8 as an existing facility pursuant to ERA's Revised Interim Rule governing the classification of certain transitional powerplants and major fuel burning installations (MFBI's) as existing facilities, subject to Title III of the Act. MFBI's classified as new, face the statutory oil and natural gas use prohibitions of Title II of FUA; MFBI's classified as existing face only the discretionary prohibition order authorities of Title III of FUA, which call for findings of the technical and financial feasibility of using alternate fuels.

On October 12, 1979, ERA issued its Final Rule governing transitional facilities (44 FR 60690 (October 19, 1979), as amended, 44 FR 69919 (December 15,

1979)), providing that determinations on requests received by ERA prior to the effective date of the Final Rule would be made on the basis of either the Final Rule or the Revised Interim Rule, whichever is more favorable to the requester. Accordingly, while Upjohn's request for classification was filed under the Revised Interim Rule, ERA will apply the provisions of the Final Rule wherever it would be more favorable to Upjohn.

Under 10 CFR § 515.10, the owner of an MFBI is eligible to request classification of the unit as existing only where it can demonstrate that a "contract for the construction or acquisition" of the unit was signed prior to the enactment of FUA, on November 9, 1978. By letter dated January 8, 1980, ERA advised Upjohn that it had failed to demonstrate execution prior to November 9, 1978 of a "contract for construction or acquisition" of boiler number 8, and was therefore ineligible to request classification of the facility as existing. In the absence of such a contract, Upjohn was further advised, boiler number 8 is considered a new facility under 10 CFR 515.11, and is subject to the statutory prohibitions of Title II of FUA. On March 13, 1981, Upjohn was granted a 600 hour lack of alternate fuel supply exemption from the foregoing prohibitions, authorizing the limited use of oil or natural gas in boiler number 8 (46 FR 17584 (March 19, 1981)). On October 27, 1981, Upjohn filed with ERA a motion entitled "Request For Modification of Order," seeking reconsideration of its request for classification of boiler number 8 as an existing facility based upon new evidence presented therein.

In light of the unusual circumstances disclosed by review of the entire record of this case, including Upjohn's motion, ERA has determined to reconsider its previous action on Upjohn's eligibility, and to review the Upjohn motion as an amended request for classification as an existing facility.

Upjohn seeks classification as existing based upon its claim that cancellation, rescheduling or modification of boiler number 8 would have resulted in a significant operational detriment pursuant to 10 CFR 515.13(b). Upjohn has made no claim of substantial financial penalty pursuant to 10 CFR 515.13(a).

Based upon its review of the record in this matter, together with Upjohn's additional evidentiary submissions on October 27, 1981, ERA has determined that Upjohn has now met the threshold eligibility requirements of 10 CFR 515.10. The purpose of this notice, therefore, is

to invite interested persons to submit written comments on Upjohn's substantive request for classification of boiler number 8 as existing. Following is a discussion of ERA's finding respecting Upjohn's eligibility, and a summary of Upjohn's claims concerning significant operational detriment under the transitional facility rules.

I. Eligibility

ERA's January 8, 1980, determination of Upjohn's ineligibility was based upon the failure of Upjohn to demonstrate that it has signed a contract for the construction or acquisition of boiler number 8 prior to November 9, 1978, pursuant to the eligibility requirements of 10 CFR 515.10, and the definition of "contract for construction or acquisition" in 10 CFR 515.20(c)(6). Specifically, Upjohn produced three contracts relating to the foregoing eligibility requirement—a contract with Sy Lipton and Associates, executed on December 15, 1978, and identified on its face as the "purchase order for shop fabricated package Boiler #8"; a contract with Miller-Davis, executed on August 18, 1970, and identified as a contract for "the construction of the Upjohn Company Power House addition"; and a contract executed on June 15, 1976, and identified as "Engineer Agreement I." On January 8, 1980, on the basis of evidence then in the record, ERA found that the Sy Lipton contract failed to establish eligibility because it was not executed prior to November 9, 1978, and that neither the Miller-Davis nor the Engineer Agreement I contracts established eligibility because Upjohn had failed to show that either was a "contract for the construction or acquisition" of boiler number 8 under the Revised Interim Rule.

Section 515.20(c)(6) of the Revised Interim Rule defines a qualifying "contract for construction or acquisition," in pertinent part, as a "legally-binding agreement * * * for substantial onsite construction * * * or for the purchase or rental of significant equipment or appurtenances required for the construction or operation of a powerplant or MFBI, including, but not necessarily limited to, purchase of the boiler and its major components, fuel handling equipment and pollution control equipment * * *." [Emphasis added.]

ERA's January 8, 1980, determination of ineligibility was based upon the finding that Upjohn had failed to show that either the 1970 Miller-Davis contract or the 1976 Engineer Agreement I reflected a qualifying commitment under the foregoing language.

Specifically, the showing that the contract provided for the construction of two foundation slabs, and a boiler house addition and smokestack to accommodate two package boilers, numbers 7 and 8, was held insufficient to meet the § 515.20(c)(6) standards.

The 1970 Miller-Davis contract is unclear on its face with respect to the scope of work to be performed which is identifiable to boiler number 8. Upjohn's original request indicated that the contract covered the foundations and the common boiler house addition and smokestack. Upjohn's amended request states that the following additional items were also within the scope of the work actually performed pursuant to the Miller-Davis contract:

Boiler feed water lines were sized and installed to serve boiler number 8, as well as boiler number 7;

(2) The natural gas supply line was sized and constructed for both boilers;

(3) The steam main was sized for both boilers; and

(4) Valves were installed for connecting boiler number 8.

Upjohn's amended request is also supported by financial data which reflects that, as of November 9, 1978, it had expended (in 1978 dollars) \$344,659 on boiler number 8, constituting 16 percent of the total projected project cost of \$2,089,535. ERA believes that this financial commitment demonstrates an "actual and meaningful commitment to building" boiler number 8, within the intent of 10 CFR 515.20(c)(5), which defines the term "construction."

Based upon Upjohn's demonstration concerning the foregoing financial commitment and the major appurtenances contracted for and installed prior to November 9, 1978, ERA has determined that Upjohn has now demonstrated the existence of a qualifying contract for construction or acquisition of boiler number 8, and is eligible to request classification of its boiler number 8 as an existing facility pursuant to section 103(a)(11) of the Act and 10 CFR 515.10.

II. Significant Operational Detriment

Under 10 CFR 515.13, ERA will classify an eligible transitional facility as existing where it can be demonstrated that the cancellation, rescheduling or modification of the construction or acquisition of the unit as of November 9, 1978, would result in a significant operational detriment. Pursuant to 10 CFR 515.13(b), ERA will make its determinations of significant operational detriment on a case-by-case basis, taking into consideration the following factors:

(1) The extent of construction and anticipated start-up date;

(2) The potential impact of the loss of production which could not be rescheduled elsewhere;

(3) The potential impact on employment; and

(4) The anticipated annual capacity utilization factor of the unit, as well as seasonal or other variations in use.

Following is a summary of the evidence submitted by Upjohn in support of its claim that cancellation, rescheduling or modification of boiler number 8, as of November 9, 1978, would result in a significant operational detriment:

(1) As discussed *supra*, the extent of construction of boiler number 8 as of November 9, 1978, consisted of the completed boiler house, foundation, and valves, and the common smokestack, feed water lines, natural gas supply line, and steam main, sized and installed to serve both boilers numbers 7 and 8. All of this construction was undertaken in 1971, pursuant to the 1970 Miller-Davis contract, and in anticipation of the expected start-up of boiler number 8 in 1973. The additional cost for oversizing common equipment or contracting additional equipment for boiler number 8 was \$144,000 in 1971 dollars. In 1976, as a result of projected increased firm steam capacity, Upjohn decided to proceed with the installation of boiler number 8, and entered into a contract with Benjamin, Woodhouse and Guenther, Inc. for further engineering specifications. Detailed specifications were completed in July, 1978. By November 9, 1978, Upjohn had expended \$334,659, in 1978 dollars, on boiler number 8, consisting of the 1970-1971 construction costs, together with additional engineering costs.

Conferences were held between ERA and Upjohn, concerning its transitional facility request, on April 5, 1979 and August 9, 1979. At the time of the April 5, 1979 conference, which was approximately one month prior to the effective date of FUA, Upjohn's construction of boiler number 8 had proceeded to the point where it had expended a total of \$822,300, constituting 40 percent of the total project cost of boiler number 8.

(2) As stated by Upjohn, aside from space heating, its principal steam demands result from its production activities, which entail the fermentation of cultures and other controlled chemical reactions over periods as long as several weeks at a time. These processes require a constant and predictable flow of steam. To assure such a constant flow, Upjohn is required

to have adequate available steam capacity to meet surge or peak steam demands, resulting from such factors as cold weather or the need for large instantaneous fermentation demand preparatory to inoculation with specific cultures.

Because of unpredictable demand levels for particular products from time to time, and varying lead times needed to produce such products, Upjohn characterizes its production activities as "multiple batch processing." That is, some batches will be in the process of fermentation while others may demand a surge of steam for specific inoculation or sterilization purposes. Therefore, according to Upjohn, the quantitative steam demands for its various products cannot be cost-effectively scheduled or predicted far in advance, and steam must be available for these multiple needs upon demand.

For these reasons, Upjohn states, it requires "firm capacity" to deliver steam at levels not less than anticipated peak demand. Upjohn defines such requisite "firm capacity" as the capacity of its remaining boilers to deliver steam when its largest single boiler is down. This is consistent with Upjohn's experience in operating a multiple boiler complex, which has shown that it cannot expect continuous operation of all boilers at full capacity, and that its largest boiler has been down several times over the past few years.

Upjohn states that, for several reasons, use of a coal-fired boiler would have been inadequate to meet the foregoing requirements. First, sudden increases in the firing rate of a coal-fired boiler to meet surge or peak demands can cause impermissible smoking and particulate emissions. Second, coal-fired boilers do not possess the quick

response ability of oil/gas-fired boilers. Third, the sudden heating and cooling of coal-fired swing load boilers can cause severe boiler deterioration. In addition, Upjohn submitted an engineering study which, it states, demonstrates that a coal or other alternate fuel-fired boiler would not fit into the existing boiler house designed for boiler number 8. Upjohn asserts that if, as of November 9, 1978, it had modified its plans and replaced the oil/gas-fired packaged boiler with a coal-fired boiler, such boiler could not have been operational until December 1982. As projections indicated that steam demands for 1979-80 would exceed firm capacity, Upjohn contends that to have delayed the acquisition of additional steam generating capabilities until 1982 would have resulted in significant adverse production impacts.

Oil/natural gas-fired boilers numbers 7 and 8 are designed to be swing-loaded to supplement Upjohn's six coal-fired boilers at the Portage Road Plant so as to meet Upjohn's variable steam demands. Because of these steam demands, and the foregoing problems associated with construction and use of a coal boiler, Upjohn states that the following potential production and employment impacts would have resulted from the cancellation, rescheduling or modification of boiler number 8 as of November 9, 1978:

(a) As steam demand approached firm capacity, an accident such as a major steam pipeline leak, a mechanical breakdown of a boiler, or a human error could cause steam demand to exceed ability to supply, resulting in a shutdown of the boiler plant. In the event of such a shutdown, Upjohn states, it would have suffered extensive monetary damages, resulting from product and raw material damage, cost

of product rework and makeup of lost production.

(b) If such a shutdown occurred during freezing weather, according to Upjohn, it would have further suffered structural damage to buildings and plant equipment and loss of test animals.

(c) Proposed plant expansions requiring additional steam and certain existing steam demand operations between December, 1979 and December, 1982 would have to have been curtailed, including a pharmaceutical production warehouse addition; addition of chemical processing facilities in a number of buildings; a solvent recovery facility expansion, tank farm expansion and expansion of fermentation facilities.

(d) It is estimated that curtailment of the foregoing planned plant expansions would have resulted in a five percent annual loss of production, and a loss of employment of approximately 200 positions, required to meet such plant expansion needs.

ERA hereby invites all interested persons to submit written comments on this matter. The public file containing documents on these proceedings and supporting materials is available for inspection at the Office of Fuels Programs, ERA, Washington, D.C., Monday through Friday, 8:00 a.m.-4:30 p.m. Persons wishing to review the public file should make prior arrangements with the Case Manager named in the information contact section above.

Issued in Washington, D.C. on January 4, 1982.

Rayburn Hanzlik,
Administrator, Economic Regulatory
Administration.

[FR Doc. 82-836 Filed 1-7-82; 8:45 am]

BILLING CODE 6450-01-M

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JD NO	JA DKT	API NO	D SEC CAT	WELL NAME	PROD	PURCHASER
-BEARD OIL COMPANY						
8210103	11638	3507322963	103	RECEIVED: 12/11/81 PAULINE #1	109.0	CITIES SERVICE GA
-BERRY PETROLEUM CORP						
8210095	11634	3508321661	103	RECEIVED: 12/11/81 AMBROSE #1-6	200.0	CONOCO INC
8210096	11635	3509322007	103	RECEIVED: 12/11/81 REAMES #1-26	65.0	PIONEER GAS PRODU
-BOBERT OIL CO						
8210086	11392	3504722506	103	RECEIVED: 12/11/81 THOMAS 1-35	22.5	UNION TEXAS PETRO
-BROWN & BORELLI INC						
8210106	11258	3507322951	103	RECEIVED: 12/11/81 KORDIS #1	36.5	CONOCO INC
-BURKHART PETROLEUM CORP						
8210130	11696	3501167587	103	RECEIVED: 12/11/81 HEFFEL 1-16	146.0	ARKANSAS LOUISIAN
-CHARLES HILL JR						
8210121	12752	3506321360	103	RECEIVED: 12/11/81 WILSON #4	180.0	ARKANSAS LOUISIAN
-CONOCO INC						
8210115	15075	3503920514	102-2	RECEIVED: 12/11/81 DEPUTY 21 #1	693.5	PRODUCERS GAS CO
-COTTON PETROLEUM CORPORATION						
8210132	11640	3501121543	103	RECEIVED: 12/11/81 BRADFORD "E" #1	600.0	DELHI GAS PIPELIN
-DAVIS BROS OIL PRODUCERS INC						
8210129	11658	3506321176	103	RECEIVED: 12/11/81 FIFE #1	0.0	PUBLIC SERVICE CO
-DAWN ENERGY CO						
8210133	11643	3515320994	103	RECEIVED: 12/11/81 KELTCH #1-6	100.0	NORTHERN NATURAL
-DEMINEX U.S. OIL CO						
8210100	11348	3504921542	103	RECEIVED: 12/11/81 J R THOMPSON #1	188.0	WARREN PETROLEUM
-EL PASO NATURAL GAS COMPANY						
8210118	15301	3500920427	107-DP	RECEIVED: 12/11/81 KENT #3	1811.0	EL PASO NATURAL G
-FUNK EXPLORATION INC						
8210123	14778	3500722160	102-2	RECEIVED: 12/11/81 CM #1-35	0.0	NORTHERN NATURAL
-GENERAL AMERICAN OIL COMPANY OF TEX						
8210108	11468	3513722583	103	RECEIVED: 12/11/81 F M WOOD 4-D (HUNTON)	330.0	LONE STAR GAS CO
8210109	11590	3513722583	103	RECEIVED: 12/11/81 F M WOOD 4-D (SYCAMORE)	365.0	LONE STAR GAS CO
-HAMILTON BROTHERS OIL CO						
8210116	15096	3514902065	102-2	RECEIVED: 12/11/81 WEICHEL #1-28	288.0	SOUTH COLONY
-HARPER OIL COMPANY						
8210131	11639	3504722407	103	RECEIVED: 12/11/81 CHESTNUT #4	40.0	ARKANSAS-LOUISIAN
8210124	14925	3503920445	102-2	RECEIVED: 12/11/81 FRANSEN #1	525.0	WEST ARAPAHO
-HESTON OIL CO						
8210098	11332	3507322799	103	RECEIVED: 12/11/81 ALFRD #24-1	125.8	ITT EASON OIL CO
-HOOVER & BRACKEN ENERGIES						
8210117	15105	3512920560	102-2	RECEIVED: 12/11/81 CECIL #1-4	1460.0	EL PASO NATURAL G
-HPC INC						
8210122	14710	3504321108	102-2-4	RECEIVED: 12/11/81 SALISBURY #1	500.0	MICHIGAN-WISCONSI
-HUNGERFORD OIL & GAS INC						
8210107	11383	3504722283	103	RECEIVED: 12/11/81 EGGERS #1	43.8	AMINOIL USA INC
-JONES & PELLOW OIL CO						
8210120	12751	3506300000	102-2	RECEIVED: 12/11/81 COSPER 7-1	360.0	ARKANSAS LOUISIAN
-KANSAS-NEBRASKA NATURAL GAS CO INC						
8210105	11243	3513930115	108	RECEIVED: 12/11/81 HEADRICK 1	21.0	KANSAS-NEBRASKA N
-LONG ROYALTY CO						
8210101	11357	3501700000	103	RECEIVED: 12/11/81 EBELING #1	0.0	MORIL OIL CORP
-LRF CORP						
8210097	09282	3506120351	103	RECEIVED: 12/11/81 LACKEY TWIN #1	900.0	ARKANSAS LOUISIAN
-MAGIC CIRCLE ENERGY CORP						
8210089	11599	3515121132	103	RECEIVED: 12/11/81 MELTON #2	178.0	OKLAHOMA NATURAL

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JD NO	JA DKT	API NO	C SEC CAT WELL NAME	FIELD NAME	PROD	PURCHASER
8210092	11602	3500320794	103 MOSER #1	WEST CARMEN	0.0	OKLAHOMA NATURAL
8210091	11601	3500320809	103 ROSS #1	EAST ALINE	40.0	
8210090	11600	3515121131	103 SOMERS #1	WEST ALINE	105.0	OKLAHOMA NATURAL
			RECEIVED: 12/11/81 JA: OK			
8210134	14985	3501922221	102-4 WESTHEIMER-NEUSTADT #3-18	WEST HEWITT	100.0	AMINOIL USA INC
8210134	14985	3501922221	103 WESTHEIMER-NEUSTADT #3-18	WEST HEWITT	100.0	AMINOIL USA INC
			RECEIVED: 12/11/81 JA: OK			
8210114	15032	3502520403	102-4 HOWARD WARREN #1-27	SOONER TREND	35.0	WELLHEAD ENTERPRI
			RECEIVED: 12/11/81 JA: OK			
8210099	11159	3504722393	103 MARKES WILACEK 15-2	SOONER TREND	35.0	WELLHEAD ENTERPRI
			RECEIVED: 12/11/81 JA: OK			
8210104	11150	3504721916	103 MARKES 14-2	EAST RICHLAND	10.4	OKLAHOMA NATURAL
			RECEIVED: 12/11/81 JA: OK			
8210127	11549	3501721733	103 EADES A #1	N W NORMAN	1.1	SUN GAS CO
			RECEIVED: 12/11/81 JA: OK			
8210094	11628	3502720518	103 BERRY #2	EAST KREMLIN	0.0	CRA INC
			RECEIVED: 12/11/81 JA: OK			
8210125	14928	3504722940	102-4 SCHNEIDER 4-12	EAST KREMLIN	0.0	CRA INC
			RECEIVED: 12/11/81 JA: OK			
8210093	11627	3501721691	103 VON TUNGELN #1-20	EAST KREMLIN	0.0	CRA INC
			RECEIVED: 12/11/81 JA: OK			
8210112	14982	3506120458	102-2 KIRKWOOD #1-SPIRO	KINTA	1003.8	ARKANSAS LOUISIAN
8210119	11794	3507300000	108-ER TOWNSITE NO 1-A	OKARCHE	12.2	DELHI GAS PIPELIN
			RECEIVED: 12/11/81 JA: OK			
8210111	14946	3504321317	102-4 COONS #4-10	N OAKWOOD	35.0	PHILLIPS PETROLEU
8210111	14946	3504321317	103 COONS #4-10	N OAKWOOD	35.0	PHILLIPS PETROLEU
			RECEIVED: 12/11/81 JA: OK			
8210128	11656	3514321131	103 LEHR #1	BIRD CREEK	0.0	PHILLIPS PETROLEU
			RECEIVED: 12/11/81 JA: OK			
8210110	11612	3513921390	103 FOLKERS #1	GUYMON HUGOTON	346.6	NORTHERN NATURAL
			RECEIVED: 12/11/81 JA: OK			
8210102	11389	3507903860	102-4 REES #1-13 LI	MILTON	1400.0	ARKANSAS LOUISIAN
			RECEIVED: 12/11/81 JA: OK			
8210113	14989	3511900000	102-4 C S O DEAN #2 (119-60837)	MARKHAM	1.5	PARKS ENERGY INVE
8210113	14989	3511900000	103 C S O DEAN #2 (119-60837)	MARKHAM	1.5	PARKS ENERGY INVE
			RECEIVED: 12/11/81 JA: OK			
			WEST VIRGINIA DEPARTMENT OF MINES			
			RECEIVED: 12/19/81 JA: WV			
8210248		4706700213	108 SAN ANTONIA WELL #3	JEFFERSON	6.7	CABOT CORP
			RECEIVED: 12/19/81 JA: WV			
8210239		4704173024	103 A-961	FREEMAN'S CREEK DISTRICT	0.0	CONSOLIDATED GAS
8210240		4708300411	103 A-974	MIDDLE FORK DISTRICT	0.0	COLUMBIA GAS TRAN
			RECEIVED: 12/14/81 JA: WV			
8210249		4706700207	108 SAN ANTONIA GAS CO #1	JEFFERSON	6.7	CABOT CORP
			RECEIVED: 12/19/81 JA: WV			
8210210		4707300989	107-DV ARTHUR RICE #1	AURTHUR RICE	1.8	COLUMBIA GAS TRAN
8210206		4707301075	107-DV DELBERT TAYLOR #1	CELBERT TAYLOR	11.0	COLUMBIA GAS TRAN
8210211		4707301166	107-DV HAROLD SMITH H-124R	HAROLD W SMITH	118.6	COLUMBIA GAS TRAN
8210209		4707301149	107-DV MIRAM WHERRY #1	HIRAM WHERRY	109.5	COLUMBIA GAS TRAN
8210179		4707301154	107-DV LEWIS BARNHART R K #4	LEWIS BARNHART	182.5	COLUMBIA GAS TRAN
			RECEIVED: 12/14/81 JA: WV			
8210185		4705100641	103 VANCY #1	WILDCAT	0.0	COLUMBIA GAS TRAN

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JD NO	JA DKT	API NO	D SEC	CAT	WELL NAME	FIELD NAME	PROD	PURCHASER
8210226		4703302488	103		REATRICE SCOTT S-323	UNION		0.2 CONSOLIDATED GAS
8210238		4703302547	103	RECEIVED: 12/14/81	FATRICIA BECKER #2 S-338	UNION		0.4 CONSOLIDATED GAS
8210165		4709921511	108	RECEIVED: 12/14/81	KOONCE & ZIMMERMAN #2	LINCOLN		4.7 INDUSTRIAL GAS CO
8210257		4709500861	107-DV	RECEIVED: 12/14/81	ANKROM #1 47-095-0861	WICK	15.0	COLUMBIA GAS TRAN
8210243		4709900681	108		WILLIAMS #2	UNION	6.0	GAS SUPPLY CO
8210184		4704900097	108	RECEIVED: 12/14/81	LULU SHUMAN #149	PAW PAW	7.2	OWENS ILLINOIS GL
8210172		4701302985	108	RECEIVED: 12/14/81	PARSONS #7	RUSH RUN	12.5	CONSOLIDATED GAS
8210170		4701303173	103	RECEIVED: 12/14/81	WARREN WESTFALL #2	ISAAC RUN	3.0	CONSOLIDATED GAS
8210237		4708504056	108	RECEIVED: 12/14/81	ERNEST GOFF H-636		0.0	CABOT CORP
8210173		4708504380	108	RECEIVED: 12/14/81	ERNEST GOFF H-820		0.0	CABOT CORP
8210236		4708504165	108	RECEIVED: 12/14/81	ERNEST GOFF 4-692		0.0	CABOT CORP
8210228		4702102865	108	RECEIVED: 12/14/81	E M ROGGS I-366		11.0	CONSOLIDATED GAS
8210229		4708702096	108	RECEIVED: 12/14/81	O D STOCKLY #90	GEARY	0.0	CONSOLIDATED GAS
8210176		4708300371	103		KEELEY #2	ROARING-CREEK	25.0	COLUMBIA GAS TRAN
8210207		4708504906	107-DV	RECEIVED: 12/14/81	BERNARD RICHARDS H-1059	CLAY DISTRICT	20.0	CONSOLIDATED GAS
8210182		4702101579	108	RECEIVED: 12/14/81	NOTTINGHAM & GARRETT #1	NOTTINGHAM & GARRETT	2.2	CONSOLIDATED GAS
8210183		4702101623	108	RECEIVED: 12/14/81	NOTTINGHAM & GARRETT #2	NOTTINGHAM & GARRETT	2.2	CONSOLIDATED GAS
8210194		4709500835	107-DV	RECEIVED: 12/14/81	C S DILLON (FAIRFAX #1)	MCKIM - PLUM RUN FIELD	10.8	COLUMBIA GAS TRAN
8210205		4707300797	107-DV	RECEIVED: 12/14/81	EMMA WELLS #1	BENS RUN - ARVILLA	45.0	COLUMBIA GAS TRAN
8210171		4709702236	103	RECEIVED: 12/14/81	J M HUBER #70	WASINGTON	20.0	EQUITABLE GAS CO
8210246		4706700226	108		MORRIS #1	JEFFERSON	32.0	CABOT CORP
8210247		4706700214	108	RECEIVED: 12/14/81	SMITH-CRAIG - #1	JEFFERSON	11.5	CABOT CORP
8210188		4704103007	103	RECEIVED: 12/14/81	CLARK B #1	ASPINALL FINSTIER	50.0	
8210193		4704103007	107-DV	RECEIVED: 12/14/81	CLARK B #1	ASPINALL FINSTIER	50.0	
8210186		4704103008	103		CLARK B #2	GLENVILLE NORTH	50.0	
8210192		4704103008	107-DV	RECEIVED: 12/14/81	CLARK B #2	ASPINALL FINSTIER	50.0	
8210191		4704103009	107-DV	RECEIVED: 12/14/81	CLARK B #3	ASPINALL FINSTIER	50.0	
8210161		4704103011	107-DV	RECEIVED: 12/14/81	CRADDOCK #1	GLENVILLE NORTH	50.0	COLUMBIA GAS TRAN
8210187		4704103011	103		CRADDOCK #1	GLENVILLE NORTH	50.0	COLUMBIA GAS TRAN
8210208		4702103737	107-DV	RECEIVED: 12/14/81	CRADDOCK #2	GLENVILLE NORTH	50.0	COLUMBIA GAS TRAN
8210162		4702103738	107-DV	RECEIVED: 12/14/81	CRADDOCK #3	GLENVILLE NORTH	50.0	COLUMBIA GAS TRAN
8210190		4702103738	103	RECEIVED: 12/14/81	CRADDOCK #3	GLENVILLE NORTH	50.0	COLUMBIA GAS TRAN
8210259		4700701508	102-4	RECEIVED: 12/14/81	ADA CUTLIP #1	OTTER	180.0	
8210260		4700701510	102-4	RECEIVED: 12/14/81	ADA CUTLIP #3	OTTER	80.0	
8210254		4706700372	102-4	RECEIVED: 12/14/81	ANNIE WALKER #1	GRANT	73.0	EQUITABLE GAS CO
8210253		4706700369	102-4	RECEIVED: 12/14/81	C M VICKERS #1	GRANT	46.0	EQUITABLE GAS CO
8210251		4706700381	102-4	RECEIVED: 12/14/81	CHARLES WILLIAMS #1	GRANT	65.0	EQUITABLE GAS CO

JD NO	JA DKT	APJ NO	D SEC CAT WELL NAME	FIELD NAME	PROD	PURCHASER
8210252		4706700382	102-4 DAVID BROWN #1	GRANT	65.0	EQUITABLE GAS CO
8210168		4706700564	FEDERAL COAL #47	TWENTY MILE CREEK	11.0	CABOT CORP
8210169		4706700565	FEDERAL COAL #41	TWENTY MILE CREEK	7.0	CABOT CORP
8210231		4706700574	FEDERAL COAL #46	TWENTY MILE CREEK	33.0	CABOT CORP
8210255		4706700376	GEORGE KEENAN #1	GRANT	46.0	EQUITABLE GAS CO
8210250		4706700377	RECEIVED: 12/14/81 GEORGE KEENAN ET AL #2	GRANT	65.0	EQUITABLE GAS CO
8210230		4702102475	108 BARKER #1	GLENVILLE NORTH	7.0	EQUITABLE GAS CO
8210224		4702135580	107-DV MESSENGER A #1	GLENVILLE NORTH	50.0	COLUMBIA GAS TRAN
8210177		4709702157	RECEIVED: 12/14/81 103 DENZIL CRITES #1 - 1621	BANKS DISTRICT	0.0	COLUMBIA GAS TRAN
8210163		4700100487	RECEIVED: 12/14/81 108 WRIGHT	BELINGTON	0.0	PARTNERSHIP PROPE
8210164		4702103534	RECEIVED: 12/14/81 108 RAY PATTERSON #1A	ELLIS	15.0	CARNEGIE NATURAL
8210227		4702103422	RECEIVED: 12/14/81 108 WIANI #1	UNION	11.5	CARNEGIE NATURAL
8210242		4709900685	RECEIVED: 12/14/81 108 B WHITE #1	UNION	9.8	GAS SUPPLY CO
8210245		4709900541	RECEIVED: 12/14/81 108 WILLIAMS #1	UNION	18.0	GAS SUPPLY CO

BILLING CODE 6717-01-C

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 by January 25, 1982.

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: 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.

[FR Doc. 82-529 Filed 1-7-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-185-000]

Commonwealth Electric Co.; Filing

January 5, 1982.

The filing Company submits the following:

Take notice that on December 28, 1981, Commonwealth Electric Company ("Commonwealth") filed, pursuant to § 35.12 of the Commission's Regulations, an agreement governing the sale by Commonwealth of a portion of its entitlement to capacity and related energy produced by Canal Electric Company's Unit No. 2 to the Fitchburg Gas and Electric Light Company.

By the provisions of the tendered rate schedule, Commonwealth proposes to sell to Fitchburg certain quantities of capacity and related energy as determined on a weekly basis during the

life of said tendered rate schedule, as more fully described at Article 3 thereof. Commonwealth has requested the commission to waive its notice requirements pursuant to § 35.11 of its regulations for good cause shown and to permit the tendered agreement to become effective as proposed on November 1, 1981.

A copy of this filing has been served upon Fitchburg.

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 January 22, 1982. 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. 82-516 Filed 1-7-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. EC81-15-000]

CP National Corp. and Sierra Pacific Power Co.; Order Approving Sale and Purchase of Facilities and Granting Waiver of Filing Requirements

Issued: December 31, 1981.

On June 18, 1981, CP National Corporation (CP) and Sierra Pacific Power Company (Sierra) filed a joint application requesting authorization under section 203 of the Federal Power Act for CP to sell certain of its facilities to Sierra. The proposed transaction involves the Nevada portion of CP's Nevada/Utah Division, which provides electric service in the City of Winnemucca and adjacent portions of Humboldt and Pershing Counties, Nevada, as well as in the City of Elko and adjacent portions of Elko County, Nevada. The proposed sale includes all electric generation,¹ transmission,² and distribution³ facilities, franchises, and

¹ CP's generation consists of six standby diesel generating units in its Elko system with a combined operating capability of 4 to 5 MW.

² CP's affected transmission system includes approximately 70 miles of 60 KV and 69 KV transmission lines.

³ Approximately 9000 of CP's retail (residential and commercial) customers will be affected by this

properties within these areas. CP will thereby divest itself of all of its operating facilities in Nevada.⁴

The negotiated sales price of approximately \$11,237,200 reflects the net book value of CP's properties plus construction work in progress, customer accounts receivable, assumed tax liabilities, and a gain on the sale (an acquisition adjustment) of approximately \$2,988,139. Sierra will continue to serve all of CP's existing customers in the affected areas.

Applicants request waiver of § 33.3 of the Commission's regulations insofar as it provides that applications must include copies of "all mortgages, trusts, deeds or indentures" (Exhibit D). Applicants state that the required information would consist of thousands of pages and that supplying it all as part of the instant application would be impractical. Applicants further request partial waiver with respect to filing copies of Exhibit K, their joint application to the Nevada Public Service Commission, which totals more than 300 pages. Three copies of the application were filed, rather than six as required by § 33.3.

Notice of the filing was issued on June 29, 1981, with comments, protests, or petitions to intervene due on or before July 18, 1981. Several comments have been filed by a public interest group, a private individual, and public officials with respect to the instant filing.⁵ However, no petitions to intervene have been filed. Several common concerns underlie the comments received by the Commission. In particular, the interested parties (1) request that the record in this proceeding be kept open for an indefinite period to permit further comments, (2) make reference to the need for a hearing, and (3) suggest that future public power be considered as an alternative to the Sierra purchase.

transaction. CP makes no sales for resale in its Nevada service areas, but does provide approximately 1.8 MW of wheeling service from the Bonneville Power Administration to Wells Rural Electric Cooperative over its Elko transmission lines.

⁴ In similar proceedings in Docket No. EC80-9, CP filed an application for authorization to sell the Utah portion of its electric facilities to Utah Power & Light Company. By letter dated August 28, 1981, the Director of the Office of Electric Power Regulation authorized the sale. CP will continue to operate its Oregon and California electric facilities as well as its telephone, natural gas, and water services in various areas.

⁵ To date, comments have been received by the Coalition for Affordable Energy, a consumer organization; Vernon O. Lindblade, a resident of Elko; Councilman Donald W. Smit, City of Winnemucca (pursuant to a resolution of the Winnemucca City Council); and Congressman James D. Santini (D-Nevada).

Discussion

Initially, we note that most, if not all, of the material required to be submitted under § 33.3, Exhibit D—copies of "all mortgages, trusts, deeds, or indentures"—has been submitted in other filings. For present purposes sufficient information is available to the Commission. Thus, good cause exists to waive the filing requirements. Likewise, good cause has been shown for partial waiver with regard to copies of Exhibit K.

Before a public utility may sell, lease, or dispose of any of its jurisdictional facilities, it must obtain this Commission's approval pursuant to section 203 of the Federal Power Act. Section 203(a) provides that the Commission shall grant such approval if the transaction "will be consistent with the public interest. * * *

Although section 203(a) provides no express criteria for determining whether a proposed transaction is in the public interest, the Commission has previously determined that a number of factors should be considered. Specifically, the Commission has analyzed similar transactions in light of: (1) The anticipated effect on operating costs and rate levels; (2) the accounting treatment contemplated by the parties; (3) evidence of arms-length bargaining, including the reasonableness of the acquisition price and coercion by the acquiring utility; (4) possible anticompetitive effects of the proposed transaction; and (5) potential impairment of effective state or Federal regulatory authority. *E.g., Commonwealth Edison Co., et al.*, 36 FPC 927 (1966); *Nevada Power Co., et al.*, Docket Nos. E-9597, E-9306 (December 30, 1977). Similar concerns should be addressed with respect to the currently proposed sale of facilities.

Analysis of this transaction in light of its economic effects on Sierra's operating costs and rate levels indicates that there should be little immediate effect on operating costs. CP is presently purchasing its electric power requirements for the Winnemucca area from Sierra.⁶ CP purchases its requirements for the Elko system from Idaho Power Company under a contract which is to be assigned to Sierra.⁷ Although Sierra's rates are currently higher than those of CP, the companies state that Sierra initially will continue

operating under CP's rates. CP further states that but for the proposed transaction it would have filed increased rates.

With respect to the proposed accounting treatment, our analysis indicates that, on its face, the proposed method fairly represents the result of this transaction and will be consistent with the requirements of the Commission's Uniform System of Accounts as well as with generally accepted accounting principles. The pleadings indicate that the anticipated terms of sale were negotiated at arms' length. Proper disposition of the acquisition adjustment of approximately \$3 million will be determined when Sierra files corresponding journal entries after the transaction is completed.

Our review has disclosed no indication of, nor any reason to infer, the existence of coercion in this transaction. Additionally, whether or not public power might ultimately enhance competition in the affected service areas, it does not appear that any adverse effect on the existing competitive situation would result from the proposed transaction.

Finally, with respect to regulatory considerations, the proposed transaction appears to involve no impairment of effective state or Federal regulation. At present, CP makes no sales for resale in the affected areas, although it does provide wheeling services under two contracts with Wells Rural Electric Cooperative. Because the existing contracts will be assigned to Sierra with the same services provided, the scope of this Commission's regulation will not be materially affected.⁸ It is conceivable that the state Commissions may be confronted with new allocation questions for purposes of retail rates, although this should not hinder their ability to regulate effectively. In this regard, it is noted that the Oregon Public Utility Commissioner⁹ and the Nevada Public Service Commission¹⁰ have authorized the proposed transaction.¹¹

After consideration of the matters discussed above, the proposed sale of

⁶ We note, however, that in assuming the wheeling contracts mentioned above, Sierra will be required to file corresponding transmission rates with the Commission.

⁷ By order dated August 3, 1981, the Oregon, Public Utility Commissioner approved CP's application for the sale of electric facilities to Sierra.

⁸ By order dated July 6, 1981, the Nevada Public Service Commission approved CP's application for the sale of electric facilities to Sierra after public hearing.

⁹ By opinion and orders dated August 6, 1981, the Arizona Corporation Commission advised the applicants that it had no jurisdiction to consider the merits of the proposed transaction.

facilities appears to be consistent with the public interest standards enumerated in similar proceedings. Before the Commission may approve the proposed transaction, however, section 203 of the Federal Power Act provides that "notice and opportunity for hearing" be afforded. Several comments have been filed requesting that the Commission hold a hearing on the matter and explore the feasibility of public power for the affected areas. No one, however, has sought to intervene in opposition to the proposed transaction or requested an opportunity to formally participate as a party in an evidentiary hearing. Nothing in the record suggests that an evidentiary hearing would aid in our determination of whether the proposed transaction is in the public interest. "[T]he right of opportunity for hearing does not require a procedure that will be empty sound and show, signifying nothing." *Citizens for Allegan County, Inc. v. F.P.C.*, 414 F.2d 1125, 1128 (D.C. Cir. 1969). We note also that the proposed transaction was approved by the Nevada Public Service Commission after an evidentiary hearing in which no formal protests were entered. *Sierra Pacific Company, et al.*, Docket No. 81-154, Public Service Commission of Nevada, Opinion at 2 (July 6, 1981). We conclude that a hearing would be unnecessary in this proceeding.

The main contention of the commenters is that public power may be a preferable alternative in the future to Sierra's ownership of the subject facilities. Whatever the merits of this position, however, we note that it is speculative at this time, since no formal action has been taken by the appropriate authorities to initiate condemnation proceedings against CP. Moreover, our decision that the proposed transfer is in the public interest in no way prevents any interested governing body from later initiating condemnation proceedings against Sierra, or seeking other alternatives to Sierra's operation of the electric systems.

In light of the above discussion, we find that the proposed transaction is consistent with the public interest and satisfies the standards of section 203 of the Federal Power Act.

The Commission Orders

(A) Applicants' request for waiver of the § 33.3, Exhibits D and K, filing requirements is hereby granted.

(B) The proposed sale of facilities by CP to Sierra, as described above, is hereby authorized and approved upon the terms and conditions set forth in the

application and subject to the provisions of this order, including Sierra's filing of applicable rates for wheeling service, without prejudice to the authority of the Commission or any other regulatory body with respect to the rates, service, accounts, valuation, estimates, or determination of cost or any matter whatsoever now pending or which may come before this Commission or any other regulatory body.

(C) CP and Sierra shall file the appropriate final journal entries within six (6) months of the consumation of the transaction and shall record the transactions herein authorized and the properties described above as provided in the Commission's Uniform System of Accounts Prescribed for Public Utilities and Licensees. Disposition of the acquisition adjustment will be determined upon the filing of final journal entries concerning Account 102, Electric Plant Purchased or Sold.

(D) The Secretary shall promptly publish this order in the Federal Register.

By the Commission.

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-515 Filed 1-7-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-190-000]

Detroit Edison Co.; Filing

January 5, 1982.

The filing Company submits the following:

Take notice that the Detroit Edison Company (DEC), on December 29, 1981, tendered for filing the following revised tariff sheets:

FERC Electric Tariff Original Volume No. 1

Fifth Revised Sheet No. 5
Fifth Revised Sheet No. 7
Sixth Revised Sheet No. 9
Second Revised Sheet No. 16a

DEC is requesting that the Commission approve the revised rate sheets which authorize an Interruptible Service option on an experimental basis, and continue such tariff until November 2, 1982, at which time the rate will automatically expire. The Experimental Interruptible Service is available to the customer during on-peak hours for deliveries in excess of firm load. Deliveries under this option shall not serve to increase or reduce the firm load levels specified in the rate schedules.

DEC requests that the Commission grant such waivers and authorizations as are required to enable the implementation of the Experimental

Interruptible Service option effective retroactively to November 3, 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 of Practice and Procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before January 25, 1982. 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. 82-517 Filed 1-7-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-184-000]

Endbehr Corp.; Cancellation

January 5, 1982.

The filing company submits the following:

Take notice that on December 21, 1981, Endbehr Corporation (Endbehr), a wholly-owned subsidiary of Hammermill Paper Company (Hammermill) tendered for filing a notice of cancellation of its contract to sell excess electricity to Pennsylvania Electric Company (Penelec).

Endbehr has leased and Hammermill operated a cogeneration facility at Hammermill's pulp and paper mill in Erie, Pennsylvania since January 15, 1976. Endbehr has also sold excess electricity (the excess of Endbehr's production over Hammermill's needs) to Penelec since February 1, 1976. On April 29, 1981, Endbehr gave Penelec six months' written notice that it wished to terminate the contract. Concurrently, Endbehr notified Penelec that at the termination of the contract, Hammermill would begin to sell excess power to Penelec under the rates, terms and conditions of Rider E to Rate LP (large primary) which Rider is on file with the Pennsylvania Public Utilities Commission and is designated as "Electric Pa. P.U.C. No. 75, Original Page 61."

Because Hammermill's and/or Endbehr's only sales are from its qualifying cogeneration facilities, Endbehr claims it is no longer required to keep on file with the Commission the rate schedule under which it is selling

electricity to Penelec and is relieved of the obligation to file with the Commission any change in that rate schedule.

Endbehr requests that it be permitted to withdraw its rate schedule, filed in Docket No. ER76-462, not to be superseded by Penelec's Rider E or any other rate schedule, even though the sales to Penelec will continue.

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 January 25, 1982. 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. 82-518 Filed 1-7-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. ER77-578, ER80-259, ER80-793-000, ER80-793-001, ER81-355-000, ER81-356-000, and ER81-357-000]

Kansas Gas and Electric Co.; Compliance Filing

January 5, 1982.

Take notice that on December 24, 1981, Kansas Cities filed their proposals in regard to reconciling any differences between Kansas Gas and Electric Company charges and charges received. The proposals were made pursuant to Opinion No. 80-B in Docket Nos. ER77-578 and ER80-259, issued November 24, 1981.

Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before January 22, 1982. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-519 Filed 1-7-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER81-651-000]

**Northern States Power Co.
(Minnesota); Order to Show Cause**

Issued: December 31, 1981.

By order issued concurrently in Docket No. ER81-653-000,¹ we have addressed the question of whether Northern States Power Company, Minnesota (NSP-Minnesota) and Northern States Power Company, Wisconsin (NSP-W) have been billing each other under their existing Coordinating Agreement for amounts reflecting construction work in progress (CWIP) contrary to the Commission's regulations, 18 CFR 2.16. The findings and conclusions set forth in that order are here incorporated by reference.

In the Docket No. ER81-653-000 order, we are requiring NSP-W to refile its wholesale rates excluding CWIP-related costs and to refund all such amounts already collected, with interest. Because NSP-Minnesota is not a party to the proceedings in Docket No. ER81-653-000, we shall afford the company an opportunity to respond to the findings in those proceedings and to show cause why NSP-Minnesota should not be directed to identify the amount and nature of any CWIP amounts it is charging to NSP-W through the Coordinating Agreement, and to cease billing NSP-W for CWIP-related amounts not allowed by the Agreement or by the Commission's regulations.

The Commission orders:

(A) Pursuant to § 1.6(d) of the Commission's Rules of Practice and Procedure, NSP-Minnesota is hereby directed to respond to the issues raised above within thirty (30) days of the issuance of this order.

(B) The Secretary shall promptly publish this order in the Federal Register.

By the Commission.

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-521 Filed 1-7-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER81-653-000]

**Northern States Power Co.
(Wisconsin); Order on Rehearing and
Request for Summary Disposition**

Issued: December 31, 1981.

On October 28, 1981, the intervenors in Docket No. ER81-653-000¹ filed an

¹"Order on rehearing and request for summary disposition."

²The Cities and Villages of Bangor, Black River Falls, Bloomer, Cadott, Cornell, New Richmond, River Falls, Spooner, Westby, and Whitchall,

application for rehearing of the Commission's October 2, 1981 order accepting for filing and suspending proposed rates of Northern States Power Company, Wisconsin (NSP-W), granting summary disposition in part, granting intervention, granting waiver of notice requirements, denying motions to reject, and establishing procedures in the above docket. The Municipals renew their request that the Commission reject NSP-W's filing on the ground that it contains significant construction work in progress (CWIP) in violation of section 2.16 of the Commission's regulations.² In the alternative, Municipals request (1) that the Commission order summary disposition of the CWIP-related costs, (2) that an immediate compliance filing be ordered to reflect this and the summary dispositions required by the October 2 order, and (3) that the suspension period ordered in the above docket be increased from one day to the maximum of five months.

Discussion

NSP-W and its parent NSP-Minnesota share the costs of their integrated generation and extra high voltage (EHV) transmission system by means of a Coordinating Agreement, which was filed by the parties on September 9, 1971, and became effective on October 10, 1971. Under the Coordinating Agreement, NSP-W incurs a share of NSP-Minnesota's generation and EHV transmission costs.³ Likewise, NSP-Minnesota incurs a share of NSP-W's generation and EHV transmission costs. NSP-Minnesota's payments to NSP-W for these shared costs are treated as revenue credits to NSP-W's cost of service in the instant docket.

Our review of NSP-W's costs of service in light of Municipals' detailed allegations in their application for rehearing indicates that NSP-W has in fact included in its cost of service to the wholesale customers an allocated share of return associated with CWIP and ad

valorem taxes associated with CWIP. We note that neither NSP-W nor NSP-Minnesota has applied for permission to include CWIP in rate base pursuant to § 2.16 of the Commission's regulations, and that the Uniform System of Accounts provides that ad valorem taxes associated with construction are not to be treated as an expense during the period in which such taxes are incurred, but are to be capitalized as part of the cost of plant, and thereby recovered through depreciation after the plant is placed in service. Such capitalized taxes also should be reflected in income tax deductions for the test period.

In addition, we have reviewed the Coordinating Agreement between NSP-W and NSP-Minnesota to determine whether the language of the agreement contemplates recovery of CWIP-related costs contrary to the Commission's regulations.⁴ We do not find that it specifically contemplates recovery of such costs; accordingly, no modification of the agreement is required. Furthermore, the sample calculations of the parties' fixed charges for 1971, included in their original submittal of the Coordinating Agreement in 1971, do not indicate that CWIP-related costs were to be included therein, and the parties have not amended the agreement to include such costs.⁵

In light of the above discussion, we shall order NSP-W to identify the amount and nature (i.e., generation, transmission, pollution control, fuel conversion, etc.) of the various CWIP amounts it is charging NSP-Minnesota through the Coordinating Agreement, and to cease billing NSP-Minnesota for CWIP-related amounts not allowed by the Commission's regulations. Similarly, by our order issued concurrently in Docket No. ER81-651-000, NSP-Minnesota shall be required to show cause why it should not cease billing CWIP-related costs to NSP-W. In addition, NSP-W shall refile its rates in this docket to (1) exclude from its cost of service the amounts related to NSP-Minnesota's generation and EHV

Wisconsin, and the Wisconsin Public Power Incorporated System (Municipals).

²The amount in question is comprised of a return on generation and transmission CWIP charged to NSP-W by its parent, NSP-Minnesota, less an amount identified as AFUDC. Municipals state that on a total company basis, \$716,000 is associated with the return (and associated income tax) on generation CWIP and \$10,000 is associated with EHV transmission CWIP, which amounts were included in NSP-W's O&M expenses in its Period II cost of service study. Municipals also contend that NSP-W has included in that study \$224,000 (total company) of ad valorem taxes related to NSP-W's CWIP.

³Generation costs include a return on net production investment, income taxes, depreciation, other taxes, insurance, O&M expense, fuel cost, etc. EHV transmission costs are similar to those for the fixed costs related to generation, i.e., return, depreciation, taxes, O&M, etc.

⁴With respect to EHV transmission facilities, section 2.05 of the agreement specifically defines such facilities as those "placed in service subsequent to January 1, 1977." "Generation facilities" are not explicitly defined.

⁵The Minnesota Public Service Commission (MPSC) was granted jurisdiction over Minnesota retail rates effective January 1, 1975, after the initial filing of the Coordinating Agreement. A Minnesota statute provides that the MPSC may allow some CWIP in rate base with an AFUDC offset. Although it is not clear when NSP-Minnesota began billing NSP-W based on fixed charges including CWIP-related costs, NSP-Minnesota's current treatment of such costs appears to be consistent with the procedure allowed by the state for retail purposes.

transmission CWIP; (2) exclude ad valorem taxes related to CWIP from test year operating expenses and reflect CWIP related ad valorem taxes in the test year deduction for income tax calculation; (3) exclude from transmission revenue credits ad valorem taxes related to CWIP received by NSP-W through the Coordinating Agreement; (4) exclude ADITC in computing interest expense for tax purposes, and (5) exclude EPRI expenses from the wholesale cost of service.⁶

Because this determination should adequately address the Municipals' major concerns, we shall deny their request for rejection of the filing. In light of the further reduction in rates occasioned by the grant of summary disposition in this order, we shall also deny the Municipals' request for a five month suspension instead of the one day suspension previously ordered by the Commission.

The Commission orders:

(A) Municipals' application for rehearing is hereby granted to the extent set forth in the body of this order.

(B) Summary disposition is hereby ordered, as noted above, with respect to NSP-W's inclusion of CWIP-related costs in its rate filing. Within thirty (30) days of the issuance of this order, NSP-W shall refile its rates and supporting cost data to reflect this and previous summary dispositions, as discussed in this order. NSP-W shall immediately cease billing NSP-Minnesota for CWIP-related costs not permitted by the Coordinating Agreement or the Commission's regulations.

(C) Within thirty (30) days of the date of this order, NSP-W shall refund, with interest as provided in the Commission's regulations, all amounts already collected under the rates filed in this docket which related to the items for which summary disposition has been granted in this order or the Commission's order of October 2, 1981. A refund report shall be filed within thirty (30) days after refunds have been made.

(D) The Secretary shall promptly publish this order in the Federal Register.

By the Commission.

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-520 Filed 1-7-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-183-000]

Ohio Power Co.; Filing

January 5, 1982.

The filing Company submits the following:

Take notice that American Electric Power Service Corporation (AEP) on behalf of its affiliate, Ohio Power Company (OPCO) tendered for filing on December 24, 1981, a change of rate schedule, Modification No. 18 to the Operating Agreement between OPCO and The Cleveland Electric Illuminating Company (CEI). This Modification provides for an extension of the present System Unit Power sale by OPCO of 100 MW to CEI from January 1, 1982, to December 31, 1983.

The demand charge for said service will be \$6.25/kW month.

Applicant has requested the Commission to accept the Modification for filing on or before January 1, 1982, as it intends to continue the sale of System Unit Power to CEI as of that date.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure on or before January 22, 1982. 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. 82-522 Filed 1-7-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER81-141-000]

Potomac Edison Co.; Compliance Filing

January 5, 1982.

The filing Company submits the following:

Take notice that on December 16, 1981, Potomac Edison Company filed compliance reports in accordance with the Commission's November 20, 1981

order approving the settlement as to the Virginia customers and the affiliated customers in this case.

Potomac Edison also filed a refund report in accordance with the Commission's letter of November 16, 1981.

Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before January 18, 1982. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 81-523 Filed 1-7-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER81-141-001]

Potomac Edison Co.; Compliance Filing

January 5, 1982.

The filing Company submits the following:

Take notice that on December 16, 1981, Potomac Edison filed a Fourth Revision of Original Sheet No. 12, FERC Electric Tariff, Second Revised Volume No. II in compliance with the Commission's letter order of November 16, 1981.

Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before January 18, 1982. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-524 Filed 1-7-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-186-000]

Public Service Company of Indiana, Inc.; Filing

January 5, 1982.

The filing Company submits the following:

Take notice that Public Service Company of Indiana, Inc. on December 28, 1981, tendered for filing pursuant to the Service Agreements between the city of Frankfort, the Town of

⁶The October 2, 1981 order granted summary disposition with respect to NSP-W's treatment of ADITC in computing interest expense for tax purposes and its inclusion of EPRI expenses in its wholesale cost of service. Refiling was not ordered at that time due to the relatively small revenue impact of those items considered alone.

Montezuma, and Public Service Company of Indiana, Inc. revised Exhibits "A" (Service Specifications) and new Service Agreements between Henry County REMC, Jackson County REMC, and Public Service Company of Indiana, Inc.

Said Exhibits "A" to the municipal contracts provide for revised service characteristics at each of the municipal's delivery point(s). The new Service Agreements with Henry County REMC and Jackson County REMC change to contracts to the revised format of FERC Electric Tariff Original Volume No. 2 as approved in Docket No. ER78-513.

A copy of the filing was served upon the City of Frankfort, Town of Montezuma, Henry County Rural Electric Membership Corporation, Jackson County Rural Electric Membership Corporation, and the Public Service Commission of Indiana.

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 should be filed on or before January 22, 1982. 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 the filing are available for public inspection at the federal Energy Regulatory Commission.

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-525 Filed 1-7-82; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. ER82-178-000]

Public Service Company of Oklahoma; Filing

January 5, 1982.

The filing Company submits the following:

Take notice that, on December 23, 1981, Public Service Company of Oklahoma ("Company") tendered for filing an Agreement for Interchange of Electric Power and Energy ("Agreement") between Company and the United States of America, acting through the Secretary of Energy as represented by the Administrator, Southwestern Power Administration ("SWPA"). The Agreement provides for the interchange and sale of electric

power and energy between Company and SWPA.

The Agreement sets forth the conditions and terms of service governing the delivery of electric power and energy from the System of Company to the System of SWPA. The agreement further defines the conditions and terms of service governing the delivery of electric power and energy from the System of SWPA to the System of the Company.

Company requested that the Commission waive its notice requirements in order that the proposed Agreement can become effective immediately.

According to Company, the Oklahoma Corporation Commission and SWPA have been served a copy of the filing.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy 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 January 22, 1982. 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. 82-526 Filed 1-7-82; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. ER82-179-000]

Public Service Company of Oklahoma; Filing

January 5, 1982.

The filing Company submits the following:

Take notice that on December 23, 1981, the Public Service Company of Oklahoma (PSCO) tendered for filing an Agreement for Interchange of Electric Power and Energy (Agreement) between PSCO and the Grand River Dam Authority (Authority). The Agreement provides for the interchange and sale of electric power and energy between PSCO and Authority.

The filing contends that the agreement sets forth the conditions and terms of service governing the delivery of electric power and energy from the system of PSCO to the system of Authority. The Agreement further defines the

conditions and terms of service for the delivery of electric power and energy from the system of Authority to the system of PSCO.

PSCO requests that the Commission waive its notice requirements in order that the proposed Agreement can become effective on January 1, 1982, the date Authority's fossil-fuel generation plant is to be declared in commercial operation.

According to PSCO, the Oklahoma Corporation Commission and the Authority have been served a copy of the filing.

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 January 18, 1982. 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. 82-527 Filed 1-7-82; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. ER82-188-000]

Wisconsin Power and Light Co.; Filing

January 5, 1982.

The filing Company submits the following:

Take notice that Wisconsin Power and Light Company, on December 29, 1981, tendered for filing proposed changes in its W-2 and W-3 Electric Service Tariffs, Wholesale For Resale. The Company has proposed interim changes which would increase revenues from W-2 Customers by \$921,000 and increase revenues from W-3 Customers by \$3,686,000 for the period the rates are collected subject to refund based on the 12-month period ending December 31, 1982. In addition, the Company is seeking permanent annual increases in W-2 revenues of \$1,313,000 and \$5,024,000 in W-3 revenues based on the same 12-month period ending December 31, 1982.

Wisconsin Power and Light Company states that the proposed rate increase is necessary to meet rising financial and operating costs. By its filing, the

Company is requesting that the interim changes become effective on March 1, 1982.

Copies of this filing were served upon the public utility's jurisdictional customers, and the Public Service Commission of Wisconsin.

Any person desiring to be heard or to protest said application should file a Petition to Intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before January 22, 1982. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to Intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-528 Filed 1-7-82; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL-1931-8]

California State Motor Vehicle Pollution Control Standards; Waiver of Federal Preemption; Summary of Decision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Waivers of Federal preemption.

SUMMARY: This decision grants California waivers of Federal preemption pursuant to section 209(b) of the Clean Air Act, as amended (Act), to enforce two sets of amendments to its new motor vehicle pollution control program. The first set of amendments establishes evaporative emission standards and test procedures for motorcycles. The second set includes changes to California's exhaust emission standards and test procedures reflecting the adoption of special less stringent oxides of nitrogen (NO_x) standards for certain 1982-1985 model year vehicles produced by qualified small-volume manufacturers which depend on other manufacturers for development of their emission control technology.

ADDRESSES: Information relevant to this decision is available for public inspection during normal working hours

(8:00 a.m. to 4:00 p.m.) at: U.S. Environmental Protection Agency, Central Docket Section, Gallery I, 401 M St., SW., Washington, D.C. 20460 (Docket Number EN-80-23). Interested parties may obtain copies of the decision document by contacting the Manufacturers Operations Division, as noted below.

FOR FURTHER INFORMATION CONTACT: Michael Chernekoff (for motorcycles), or Jerry Schwartz (for NO_x standards), Attorneys/Advisors, Manufacturers Operations Division, (EN-340), U.S. Environmental Protection Agency, Washington, D.C. 20460, (202) 382-2521 and 382-2495, respectively.

SUPPLEMENTARY INFORMATION: I have decided to grant California waivers of Federal preemption, as requested, pursuant to section 209(b) of the Clean Air Act, as amended (Act), 42 U.S.C. 7543(b) (1977), for amendments to its evaporative emission standards and test procedures and exhaust emission standards and test procedures. Specifically, these waivers encompass adoption by the California Air Resources Board (CARB) of (1) hydrocarbon (HC) evaporative emission standards and test procedures applicable to 1983 and subsequent model year motorcycles;¹ and (2) special NO_x exhaust emission standards and test procedures applicable to 1982 through 1986 model year passenger cars and 1983 through 1986 model year light-duty trucks (LTDs) and medium-duty vehicles (MDVs) with equivalent inertia weights of less than 4,000 pounds, produced by qualified "small-volume" manufacturers.²

Section 209(b) of the Act provides that if certain criteria are met, the Administrator shall waive Federal preemption for California to enforce new motor vehicle emission standards and accompanying enforcement procedures. The criteria include consideration of whether California's proposed amendments are technologically feasible within the available lead time, considering costs, and whether California arbitrarily and

capriciously determined that its standards are, in the aggregate, at least as protective of public health and welfare as their Federal counterparts. In order for EPA to deny the waiver, opponents bear the burden of providing EPA with sufficient information to convince EPA to make a negative determination on any of the criteria.

With regard to CARB's evaporative emission standards and test procedures for motorcycles, no manufacturer submitted sufficient data or other information to satisfy its burden of proof in persuading EPA that the standards are not technologically feasible within available lead time, considering costs. No manufacturer presented evidence indicating that California arbitrarily and capriciously determined that its standards and test procedures are, in the aggregate, at least as protective as their Federal counterparts. In fact, there are no Federal motorcycle evaporative emission standards or test procedures. No challenges of any kind were levied by any party against the test procedures.

With regard to CARB's special NO_x exhaust emission standards and test procedures, no party submitted evidence indicating compliance with the special standards was not technologically feasible. Further, no party presented evidence indicating that CARB's determination that its standards and test procedures are, in the aggregate, at least as protective as their Federal counterparts was arbitrary and capricious.

The waiver of federal preemption for the special NO_x standards and test procedures completes EPA's response to the Court's decision in *American Motors Corp. v. Blum*.³ American Motors Corp. (AMC), the only qualifying small-volume manufacturer to date, and CARB, have both agreed to these special standards.

A full explanation of my decision to grant these waiver requests is contained in the decision document, which is incorporated by reference and which may be obtained from EPA, as noted above.

My decision will affect not only persons in California but also the manufacturers located outside the State which must comply with California's standards and test procedures in order to produce motor vehicles for sale in California. For this reason, I hereby determine and find that this decision is of nationwide scope and effect.

Section 3(b) of Executive Order 12291, 46 FR 13193 (February 19, 1981), requires EPA to initially determine whether a "rule" that it intends to propose or issue

¹ Smaller Class I and II motorcycles (50-279 cubic centimeter (cc) engines) must meet a 6.0 gram per test (g/test) standard beginning in model year 1983, and a 2.0 g/test standard beginning with the 1985 model year. Larger Class II motorcycles (280 cc and greater-sized engines) must meet the same standards, but the applicability dates are one year later—model years 1984 and 1986, respectively.

² These special standards provide that qualified small-volume manufacturers may certify their vehicles to NO_x standards which are less stringent than the California NO_x standards applicable to other manufacturers, but are still more stringent than Federal NO_x standards applicable to those qualifying small-volume manufacturers in those model years.

³ 603 F. 2d 978 (D.C. Cir. 1979).

is a major rule and to prepare Regulatory Impact Analyses for all major rules. Section 1(b) of the Order defines "major rule" as any regulation (as defined in the Executive Order) that is likely to 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.

EPA has determined that this action is not a major rule. EPA has concluded, based on discussion contained in the decision document, that the special NO_x regulations, if anything, will result in a cost savings to the consumers and industries involved, and will likely improve competition (foreign and domestic), employment, investment, productivity and innovation, since it would assist qualified small-volume manufacturers in marketing vehicles in California which these manufacturers might otherwise not have been able to market without the special standards. EPA has also concluded, based on discussion contained in the decision document, that the motorcycle evaporative emission regulation is likely to result in only a minor increase in costs, if any, to consumers and industries involved, which would not have an annual effect on the economy of \$100 million or more, and is likely not to have a significant adverse effect on competition (foreign and domestic), employment, investment and innovation. Accordingly, a Regulatory Impact Analysis is not being prepared for this action.

This action was submitted to OMB for review under the Executive Order.

This action is not a "rule" as defined in 5 U.S.C. 601(2) because EPA is not required to undergo "notice and comment" under section 553(b) of the Administrative Procedure Act, or other law. Therefore EPA has not prepared a supporting regulatory flexibility analysis addressing the impact of this action on small business entities.

Dated: December 28, 1981.

Anne M. Gorsuch,
Administrator.

[FR Doc. 82-490 Filed 1-7-82; 8:45 am]

BILLING CODE 6560-26-M

[ER-FRL-2024-5]

Availability of Environmental Impact Statements Filed Pursuant to 40 CFR Part 1506.0

Responsible Agency: Office of Federal Activities, EPA.

Information Contact: Ms. Kathi Wilson (202) 245-3006.

EISs Filed: December 28-31, 1981.

Comment Due Dates: Drafts—

February 22, 1982, Finals—February 8, 1982.

Corps of Engineers: Final—Gallipolis Locks and Dam Replacement, Ohio and West Virginia (EPA EIS #811044)

DOI:Fish and Wildlife Service:Final—Redhead Waterfowl Production Wetlands Preservation, Oregon (EPA EIS #811042)

DOI:Bureau of Land Management:Final—Westside Salem Timber Management Plan, Oregon (EPA EIS #811045)

DOT:federal Highway Administration (FHWA):Draft—TX-190 Construction, Dallas, Denton and Collins Counties, Texas (EPA EIS #811043)

DOT:FHWA:Final—FAP-3, Thomas/101 and I-55/Crump Interchanges, Shelby County, Tennessee (EPA EIS #811039)

DOT:FHWA:Final—Cruse Avenue Extension/North Last Chance Gulch Reconstruction, Lewis and Clark County, Montana (EPA EIS #811040)

DOT:FHWA:Final—Roosevelt-Payson Highway/AZ-188 Reconstruction, Gila and Maricopa Counties, Arizona (EPA EIS #811041)

DOT:FHWA:Final—Santa Ana Transportation Terminal Construction, Orange County, California (EPA EIS #811046)

Nuclear Regulatory Commission:Draft—Clinton Power Station Unit #1, Operating License, DeWitt County, Illinois (EPA EIS #811047)

Department of Housing and Urban Development (HUD):104H:Draft—Tacoma Center Development, UDAG, Pierce County, Washington (EPA EIS #811048)

HUD:Draft Supplement—St. Charles New Communities, Title VII Termination, Charles County, Maryland (EPA EIS #811049)

HUD:Final—The Bluffs Housing Development, Mortgage Insurance, Sweetwater County, Wyoming (EPA EIS #811050)

HUD:Final—The Ridges Housing Development, Mortgage Insurance, Mesa County, Colorado (EPA EIS #811051)

HUD:Final—Windriver/Sunrise Housing Development, Mortgage Insurance, Sweetwater County, Wyoming (EPA EIS #811052)

Correction: USDA:SCS:Draft Revised—Llagas Creek Watershed, Santa Clara County, California—published FR 12/31/81 as draft—status is corrected to revised draft (EPA EIS #811030)

Correction: COE:Draft—I-70 Construction in Glenwood Canyon, Garfield County, Colorado—published FR 12/31/81 as draft supplement—status is corrected to draft (EPA EIS #811032)

Extended review: COE:Draft Supplement—Tennessee-Tombigbee Waterway, Alabama and Mississippi—DUE 2/4/82 (EPA EIS #810945)

Dated: January 5, 1982.

Mr. Paul C. Cahill,

Director, Office of Federal Activities.

[FR Doc. 82-546 Filed 1-7-82; 8:45 am]

BILLING CODE 6560-37-M

[ER-FRL-2024-5]

Impact Statements and Other Federal Actions Impacting the Environment

AGENCY: Office of Federal Activities (A-104), EPA.

SUMMARY: Pursuant to the requirements of section 102(2)(C) of the National Environmental Policy Act of 1969, and section 309 of the Clean Air Act, EPA reviews and comments in writing on Federal agency actions impacting the environment. On November 2, 1981, EPA Region X completed the review of the Final EIS prepared by the Federal Highway Administration (FHWA) concerning State Route 509 (I-705), Pacific Avenue Interchange to Port of Tacoma Road. The Final EIS was made available for public review and comment on September 21, 1979. However, EPA requested additional information relating to the document's air quality analysis on April 10, 1980 and October 1, 1981. The FHWA response to these requests has been reviewed and found to adequately respond to the questions raised. Based on the information provided, EPA has no objections to the project.

Dated: January 5, 1982.

Paul C. Cahill,

Director, Office of Federal Activities.

[FR Doc. 82-544 Filed 1-7-82; 8:45 am]

BILLING CODE 6560-37-M

[ER-FRL-2024-5]

Intent To Prepare an Environmental Impact Statement

AGENCY: Environmental Protection Agency, Dallas Region.

INFORMATION CONTACT:

Mr. Clinton B. Spotts, Regional EIS Coordinator, US Environmental Protection Agency, Region 6, 1201 Elm Street, Dallas, Texas 75720 (Telephone: (214) 767-2716 or (FTS) 729-2716).

SUMMARY: Pursuant to EPA regulations for new source NPDES permits and the preparation of EIS's (40 CFR Part 6), EPA is preparing a Draft EIS for wastewater discharges from the proposed Martin Lake Mining Area D lignite surface mine located in Rusk County, northeast of Henderson, Texas and proposed by Texas Utilities Generating Company. A detailed Notice of Intent that describes the project and identifies potential environmental impacts can be obtained from the person identified above. EPA will hold a meeting to determine the scope of the Draft EIS on January 28, 1982, at 7:30 pm at the County Courtroom, Rusk County Courthouse, 115 N. Main, Henderson, Texas.

Dated: January 5, 1982.

Paul C. Cahill,

Director, Office of Federal Activities.

[FR Doc. 82-545 Filed 1-7-82; 8:45 am]

BILLING CODE 6560-37-M

[OPTS 42004; TSH-FRL-1988-7]**Chlorinated Paraffins; Response to the Interagency Testing Committee**

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In the initial report of the Interagency Testing Committee (ITC), transmitted to the EPA on October 4, 1977, the Committee recommended to the Administrator of the EPA the chemical category "chlorinated paraffins" for consideration for testing. Earlier that year, an international group of chlorinated paraffin manufacturers had formed a Consortium to test their products for both health and environmental effects. The EPA has discussed the planned testing with the Consortium and finds the proposal from the Consortium to test chlorinated paraffins voluntarily for their health and environmental effects to be acceptable. Consequently, the EPA is not at this time proposing a section 4(a) rule to require health or environmental effects testing of the chlorinated paraffins.

FOR FURTHER INFORMATION CONTACT:

John B. Ritch, Jr., Director, Industry Assistance Office (TS-799), Office of Toxic Substances, Environmental Protection Agency, 401 M St. SW., Washington, D.C. 20460, toll free (800-424-9065); in Washington, D.C. (554-

1404); outside the USA: (Operator-202-554-1404).

SUPPLEMENTARY INFORMATION:**I. Background**

Section 4(a) of the Toxic Substances Control Act (TSCA) authorizes the Administrator of the EPA to promulgate regulations requiring testing of chemical substances and mixtures in order to develop data relevant to determining the risks that such chemicals may present to health and the environment.

Section 4(e) of TSCA (section 4(a); 90 Stat. 2003; (15 U.S.C. 2601 et seq.)) established an Interagency Testing Committee (ITC) to recommend to the EPA a list of chemicals to be considered for the promulgation of testing rules under section 4(a) of the Act. The ITC may designate up to 50 of its recommendations for priority consideration by the EPA. TSCA requires the EPA to respond to such designations within 12 months of the date they are made, either by initiating rulemaking under section 4(a) or publishing in the *Federal Register* reasons for not initiating rulemaking.

The ITC placed chlorinated paraffins on its priority testing list in October 1977. The ITC recommended testing of chlorinated paraffins for carcinogenicity, mutagenicity, teratogenicity, and other chronic effects in mammals, and persistence, environmental fate and chronic effects on aquatic organisms.

The ITC defined the category as "a series of mixtures of chlorination products of materials known commercially as paraffin oils or paraffin waxes; those having a chlorine content of 35 percent through 64 percent by weight are included." The EPA has expanded the category by increasing maximal chlorine content to 70 percent by weight, the highest possible. In addition, the Agency has excluded from consideration all such products that might have the same basic structure as a

chlorinated paraffin, but were produced in a different manner, e.g., polyvinyl chloride.

II. Proposed Testing

In 1977, an international group of chlorinated paraffins manufacturers had formed a Consortium to test their products for health and environmental effects. In response to the ITC notice, this Consortium of chlorinated paraffin manufacturers sent information to the EPA on their testing scheme. This section describes the final testing proposed by the Consortium, which reflects discussions of the Consortium with the EPA since 1979.

A. Compounds To Be Tested

There are various ways in which chlorinated paraffins might be grouped for purposes of determining which substances should be tested. The Chlorinated Paraffins Consortium, concluding that "99 percent of all chlorinated paraffins sold fell within the range C₁₀-C₃₀, Cl 40-70 percent by weight," classified chlorinated paraffins according to carbon chain length and percent chlorination as shown in Figure 1. The compounds named in the figure are those chosen for the Consortium testing program, and were selected as representative of the various structure types—long chain, short chain, medium chlorination, etc. While this scheme does not provide testing of all possible "chlorinate paraffins," the EPA believes that a chemical structure-based approach, such as this, should provide the necessary data base for chlorinated paraffins. The four representative compounds are chosen from the matrix categories that the Agency believes to be of major commercial significance. Industry representatives have stated at the public meeting described in unit III of this notice that the "empty" matrix boxes of Figure 1 represent substances of little or no domestic commercial importance.

FIGURE 1.—PERCENT CHLORINATION BY WEIGHT

	40 to 50 pct Cl	50 to 60 pct Cl	60 to 70 pct Cl
Carbon chain length:			
C ₂₀₋₃₀	Chlorowax 40® 2 (liquid)		Electrofine S70® (solid)
C ₁₀₋₁₅		Cereclor S52® (liquid)	
C ₁₀₋₁₅			Chlorowax 500C® (liquid)

B. Testing To Be Performed

The Consortium's present proposals are presented in table 1. Dialogue between the EPA and the Consortium has resulted in alterations to the original proposals, and the present protocols and types of tests reflect the result of those

discussions. During this period, Chlorowax 40® and Chlorowax 500C® were selected for inclusion in the National Toxicology Program (NTP) bioassay program.

Both the mammalian testing system and the aquatic system proposed by the Consortium are tiered testing systems. A

number of tests will be performed on all four of the test compounds. Additional testing will be done on the most toxic compound, as selected by the Consortium on the basis of the initial phase of testing. A complete listing is given in Table 1.

In addition, the American members of the Consortium have agreed to fund a one-compound chronic reproductive study on an avian species. The

compound to be tested has not yet been chosen.

The Consortium has agreed to permit Good Laboratory Practices/Quality Assurance (GLP/QA) activities at the request of authorized representatives of the EPA in connection with any and all studies being conducted by and for the Consortium. The Consortium has provided the EPA with protocols and will supply the EPA with the data from

the studies as soon as possible. Testing is expected to be completed by December 1983 and all the results will be made available to the public as soon as they are received by the EPA. In addition, the Consortium has agreed that Agency representatives may take part in discussions of interim test results, although final testing decisions will be made by the Consortium.

TABLE 1

	Chlorowax 500C®	Chlorowax 40®	Cereclor S52®	Electrofine S70®
MAMMALIAN HEALTH				
Phase 1:				
Tissue level and decay studies after single dose (rat).....	X*	X	X	X
90-day oral subchronic toxicity* and metabolism studies.....	X	X	X	X
Cell transformation (styles) test*.....	X			X
Dominant lethal mutation test (rat)*.....	X			X
<i>In vivo</i> cytogenetic test (rat).....	X	X	X	X
Teratology (rat, rabbit).....	X	X	X	X
Phase 2 (1 compound, most toxic in phase 1): 2 generation reproduction study (rat).				
ENVIRONMENTAL				
Phase 1, 30-60 day lethal and sublethal (mussel, rainbow trout).....	X	X	X	X
Phase 2 (Chlorowax 500C® and Electrofine S70®, already known to be most toxic from phase 1 aquatic studies):				
Growth (rainbow trout, mussel).....				
Bioconcentration (rainbow trout, mussel).....				
Life cycle (<i>Daphnia</i> , mysid shrimp).....				
Embryo-juvenile (sheepshead minnow).....				
14-day bioassay (freshwater alga, marine alga).....				
Chronic (partial life-cycle) (midge).....				
Solubility.....				
Biodegradation (aerobic, anaerobic).....				
Avian Study (test substance to be selected).....				
Reproductive study (duck)*.....				

*X=Study being performed by Consortium.

*The Agency considers that 90-day subchronic toxicity tests are acceptable in most cases as predictive of chronic effects.

*Because NTP is doing full scale 2-year bioassays on Chlorowax 500C® and Chlorowax 40®, the EPA did not feel it was necessary to do cell transformation tests for these substances. The cell transformation tests for Chlorowax 500C® and Electrofine S70® are being done for the Consortium's purpose.

*Information is already available on dominant lethal mutation tests for Chlorowax 40® and Chlorowax 70® (an analogue of Electrofine S70).

*This study is not part of the proposal by the international Chlorinated Paraffins Manufacturers Consortium, and will be performed by the American members.

III. Public Meeting on Proposed Industry Program

A public meeting was held on September 15, 1981 (notice was given in the *Federal Register* of August 27, 1981, 46 FR 43298), to allow interested persons to comment on the industry testing program as an alternative to the promulgation of a test rule at this time.

On October 21, 1981, the EPA received and has subsequently reviewed comments from the Natural Resources Defense Council (NRDC) on the proposed voluntary testing scheme. NRDC appears to believe that by agreeing to the voluntary testing scheme the Agency has forfeited the right to propose and/or require additional testing of chlorinated paraffins in the future. The EPA explicitly retains this right and has decided not to propose testing at this time because the Consortium program will provide considerable data, and even if some aspect of the testing later proves insufficient, EPA will be in a better position to evaluate additional testing needs when the voluntary testing

program is completed (see unit IV, following).

The following discussion relates to NRDC's specific comments on the chlorinated paraffins testing scheme. A brief exposition of the EPA's general legal position appears in the alkyl phthalate notice published elsewhere in this issue of the *Federal Register*. A more detailed discussion of these issues and a discussion of NRDC's general comments on voluntary testing programs are provided in memoranda on the public record of this proceeding.

Several of NRDC's comments discussed the failure of the Consortium's testing program to contain certain types of testing included in the proposed Test Rule for Dichloromethane and 1,1,1-Trichloroethane published in the *Federal Register* of June 5, 1981 (46 FR 30300). However, each chemical has different characteristics and different combinations of risk factors, and the types of testing appropriate for one may not be generically appropriate for all chemicals. It is the EPA's belief that the chlorinated paraffins as a class are unlikely to pose the types of potential

hazards that the solvents dichloromethane or 1,1,1-trichloroethane might. For example, the chlorinated paraffins have very low acute toxicities, with some LD₅₀s exceeding the 10 g/kg level. They are non-volatile, have a low chemical reactivity, and are not closely related to known oncogens or mutagens. Mutagenicity studies have been negative, and while toxic effects have been seen in the dog and rat these have been in the liver and kidney, with no reported effects in the reproductive organs to indicate an unreasonable risk of reproductive effects.

The EPA is not proposing terrestrial plant testing or a terrestrial bird reproductive study because the Agency believes it can reasonably predict that chlorinated paraffins will not pose an unreasonable risk to terrestrial ecosystems. Available evidence indicates that they are not found in such ecosystems to any great extent, whereas chlorinated paraffins have been measured in aquatic ecosystems in water, sediment, fish, aquatic mammals, and in seabirds and their eggs.

NRDC proposes that the EPA require, at a minimum, biodegradation studies and life cycle studies in *Daphnia magna* and mysid shrimp on all chlorinated paraffins tested, to indicate the potential for chronic toxic effects at low levels. However, the Agency believes that biodegradation studies will not indicate the potential for chronic toxic effects at low levels. In addition, subchronic 30-60 day studies are already being done in an aquatic invertebrate, the mussel, which is a bottom feeder and would be expected, owing to the physical and chemical properties of this class of compounds to be exposed to higher levels of chlorinated paraffins in the environment than *Daphnia* or mysid shrimp, which live in the water column.

NRDC also suggested that the chlorinated paraffins to be tested should include a representative of the low chain length, low chlorination substances, or representatives of the boxes immediately adjacent to that one, i.e., medium chain length, low chlorination, and low chain length, medium chlorination (see Figure 1). The EPA has not proposed testing of compounds in these subcategories because the EPA has no information demonstrating that such compounds are either manufactured or available in the United States in any significant quantities.

The Consortium has submitted an approximate testing schedule to the Agency. Much of the testing has already been completed, and the remainder is expected to be finished by December 1983. If the EPA were to pursue issuance of a test rule on these chemicals, the rule would probably not be final before July 1983 and testing would not actually begin for several months after that. Therefore the Agency believes that the Consortium's scheme will produce results at least as fast and in most cases faster than would be obtainable under a test rule.

The final concern raised by NRDC relates to the Consortium's concept of selecting the compound found to be "most toxic" in Phase 1 studies for investigation in Phase 2. The EPA has not insisted that the Consortium provide detailed decision logic in advance of receipt of the test results because of the many possible combinations of data that may arise in Phase 1. The Agency is not bound to accept the Consortium's interpretation of the data, and as the EPA will have access to all the data generated, Agency scientists will be able to evaluate the information on which the Consortium based its decision. If the EPA does not agree with the Consortium's choice and feels that

additional testing needs to be done, the Agency can still require it.

In sum, the EPA has weighed the comments received and finds that it can accept the proposal as described in the preceding part of this notice.

IV. Decision Not To Require Testing

The EPA feels that the Chlorinated Paraffins Consortium's testing proposal, together with the NTP bioassays, will meet the immediate testing concerns of the Agency for the chlorinated paraffins. For this reason the EPA has decided not to require additional testing of the chlorinated paraffins at this time.

Acceptance of this voluntary testing proposal has great advantages over the full regulatory process. The Consortium has already completed many of the listed tests. Because the Phase 1 studies should provide a good basis for further evaluation of the category as a whole, and the Consortium has agreed to consider testing additional compounds in the Phase 2 tests if serious toxicities are shown to occur, the acceptance of the Consortium's proposal seems a reasonable alternative to a time-consuming and expensive formal rulemaking proceeding under TSCA section 4(a). This allows the Agency to focus upon other testing needs not covered by voluntary testing agreements. Considering the Agency's present test rules burden, and the considerable amount of testing included in this testing proposal, the EPA has determined that the public interest will best be served by the Consortium's and the EPA's mutual cooperation in this testing program. Should test results or other information reveal a need for additional testing that the Consortium is unwilling to perform, the Agency reserves its right to require testing under section 4(a).

V. Public Record

EPA has established a public record for this testing decision (docket number OPTS-42004) which is available for inspection from 8 a.m. to 4 p.m. Monday through Friday, except legal holidays, in Rm. E-107, 401 M St. SW., Washington, D.C. 20460. This record includes basic information considered by the Agency in developing this decision. The Agency will supplement the record with additional relevant information as it is received. The record includes the following information.

(1) Federal Register notice containing the designation of chlorinated paraffins to the Priority List.

(2) Communications before proposal:
(a) Letters.

(b) Contact reports of telephone conversations.

(c) Meeting summaries of Agency-industry meetings.

(d) Public comments.

(e) Memorandum responding to public comments.

(3) Published data and some 8(d) submissions.

(4) Testing protocols.

(5) Data from Consortium's testing.

(Sec. 4, 90 Stat. 2003; (15 U.S.C. 2601))

Dated: December 30, 1981.

John W. Hernandez, Jr.,

Administrator.

[FR Doc. 82-371 Filed 1-7-82; 8:45 am]

BILLING CODE 6560-31-M

[OPTS-51375; TSH-FRL-2023-7]

Certain Chemicals; Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in EPA statements of interim policy published in the Federal Register of May 15, 1979 (44 FR 28558) and November 7, 1980 (45 FR 74378). This notice announces receipt of four PMNs and provides a summary of each.

DATE: Written comments by: PMN 81-652, 81-656, 81-657 and 81-658—February 21, 1982.

ADDRESS: Written comments, identified by the document control number "[OPTS-51375]" and the specific PMN number should be sent to: Document Control Officer (TS-793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-409, 401 M St., SW., Washington, D.C. 20460 (202-382-3532).

FOR FURTHER INFORMATION CONTACT: David Dull, Acting Chief, Notice Review Branch, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-216, 401 M St., SW., Washington, D.C. 20460 (202-426-2601).

SUPPLEMENTARY INFORMATION: The following are summaries of information provided by the manufacturer on the PMNs received by EPA:

PMN 81-652

Close of Review Period. March 23, 1982.

Manufacturer's Identity. Claimed confidential business information.

Specific Chemical Identity. Claimed confidential business information. Generic name provided: Carboxylic diisocyanate.

Use. The manufacturer states that the PMN substance will be used as a site limited intermediate and in polyurethane systems.

Production Estimates. Claimed confidential business information.

Physical/Chemical Properties. Claimed confidential business information.

Toxicity Data

Acute oral toxicity LD₅₀ (rat)—> 5 g/kg.

Acute dermal toxicity LD₅₀ (rabbits)—> 2 g/kg.

Primary eye irritation (rabbit)—Mild with and without washout.

Ames salmonella—Non-mutagenic.

Primary skin irritation (at 10 times the standard quantity)—Moderate.

Exposure. The manufacturer states that at sites not controlled by the submitter, 2.4 employees at each site may have dermal and inhalation exposure for 8 hrs./day, 10 days/yr.

Environmental Release/Disposal. The manufacturer states that no release to the environment is expected. Material will be shipped to customer for final use. It is expected that substantially all material will be converted into cured polyurethane products. It is also expected that any waste will be disposed of in closed containers via prescribed chemical waste disposal procedures.

PMN 81-656

Close of Review Period. March 23, 1982.

Manufacturer's Identity. Claimed confidential business information.

Organization information provided: Annual sales—\$100,000,000 to 499,000,000.

Manufacturing site—Pacific region.

Standard Industrial Classification Code—28

Specific Chemical Identity. Claimed confidential business information. Generic name provided: Halogenated nitrotoluene derivative.

Use. Further clarification needed before information may be released to the public files.

Production Estimates. Claimed confidential business information.

Physical/Chemical Properties

Boiling point—100–200° C.

Solubility: water @ 25° C—<10⁻⁶.

Toxicity Data

Acute oral toxicity LD₅₀ (rat)—881 mg/kg.

Acute dermal toxicity LD₅₀ (rabbits)—> 2.1 g/kg.

Primary skin irritation (rabbit)—Slight irritant.

Primary eye irritation (rabbit)—Moderate irritant.

Exposure. The manufacturer states that industrial employees will have very low potential for exposure contact and only in unlikely occurrence of spill.

Environmental Release/Disposal. The manufacturer states that less than 50 kg/yr will be released to the environment.

PMN 81-657

Close of Review Period. March 23, 1982.

Manufacturer's Identity. Claimed confidential business information.

Organization information provided: Annual sales—\$100,000,000 to 499,000,000.

Manufacturing site—Pacific region.

Standard Industrial Classification Code—28.

Specific Chemical Identity. Claimed confidential business information. Generic name provided: N-alkylated toluidine derivative.

Use. Further clarification needed before information may be released to the public files.

Production Estimates. Claimed confidential business information.

Physical/Chemical Properties

Boiling point—50–100° C.

Solubility: water @ 25° C—<10⁻⁶.

Toxicity Data

Acute oral toxicity LD₅₀ (rat)—487 mg/kg.

Acute dermal toxicity LD₅₀ (rabbits)—> 2.1 g/kg.

Primary skin irritation (rabbit)—Minimal irritant.

Primary eye irritation (rabbit)—Extreme irritant.

Ames salmonella—Not mutagenic.

Exposure. The manufacturer states that industrial employees will have very low potential for exposure contact and only in unlikely occurrence of spill.

Environmental Release/Disposal. The manufacturer states that less than 50 kg/yr will be released to the environment.

PMN 81-658

Close of Review Period. March 23, 1982.

Manufacturer's Identity. Claimed confidential business information.

Organization information provided: Annual sales—\$100,000,000 to 499,000,000.

Manufacturing site—Pacific region.

Standard Industrial Classification Code—28.

Specific Chemical Identity. Claimed confidential business information. Generic name provided: Halogenated toluene derivative.

Use. Further clarification needed before information may be released to the public files.

Production Estimates. Claimed confidential business information.

Physical/Chemical Properties

Boiling point—100–200° C.

Solubility: water @ 25° C—<10⁻⁶.

Toxicity Data

Acute oral toxicity LD₅₀ (rat)—> 1,000 mg/kg.

Acute dermal toxicity LD₅₀ (rabbits)—> 2.1 g/kg.

Primary skin irritation (rabbit)—Slight irritant.

Primary eye irritation (rabbit)—Minimal irritant.

Exposure. The manufacturer states that industrial employees will have very low potential for exposure contact and only in unlikely occurrence of spill.

Environmental Release/Disposal. The manufacturer states that less than 50 kg/yr will be released to the environment.

Dated: December 29, 1981.

Woodson W. Bercaw,

Acting Director, Management Support Division.

[FR Doc. 82-467 Filed 1-7-82; 8:45 am]

BILLING CODE 6560-31-M

[OPTS-51376; TSH-FRL-2023-6]

Certain Chemicals; Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in EPA statements of interim policy published in the *Federal Register* of May 15, 1979 (44 FR 28558) and November 7, 1980 (45 FR 74378). This notice announces receipt of seven PMNs and provides a summary of each.

DATE: Written comments by: PMN 81-659, 81-660, 81-661, 81-662, 81-663, 81-664 and 81-665—February 26, 1982.

ADDRESS: Written comments, identified by the document control number "[OPTS-51376]" and the specific PMN number should be sent to: Document Control Officer (TS-793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-409, 401 M St., SW., Washington, DC 20460 (202-382-3532).

FOR FURTHER INFORMATION CONTACT: David Dull, Acting Chief, Notice Review Branch, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-216, 401 M St., SW., Washington, DC 20460 (202-426-2601).

SUPPLEMENTARY INFORMATION: The following are summaries of information provided by the manufacturer on the PMNs received by EPA:

PMN 81-659

Close of Review Period. March 28, 1982.

Importer's Identity. Claimed confidential business information.

Specific Chemical Identity. 3-carboxy-4-((4-(2-methoxy-5-(2-hydroxysulfonyloxy)ethylsulfonyl)phenyl)aminocarbonyl)phenylazo)-1-(4-sulfophenyl)-5-pyrazolone disodium salt.

Use. The importer states that the PMN substance will be used as an industrial dyestuff.

IMPORT ESTIMATES

	Kilograms per year	
	Minimum	Maximum
1st year.....	1,000	3,000
2d year.....	3,000	8,000
3d year.....	8,000	15,000

Physical/Chemical Properties

Appearance—Orange powder.

pH—4-6.

Solubility: water—Over 15 (g/solvent 100 g).

Toxicity Data

Acute oral toxicity LD₅₀ (rat)—> 5,000 mg/kg.

Skin irritation (rabbit)—Negative.

Eye irritation (rabbit)—Minimal.

Exposure. No data were submitted.

Environmental Release/Disposal. No data were submitted.

PMN 81-660

Close of Review Period. March 28, 1982.

Importer's Identity. Claimed confidential business information.

Specific Chemical Identity. 4-hydroxy-3-(2-methoxy-5-methyl-4-(2-hydroxysulfonyloxy)ethylsulfonyl)

phenylazo)-1-naphthalene sulfonic acid disodium salt.

Use. The importer states that the PMN substance will be used as a dyestuff.

IMPORT ESTIMATES

	Kilograms per year	
	Minimum	Maximum
1st year.....	1,000	3,000
2d year.....	3,000	8,000
3d year.....	10,000	20,000

Physical/Chemical Properties

Appearance—Dark red powder.

pH—4-6.

Solubility: water—Over 15 (g/solvent 100 g).

Toxicity Data

Acute oral toxicity LD₅₀—> 5,000 mg/kg.

Skin irritation (rabbit)—Negative.

Eye irritation (rabbit)—Mild.

Exposure. No data were submitted.

Environmental Release/Disposal. No data were submitted.

PMN 81-661

Close of Review Period. March 28, 1982.

Importer's Identity. Claimed confidential business information.

Specific Chemical Identity. 4-hydroxy-3-(2-methoxy-5-methyl-4-(2-(hydroxysulfonyloxy)ethylsulfonyl)phenylazo)-6-(3-sulfophenyl)amino-2-naphthalenesulfonic acid trisodium salt.

Use. The importer states that the PMN substance will be used as a dyestuff.

IMPORT ESTIMATES

	Kilograms per year	
	Minimum	Maximum
1st year.....	1,000	3,000
2d year.....	3,000	8,000
3d year.....	10,000	20,000

Physical/Chemical Properties

Appearance—Light black powder.

pH—4-6.

Solubility: water—Over 15 (g/solvent 100 g).

Toxicity Data

Acute oral toxicity LD₅₀ (rat)—> 5,000 mg/kg.

Skin irritation (rabbit)—Negative.

Eye irritation (rabbit)—Negative.

Exposure. No data were submitted.

Environmental Release/Disposal. No data were submitted.

PMN 81-662

Close of Review Period. March 28, 1982.

Manufacturer's Identity. Claimed confidential business information.

Organization information provided:

Annual sales—Over \$500 million.

Manufacturing site—Middle Atlantic region.

Standard Industrial Classification Code—286.

Specific Chemical Identity. Claimed confidential business information.

Generic name provided: Substituted propionamide.

Use. Claimed confidential business information. Generic use information provided: The manufacturer states that the PMN substance will be used as a site-limited chemical intermediate.

Production Estimates. Claimed confidential business information.

Physical/Chemical Properties

Appearance—Pale pink to colorless solid.

Specific gravity—1-10.

Boiling point—300° C.

Flash point (SFCC)—104° F.

Melting point—30° C.

Solubility: water—Appreciable.

Toxicity Data

Oral LD₅₀—0.73 g/kg.

Dermal LD₅₀—1.01 g/kg.

Skin irritation—Slight.

Eye irritation—Severe.

Exposure. The manufacturer states that during manufacture and use workers may experience dermal and ocular exposure 1 hr/day, during sampling, equipment maintenance or accidental spill.

Environmental Release/Disposal. The manufacturer states that less than 10-100 kg/yr will be released to land. Disposal is to an approved landfill and by incineration.

PMN 81-663

Close of Review Period. March 28, 1982.

Manufacturer's Identity. Claimed confidential business information.

Organization information provided:

Annual sales—Over \$500 million.

Manufacturing site—West South Central region.

Standard Industrial Classification Code—286.

Specific Chemical Identity. Claimed confidential business information.

Generic name provided: Alkali metal salt of substituted benzoate.

Use. Claimed confidential business information. Generic use information provided: The manufacturer states that

the PMN substance will be used as a site-limited chemical intermediate.

Production Estimates. Claimed confidential business information.

Physical/Chemical Properties

Appearance—Clear, liquid.
pH—12.
Viscosity @ 20° C—12,000 cp.
Freezing point—<0° C.
Density—1.40 g/cc.

Toxicity Data

Dermal LD₅₀—>5 g/kg.
Skin irritation—Slight.
Eye irritation—Substantial.
Exposure. The manufacturer states

that during manufacture and use workers may experience dermal and ocular exposure 2 hrs/day, during sampling and clean-up operations.

Environmental Release/Disposal. Disposal is by incineration.

PMN 81-664

Close of Review Period. March 28, 1982.

Manufacturer's Identity. Claimed confidential business information.

Specific Chemical Identity. Claimed confidential business information. Generic name provided: Modified polyester from a substituted alkanediol, carbomonocyclic acids and carbomonocyclic anhydride.

Use. Claimed confidential business information. Generic use information provided: The manufacturer states that the PMN substance will be used in an open use.

PRODUCTION ESTIMATES

	Kilograms per year.	
	Minimum	Maximum
1 year.....	6,000	10,000
2 year.....	12,000	20,000
3 year.....	18,000	33,000

Physical/Chemical Properties

Flash point—90° F.
Viscosity—19 stokes.
Acid value—8.5 Mg KOH/g.
Color—1.
Total solids (105° C)—73.6%.

Toxicity Data. No data were submitted.

Exposure. The manufacturer states that during manufacture and processing a total of 73 workers may experience dermal and ocular exposure up to 7 hrs/day, up to 30 days/yr during sampling, transfer, cleaning, and filling.

Environmental Release/Disposal. The manufacturer states that less than 10 kg/

yr will be released to air and water and 10-1,000 kg/yr to land. Disposal is by incineration.

PMN 81-665

Close of Review Period. March 28, 1982.

Importer's Identity. Claimed confidential business information.

Specific Chemical Identity. Claimed confidential business information. Generic name provided: Substituted pyran.

Use. Claimed confidential business information.

IMPORT ESTIMATES

	Kilograms per year	
	Minimum	Maximum
1 year.....	10	100
2 year.....	10	1,000
1 year.....	100	2,000

Physical/Chemical Properties

Appearance—Liquid.
Specific gravity @ 25° C—0.995-1.015.
Flash point—Above 100° F.
Refractive index @ 25° C—1.501-1.509.
Color—Pale to light yellow.

Toxicity Data

Acute oral toxicity LD₅₀ (rat)—5.0 g/kg.
Acute dermal toxicity LD₅₀ (rabbits)—>5.0 g/kg.
Primary skin irritation (rabbit)—Slightly irritating.
Primary eye irritation (rabbit)—Minimal irritant.
Repeated insult patch test/ photosensitization study in human subjects—Negative.

Exposure. The importer states that during use 2 workers may experience workplace air exposure < 1 hr/day, < 20 days/yr during blending operations.

Environmental Release/Disposal. The importer states that less than 10 kg/yr will be released to air < 1 hr/day, < 20 days/yr.

Dated: December 29, 1981.

Woodson W. Bercaw,

Acting Director, Management Support Division.

[FR Doc. 82-488 Filed 1-7-82; 8:45 am]

BILLING CODE 6560-31-M

FEDERAL COMMUNICATIONS COMMISSION

[Report No. 16748; Gen. Docket No. 80-184]

Draft Proposals for 1983 World Mobile Radio Conference Presented for Comment; Action in Docket Case

December 21, 1981.

The Commission has asked for comments on the U.S. Draft Proposals developed for the 1983 World Administrative Radio Conference (WARC) for Mobile Telecommunications.

The Mobile WARC, which will be concerned with distress and safety matters, maritime radio uses and international aeronautical radio services, will be held in Geneva, beginning February 23, 1983, under the auspices of the 155-member International Telecommunication Union.

The Draft Proposals, after receipt of comments and further analysis, will serve as the basis for FCC coordination with the Department of State and the National Telecommunications and Information Administration of the Department of Commerce in the formulation of U.S. proposals and positions for the conference.

The Commission said it expected that, after consultation with those agencies, its final recommended proposals would be sent to the State Department and released to the public in April or May 1982. U.S. Preliminary Views on conference proposals were published in the Third Notice of Inquiry, released April 20, 1981. The Commission said it does not expect to issue any further Notice of Inquiry in its conference preparations.

The Commission said it would continue to press for early formation of the U.S. delegation to the conference.

Comments on the proposals must be filed by February 12, 1982, and reply comments by March 1.

Action by the Commission December 17, 1981, by Fourth Notice of Inquiry (FCC 81-573). Commissioners Fowler (Chairman), Quello, Washburn, Fogarty, Jones, Dawson and Rivera.

For further information contact Lawrence Palmer, (202) 653-8102.

Note.—Due to the effort to minimize publishing costs, the Notice of Inquiry will not be printed herein. However, copies may be obtained from the FCC Office of Public

Affairs, Room 202, 1919 M St., N.W.,
Washington, D.C. 20554.

William J. Tricarico,
*Secretary, Federal Communications
Commission.*

[FR Doc. 82-534 Filed 1-7-82; 8:45 am]

BILLING CODE 6712-01-M

Telecommunications Industry Advisory Group; First Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given of the first meeting of the Telecommunications Industry Advisory Group scheduled to meet on Tuesday, January 26, 1982, at 9:30 a.m., in Room 856 of the Commission's offices at 1919 M Street, NW., Washington, D.C. The meeting will be open to the public. The preliminary agenda is as follows:

- I. Designation of Member to be Responsible for Minutes and Transcripts
- II. Introductory Remarks and Introduction of Members
- III. General Discussion of Group Approach, Direction and Restrictions
- IV. Organization for Future Work
- V. Open Discussion
- VI. Other Business
- VII. Presentation of Oral Statements
- VIII. Date/Place of Next Meeting, and Adjournment

With prior approval of the Group Chairman, oral statements, while not favored or encouraged, may be allowed if time permits and if the Chairman of the Group determines that an oral presentation is conducive to the efficient attainment of the Group's objectives. Anyone wishing to make an oral presentation should contact the Group Chairman at least five days prior to the meeting date.

For further information, contact
Stephen T. Duffy, (202) 634-1861.

William J. Tricarico,
*Secretary, Federal Communications
Commission.*

[FR Doc. 82-531 Filed 1-7-82; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL MARITIME COMMISSION

[Agreement No. 10433]

Delta Steamship Line, Inc. and Societe Ivoirienne de Transport Maritime; Availability of Finding of No Significant Impact

Upon completion of an environmental assessment, the Federal Maritime Commission's Office of Energy and Environmental Impact has determined that the Commission's decision on Agreement No. 10433 will not constitute a major Federal action significantly

affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969, 42 U.S.C. 4321 et seq., and that preparation of an environmental impact statement is not required. This agreement is a space charter arrangement between Delta Steamship Line, Inc. and Societe Ivoirienne de Transport Maritime for cargo moving from the Ivory Coast to U.S. Gulf Coast ports.

This Finding of No Significant Impact (FONSI) will become final within 20 days unless a petition for review is filed pursuant to 46 CFR 547.6(b).

The FONSI and related environmental assessment are available for inspection on request from the Office of the Secretary, Room 11101, Federal Maritime Commission, Washington, D.C. 20573, telephone (202) 523-5725.

Francis C. Hurney,
Secretary.

[FR Doc. 82-425 Filed 1-7-82; 8:45 am]

BILLING CODE 6730-01-M

[Independent Ocean Freight Forwarder License No. 1149]

Dunnington & Arnold of Philadelphia, Inc.; Order of Revocation

Section 44(c), Shipping Act, 1916, provides that no independent ocean freight forwarder license shall remain in force unless a valid bond is in effect and on file with the Commission. Rule 510.15(d) of Federal Maritime Commission General Order 4 further provides that a license shall be automatically revoked for failure of a licensee to maintain a valid bond on file.

The bond issued in favor of Dunnington & Arnold of Philadelphia, Inc., Suite 1149, Public Ledger Bldg., Philadelphia, PA 19106 was canceled effective December 17, 1981.

By letter dated November 19, 1981, Dunnington & Arnold of Philadelphia, Inc. was advised by the Federal Maritime Commission that Independent Ocean Freight Forwarder License No. 1149 would be automatically revoked unless a valid surety bond was filed with the Commission.

Dunnington & Arnold of Philadelphia, Inc. has failed to furnish a valid bond.

By virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 1 (revised), § 10.01(f) dated November 12, 1981;

Notice is hereby given, that Independent Ocean Freight Forwarder License No. 1149 be and is hereby revoked effective December 17, 1981.

It is ordered, that Independent Ocean Freight Forwarder License No. 1149

issued to Dunnington & Arnold of Philadelphia, Inc. be returned to the Commission for cancellation.

It is further ordered, that a copy of this Order be published in the Federal Register and served upon Dunnington & Arnold of Philadelphia, Inc.

Albert J. Klingel, Jr.,
Director Bureau of Certification & Licensing.

[FR Doc. 82-423 Filed 1-7-82; 8:45 am]

BILLING CODE 6730-01-M

[Agreement No. T-4012]

Jacksonville Port Authority and Trans Freight Lines, Inc.; Availability of Finding of No Significant Impact

Upon completion of an environmental assessment, the Federal Maritime Commission's Office of Energy and Environmental Impact has determined that the Commission's decision on Agreement No. T-4012 will not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969, 42 U.S.C. 4321 et seq., and that preparation of an environmental impact statement is not required. This agreement is between Jacksonville Port Authority (Authority) and Trans Freight Lines, Inc. (TFL). Under the terms of the agreement the Authority will lease real property, and improvements thereto, consisting of five acres at Blount Island Docks and Terminals located in Jacksonville, Florida.

This Finding of No Significant Impact (FONSI) will become final within 10 days unless a petition for review is filed pursuant to 46 CFR 547.6(b).

The FONSI and related environmental assessment are available for inspection on request from the Office of the Secretary, Room 11101, Federal Maritime Commission, Washington, D.C. 20573, telephone (202) 523-5725.

Francis C. Hurney,
Secretary.

[FR Doc. 82-424 Filed 1-7-82; 8:45 am]

BILLING CODE 6730-01-M

Transport Specialists, Inc.; Order of Revocation in Part

Section 44(c), Shipping Act, 1916, provides that no independent ocean freight forwarder license shall remain in force unless a valid bond is in effect and on file with the Commission. Rule 510.15 of Federal Maritime Commission General Order 4 further provides that a license will be automatically revoked for failure of a licensee to maintain a valid bond on file.

The bond issued in favor of Transport Specialists, Inc. co-holder of FMC License No. 1323 with Transport Specialists (Florida) Inc. was cancelled effective November 15, 1981.

By letter dated October 26, 1981, Transport Specialists, Inc. was advised by the Federal Maritime Commission that its authority to use Independent Ocean Freight Forwarder License No. 1323 would be automatically revoked unless a valid surety bond was filed with the Commission.

Transport Specialists, Inc. has failed to furnish a valid replacement surety bond within the time prescribed. It also appears that this company is no longer in business. Notwithstanding this, Transport Specialists (Florida), Inc. has provided a valid replacement surety bond, therefore, it will continue to hold FMC License No. 1323 in its name only.

Therefore, by virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 1 (Revised), § 10.01(f) dated November 12, 1981;

Notice is hereby given, that Transport Specialists, Inc.'s authority to use Independent Ocean Freight Forwarder License No. 1323 be and is hereby revoked effective November 15, 1981.

It is ordered, that a copy of this Order be published in the **Federal Register** and served upon Transport Specialists, Inc. Albert J. Klingel, Jr.,

Director, Bureau of Certification & Licensing.

[FR Doc. 82-422 Filed 1-7-82; 8:45 am]

BILLING CODE 6730-01-M

[Independent Ocean Freight Forwarder License No. 2162]

Love Shipping Corp.; Order of Revocation

Section 44(c), Shipping Act, 1916, provides that no independent ocean freight forwarder license shall remain in force unless a valid bond is in effect and on file with the Commission. Rule 510.15(d) of Federal Maritime Commission General Order 4 further provides that a license shall be automatically revoked for failure of a licensee to maintain a valid bond on file.

The bond issued in favor of Love Shipping Corporation, 9545 Coral Way, P.O. Box 520625, Miami, FL 33152 was cancelled effective December 27, 1981.

By letter dated December 16, 1981, Love Shipping Corporation was advised by the Federal Maritime Commission that Independent Ocean Freight Forwarder License No. 2162 would be automatically revoked unless a valid surety bond was filed with the Commission.

Love Shipping Corporation has failed to furnish a valid bond.

By virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 1 (revised), § 10.01(f) dated November 12, 1981;

Notice is hereby given, that Independent Ocean Freight Forwarder License No. 2162 be and is hereby revoked effective December 27, 1981.

It is ordered, that Independent Ocean Freight Forwarder License No. 2162 issued to Love Shipping Corporation be returned to the Commission for cancellation.

It is further ordered, that a copy of this Order be published in the **Federal Register** and served upon Love Shipping Corporation.

Albert J. Klingel, Jr.,

Director, Bureau of Certification and Licensing.

[FR Doc. 82-511 Filed 1-7-82; 8:45 am]

BILLING CODE 6730-01-M

Performance Review Board; Members

AGENCY: Federal Maritime Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given of the names of the members of the Performance Review Board.

FOR FURTHER INFORMATION CONTACT:

William J. Herron, Jr., Director, Office of Personnel, Federal Maritime Commission, 1100 L Street, N.W., Washington, D.C. 20573.

SUPPLEMENTARY INFORMATION: Section 4314(c) (1) through (5) of title 5, U.S.C., requires each agency to establish, in accordance with regulations prescribed by the U.S. Office of Personnel Management, one or more performance review boards. The board shall review and evaluate the initial appraisal of a senior executive's performance by the supervisor, along with any recommendations to the appointing authority relative to the performance of the senior executive.

Federal Maritime Commission.

Alan Green, Jr.,

Chairman.

The members of the Performance Review Board are:

1. Thomas F. Moakley, Vice Chairman.
2. James J. Carey, Commissioner.
3. James V. Day, Commissioner.
4. Richard J. Daschbach, Commissioner.
5. John E. Cogrove, Chief Administrative Law Judge.
6. William Beasley Harris, Administrative Law Judge.

7. Seymour Glanzer, Administrative Law Judge.

8. Charles E. Morgan, Administrative Law Judge.

9. Norman D. Kline, Administrative Law Judge.

10. Joseph N. Ingolia, Administrative Law Judge.

11. Paul J. Fitzpatrick, Administrative Law Judge.

12. James K. Cooper, Managing Director.

13. Wm. Jarrel Smith, Jr., Deputy Managing Director.

14. Daniel J. Connors, Director, Bureau of Tariffs.

15. John Robert Ewers, Director, Bureau of hearings and Field Operations.

16. Robert G. Drew, Director, Bureau of Agreements.

17. Albert J. Klingel, Jr., Director, Bureau of Certification and Licensing.

18. Francis C. Hurney, Secretary.

19. C. Jonathan Benner, General Counsel.

20. Robert D. Bourgojn, Deputy General Counsel.

[FR Doc. 82-508 Filed 1-7-82; 8:45 am]

BILLING CODE 6730-01-M

Petition for Investigation of Practices of Conferences and Member Lines With Respect to Payment of Brokerage

Notice is hereby given that the National Customs Brokers and Forwarders Association of America, Inc. has filed a petition requesting that the Commission conduct an investigation of the practice of conferences of carriers and their member lines of prohibiting the payment of brokerage on bunker surcharges and currency adjustment factors. Although the North Atlantic Continental Freight Conference is mentioned specifically, the petition requests investigation of all conferences with similar tariff provisions.

Interested parties may inspect and obtain a copy of this application at the Washington Office of the Federal Maritime Commission, 1100 L Street, N.W., Room 10233, or may inspect the application at the Field Offices located at New York, New York; New Orleans, Louisiana; San Francisco, California; Chicago, Illinois and Hato Rey, Puerto Rico. Interested persons may submit comments to the Secretary, Federal Maritime Commission, Washington, D.C., by February 8, 1982. An original and fifteen copies of such comments shall be submitted and a copy thereof served on applicant.

Francis C. Hurney,
Secretary.

[FR Doc. 82-509 Filed 1-7-82; 8:45 am]

BILLING CODE 6730-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Industry Participation; Notice of Open Meeting

AGENCY: Food and Drug Administration.
ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces a forthcoming open meeting with representatives of FDA-regulated industry, especially of trade associations. The meeting will be chaired by Arthur Hull Hayes, Jr., M.D., Commissioner of Food and Drugs.

DATE: The meeting will be held from 9 a.m. until 10:30 a.m., January 25, 1982.

ADDRESS: The meeting will be held in the main auditorium of the Department of Health and Human Services, North Building, 330 Independence Ave. SW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Nathaniel L. Geary, Intergovernmental and Industry Affairs Staff (HFC-50), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-1583.

SUPPLEMENTARY INFORMATION: The Commissioner of Food and Drugs will meet periodically with representatives of FDA-regulated industry to share mutual concerns and to facilitate dissemination of FDA proposals and decisions affecting FDA-regulated industry. The topics for discussion at this meeting are: (1) regulatory reform initiatives concerning food safety and revision of new drug procedures and (2) process and procedures for future meetings. Although the meeting will be open to the public, for this inaugural meeting FDA is particularly interested in attendance by representatives of trade associations for FDA-regulated industry.

Dated: January 5, 1982.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 82-551 Filed 1-7-82; 8:46 am]

BILLING CODE 4160-01-M

Social Security Administration

Privacy Act of 1974; Report of New Routine Use

AGENCY: Social Security Administration (SSA), Department of Health and Human Services (HHS).

ACTION: New routine use.

SUMMARY: In accordance with the Privacy Act (5 U.S.C. 552a(e)(11)), we

are issuing public notice of our intent to establish a new routine use of information that we maintain in the following Privacy Act systems of records:

1. 09-60-0045—Black Lung Payment System (BLPS), HHS/SSA/OURV;
2. 09-60-0089—Claims Folders and Post-Adjudicative Records of Applicants for and Beneficiaries of Social Security Benefits (Claims Folder), HHS/SSA/OOPP;
3. 09-60-0090—Master Beneficiary Record (MBR), HHS/SSA/OURV;
4. 09-60-0094—Recovery Accounting for Overpayments (ROAR), HHS/SSA/OURV; and
5. 09-60-0103—Supplemental Security Income Record (SSR), HHS/SSA/OURV.

The proposed routine use will enable us to use third party resources to assist in the recovery of overpayments.

We invite public comments on this proposal.

DATE: The proposed routine use will become effective as proposed, without further notice, on February 7, 1982 unless we receive comments on or before that date which would result in a contrary determination.

ADDRESS: Interested individuals may comment on this proposal by writing to the SSA Privacy Officer, Social Security Administration, 6401 Security Boulevard, Baltimore, Maryland 21235. All comments received will be available for public inspection at 3-F-1 Operations Building at the above address.

FOR FURTHER INFORMATION CONTACT:

Mr. Bob Marder, Director, Debt Management Staff, Social Security Administration, Room 500 Altmeyer Building, 6401 Security Boulevard, Baltimore, Maryland 21235, telephone (301) 597-4687.

SUPPLEMENTARY INFORMATION: SSA makes monthly payments to approximately 35 million retirement, survivors and disability insurance beneficiaries and supplemental security income recipients. In administering these payments, we sometimes overpay individuals. This generally is caused by beneficiaries/recipients failure to report events which affect their entitlement to payment or the amount thereof.

When an individual is overpaid, section 204(a) of the Social Security Act gives SSA authority to adjust the overpayment against any benefits, which are still due him or her. If the individual is no longer due benefits, section 204(a) also gives us authority to require refund of the amount overpaid. On April 17, 1979, and April 17, 1981, the General Accounting Office and the

Department of Justice issued joint regulations (4 CFR 102) which encourage Federal agencies to supplement Federal debt collection programs by contracting for the services of third parties to assist in collecting debts.

The use of third party resources to assist in the recovery of outstanding overpayments will represent a new direction for SSA. For the most part, we have depended on our own resources to recover overpayments. However, given the Federal Government's concern about growing losses and the regulations urging the use of private resources, we are proposing to establish a routine use which would permit us to disclose information pertaining to an overpaid individual (e.g., name, social security number, latest address, telephone number, amount of debt, debt payment history and information relating to the ability to repay) to third parties for the purpose of their assisting us in recovering overpayments. Such third parties could include, but are not limited to, credit-related services, collection agencies, and State Motor Vehicle Departments.

Initially, we will request information (e.g., current address) from third parties which will be used in our attempts to collect an individual's debt. By early 1982, we expect to award contracts to private collection agencies for the purpose of employing their assistance in the collection of debts. Their activities will include such things as billing, investigating an individual's current whereabouts and ability to refund the overpayment, and making personal contacts to collect overpayments. Third party responsibilities with respect to the Privacy Act and the HHS Privacy Act regulation and other applicable Federal statutes and regulations will be clearly stated in the contracts.

Information that we will disclose to a collection agency under contract with SSA will constitute an SSA system of records maintained by a contractor. Prior to disclosing information to a contractor, we will establish a new system of records in accordance with Privacy Act requirements (5 U.S.C. 552a).

In accordance with the above discussion, we are proposing the following statement of routine use:

Information may be disclosed to third party contacts (including private collection agencies under contract with the Social Security Administration) for the purpose of their assisting the Social Security Administration in recovering overpayments.

The proposed routine use meets the criteria contained in the Privacy Act and our disclosure regulation (20 CFR 401).

Both permit us to disclose information without the consent of the individual to whom it pertains for purposes which are compatible with those for which SSA collected the information. Information in each of the above mentioned systems is collected for the purpose of administering programs for which SSA is responsible. The BLPS, Claims Folder, MBR and SSR systems may contain information which indicates that an individual has been overpaid; the ROAR system contains information which is used to maintain control of overpayments and SSA's efforts to collect them. Disclosure from these systems under the proposed routine use would enhance our ability to recover monies owed SSA by using third party sources to assist in our recovery efforts, rather than depending solely on our own resources. We anticipate that disclosures under the routine use will not result in any clearly unwarranted adverse effects on personal privacy.

Dated: December 21, 1981.

John A. Svahn,
Commissioner of Social Security.

09-60-0045

SYSTEM NAME:

Black Lung Payment System HHS SSA OURV.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Office of Systems, 6401 Security Boulevard, Baltimore, Maryland 21235.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All black lung beneficiaries currently entitled to receive a black lung benefit and beneficiaries terminated because of a termination event as defined in the Federal Coal Mine Health and Safety Act.

CATEGORIES OF RECORDS IN THE SYSTEM:

The Black Lung Master Records consist of a payment master record and a benefit master record which are matched once a month. The payment master record reflects the social security number and the payment identification code under which black lung benefits are awarded and payment data such as the monthly payment amount; the scheduled payment amount; offset information; the number of beneficiaries on the account as well as the number of beneficiaries in the payment; the month of accrual; the month of debit; credit information; future month of adjustment diary dates; cross-reference information; payee name and address information; direct deposit data, and statistical

information. The benefit master record contains a benefit record for each beneficiary on the account which includes the social security number, the payment and benefit identification codes, the payment status, the monthly benefit amount, the beneficiary's name, type of benefit, data of birth, race, sex, offset information, credit information, date of filing, date of entitlement, representative payee information, and statistical information.

Only the latest action taken is reflected on these records. The records may be in the following form: Payment Master Record Computer File; Benefit Master Record Computer File; Treasury Payment Tape File; Microfiche File; Payment Reference Listing; Benefit Reference Listing.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 413 and 415 of Part IV of the Federal Coal Mine Health and Safety Act (Black Lung).

PURPOSE(S):

The data on the Black Lung Master Records is used by Social Security employees for responding to inquiries; computer exception processing; conversion of benefits; end of the month reconciliations; statistical studies to generate payment tapes for Treasury; and for exchange with the Department of Labor for administering provisions of the Title IV of the Black Lung Act

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

- Disclosure may be made:
1. To a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.
 2. In the event of litigation where the defendant is (a) the Department of Health and Human Services (DHHS), any component of DHHS or any employee of DHHS in his or her official capacity, (b) the United States where DHHS determines that the claim, if successful, is likely to directly affect the operations of DHHS or any of its components, or (c) any DHHS employee in his or her individual capacity where the Justice Department has agreed to represent such employee, DHHS may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to present an effective defense, provided such disclosure is compatible with the purpose for which the records were collected.
 3. To the Office of the President for the purpose of responding to an individual pursuant to an inquiry

received from that individual or from a third party on his or her behalf.

4. Upon request, information on the identity and location of aliens may be disclosed to the Department of Justice (Criminal Division, Office of Special Investigations) for the purpose of detecting, investigating, and where appropriate, taking legal action against suspected nazi war criminals in the United States.

5. To third party contacts (including private collection agencies under contracts with the Social Security Administration) for the purpose of their assisting the Social Security Administration in recovering overpayments.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Magnetic tape, paper.

RETRIEVABILITY:

By social security number.

SAFEGUARDS:

Magnetic tape is protected through standard security measures used for all Social Security Administration computer records. Paper records are subject to the same safeguards as all other information in the Social Security Administration relating to claims and beneficiary records.

RETENTION AND DISPOSAL:

Magnetic tape records are retained up to 90 days. Paper records are usually destroyed after use, except where needed for documentation of the claims folder.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of User Requirement and Validation, Baltimore, Maryland 21241.

NOTIFICATION PROCEDURES:

An individual can determine if this system contains a record pertaining to him or her by contacting the system manager at the address shown above and furnishing his or her name, social security number, approximate date and place claim was filed, type of claim (disability, black lung, or supplemental security income), and return address. These procedures are in accordance with HHS Regulations 45 CFR 5b.

RECORD ACCESS PROCEDURES:

Same as notification procedures. Requesters should also reasonably specify the record contents being sought. These access procedures are in

accordance with HHS Regulations 45 CFR 5b.

CONTESTING RECORD PROCEDURES:

Same as notification procedures. Requesters should also reasonably identify the record and specify the information to be contested. These procedures are in accordance with HHS Regulations 45 CFR 5b.

RECORD SOURCE CATEGORIES:

The information for the Black Lung Master Records is furnished by the beneficiary at the time of filing for benefits via the application form and necessary proofs and during the period of entitlement when notices of events such as changes of address, work, marriage, etc., are given to the Social Security Administration by the beneficiary. This information is prepared for input to this system from the Black Lung claims folders.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09-60-0089

SYSTEM NAME:

Claims Folders and Post-Adjudicative Records of Applicants for and Beneficiaries of Social Security Benefits, HHS/SSA/OOPP.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATIONS:

The claims folders are generally set up in district or branch offices when claims for benefits are filed (see Appendix F.1 for address information). They are retained there until all development has been completed, and then transferred to the appropriate reviewing office as set out below. Supplemental security income claims folders are held in district or branch offices pending establishment of a payment record, or until the appeal period, in a denied claim situation, has expired. The folders are then transferred to a folder-staging facility in Chicago prior to transfer to the Chicago Federal Archives Records Center.

Retirement and survivors insurance claims folders are maintained primarily in social security program service centers. However, if an individual to which the claim pertains resides outside the United States or any of its possessions, the folder is maintained in the Office of International Policy. See Appendix A for address information regarding the Program Service Centers and the Office of International Policy.

Disability insurance claims folders for individuals under age 62 are maintained primarily in the Office of Disability Operations, or if the individual resides outside the United States or any of its possessions, the Office of International Policy. Disability insurance claims folders for disabled individuals over age 62 are maintained in the Program Service Centers or the Office of International Policy (see Appendix A for address information).

Claims folders relating to Black Lung claims are maintained in the Office of Disability Operations (see Appendix B.1 for address information).

Supplemental security income claims folders are maintained in the Chicago Federal Archives Records Center.

In addition, claims folders are transferred to numerous other locations throughout the Social Security Administration and the General Service Administration and infrequently may be temporarily transferred to other Federal agencies (Department of Justice, or Office of the General Counsel, Department of Health and Human Services). The disability claims folders are also transferred to State agencies for disability and vocational rehabilitation determinations (see Appendix B.3 for address information).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Claimants for retirement, survivors, disability, health insurance, or black lung benefits or supplemental security income payments.

CATEGORIES OF RECORDS IN THE SYSTEM:

The claims folder is established when a claim for benefits is filed. It contains application for benefits earnings record information established and maintained by the Social Security Administration, documents supporting factors of entitlement and continuing eligibility, payment documentation, and correspondence to and from claimants and/or representatives.

It also may contain data collected as a result of inquiries or complaints; and evaluation and measurement study of effectiveness of claims policies. Separate files may be maintained of certain actions which are entered directly into the computer processes. These relate to reports of changes of address, work status, and other post-adjudicative reports.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Sections 202-205, 223, 226, 228, 1611, 1631, 1818, 1836, and 1840 of the Social Security Act and Section 411 of the Federal Coal Mine and Health Safety Act.

PURPOSE(S):

The claims folder constitutes the basic record for payments and determinations under the Social Security Act and the Federal Coal Mine Health and Safety Act (Black Lung Act). Data are used to produce and maintain the Master Beneficiary Record (09-60-0090) which is the automated payment system for retirement, survivors, and disability benefits; the Supplemental Security Income Record (09-60-0103) system for the aged, blind, and disabled payments; the Black Lung Payment System (09-60-0045) for black lung claims; and the Health Insurance Billing and Collection Master Record system (09-70-0522) for hospital and supplemental medical (medicare) insurance benefits.

This paper file is controlled by the Social Security Administration Claims Control System (09-60-0091) while the claim is pending development for adjudication in the district or branch office, and by the Case Control System (09-60-0092) once the folder has been transferred to the reviewing office (program service centers, Office of International Policy, or the Office of Disability Programs).

The claims folders are used throughout the Social Security Administration for the purposes of determining, organizing, and maintaining documents for making normal determinations as to eligibility for benefits, the amount of benefits, reviewing continuing eligibility, holding hearings or administrative review processes, and to ensure that proper adjustments are made based on events affecting entitlement. The folder may be referred to State Disability Determination Sections or Vocational Rehabilitation Agencies in disability cases. They may also be used for quality review, evaluation, and measurement studies, and other statistical and research purposes.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Disclosure may be made as indicated below:

1. To third party contacts in situations where the party to be contacted has, or is expected to have, information relating to the individual's capability to manage his/her affairs or his/her eligibility for or entitlement to benefits under the social security program when:

(a) The individual is unable to provide information being sought (an individual is considered to be unable to provide certain types of information when any of the following conditions exist:

(i) he/she is incapable or of questionable mental capability;

(ii) he/she cannot read or write;
 (iii) he/she cannot afford the cost of obtaining the information;
 (iv) a language barrier exists; or
 (v) the custodian of the information will not, as a matter of policy provide it to the individual; or

(b) The data are needed to establish the validity of evidence or to verify the accuracy of information presented by the individual, and it concerns one or more of the following:

(i) his/her eligibility for benefits under the social security program;

(ii) the amount of his/her benefit payment; or

(iii) any case in which the evidence is being reviewed as a result of suspected abuse or fraud, concern for program integrity, or for quality appraisal, or evaluation and measurement activities.

2. To third party contacts where necessary to establish or verify information provided by representative payees or payee applicants.

3. To a person (or persons) on the rolls when a claim is filed by an individual which is adverse to the person on the rolls; that is:

(a) an award of benefits to a new claimant precludes an award to a prior claimant; or

(b) an award of benefits to a new claimant will reduce the benefit payments to the individual(s) on the rolls; but only for information concerning the facts relevant to the interests of each party in a claim.

4. To employers or former employers for correcting or reconstructing earnings records and for social security tax purposes only.

5. To the Treasury Department for collecting social security taxes or as otherwise pertinent to tax and benefit payment provisions of the Social Security Act, (including social security number verification services) and for investigating alleged theft, forgery, or unlawful negotiation of social security checks.

6. To the United States Postal Service for investigating alleged forgery or theft of social security checks.

7. To the Department of Justice for investigating and prosecuting violations of the Social Security Act to which criminal penalties attach, for representing the Secretary, and for investigating issues of fraud by agency officers or employees, or violation of civil rights.

8. To the Department of State for administering the Social Security Act in foreign countries.

9. To the American Institute on Taiwan for administering the Social Security Act on Taiwan.

10. To the Veterans Administration, Regional Office Philippines, for administering the Social Security Act in the Philippines.

11. To the Department of Interior for administering the Social Security Act in the Trust Territory of the Pacific Islands.

12. To the Railroad Retirement Board for administering provisions of the Social Security Act relating to railroad employment.

13. To State social security administrators for administration of agreements pursuant to section 218 (State and local).

14. To State audit agencies for auditing State supplementation payments and Medicaid eligibility considerations, and expenditures of Federal funds by the State in support of the Disability Determination Section (DDS).

15. To private medical and vocational consultants for use in making preparation for, or evaluating the results of, consultative medical examinations or vocational assessments which they were engaged to perform by the Social Security Administration or a State agency acting in accord with sections 221 or 1633.

16. To specified business and other community members and Federal, State, and local agencies for verification of eligibility for benefits under section 1631(e).

17. To institutions or facilities approved for treatment of drug addicts or alcoholics as a condition of the individual's eligibility for payment under section 1611e and as authorized by regulations issued by the Special Action Office for Drug Abuse Prevention.

18. To applicants, claimants, prospective applicants or claimants, other than the data subject, their authorized representatives or representative payees to the extent necessary to pursue social security claims and receive an account of benefit payments.

19. To a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

20. In the event of litigation where the defendant is (a) the Department of Health and Human Services (HHS), any component of HHS, or any employee of HHS in his or her official capacity; (b) the United States where HHS determines that the claim, if successful, is likely to directly affect the operations of HHS or any of its components; or (c) any HHS employee in his or her individual capacity where the Justice Department has agreed to represent such employee, HHS may disclose such records as it deems desirable or

necessary to the Department of Justice to enable that Department to present an effective defense, provided such disclosure is compatible with the purpose for which the records were collected.

21. In response to legal process or interrogatories relating to the enforcement of an individual's child support or alimony obligations, as required by sections 459 and 461 of the Social Security Act.

22. To Federal, State, or local agencies (or agents on their behalf) for administering income maintenance or health maintenance programs. Such disclosures include, but are not limited to, release of information to:

(a) the Railroad Retirement Board for administering provisions of the Railroad Retirement Act relating to railroad employment and for administering the Railroad Unemployment Insurance Act;

(b) the Veterans Administration for administering 38 U.S.C. 412, and upon request, information needed to determine eligibility for or amount of VA benefits or verifying other information with respect thereto;

(c) the Department of Labor for administering provisions of Title IV of the Federal Coal Mine Health and Safety Act;

(d) State welfare departments for administering sections 206(c)(b)(i)(II) and 402(a)(25) of the Social Security Act requiring information about assigned social security numbers for Aid to Families with Dependent Children program purposes only;

(e) State agencies for making determinations of Medicaid eligibility; and

(f) State agencies for making determinations of food stamp eligibility under the food stamp program.

(g) To State Vocational Rehabilitation agencies or State crippled Children's service agencies (or other agencies providing services to disabled children) for consideration of rehabilitation services per sections 222a and 1615 of the Social Security Act.

23. To State welfare departments pursuant to agreements with the Social Security Administration for administration of State supplementation payments; for enrollment of welfare recipients for medical insurance under section 1843 of the Social Security Act; and for conducting independent quality assurance reviews of supplemental security income recipient records, provided that the agreement for Federal administration of the supplementation provides for such an independent review.

24. Information necessary to adjudicate claims filed under an international social security agreement that the United States has entered into pursuant to Section 233 of the Social Security Act may be disclosed to a foreign country that is a party to that agreement.

25. To the Internal Revenue Service, Department of the Treasury, for the purpose of auditing the Social Security Administration's compliance with safeguard provisions of the Internal Revenue Code of 1954, as amended.

26. To the Office of the President for responding to an individual pursuant to an inquiry received from that individual or from a third party on his or her behalf.

27. To third party contacts (including private collection agencies under contract with the Social Security Administration) for the purpose of their assisting the Social Security Administration in recovering overpayments.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Claims folders are maintained in file cabinets by service area as set out in location above.

RETRIEVABILITY:

Claims folders are filed by social security number.

SAFEGUARDS:

Claims folders are protected through limited access to Social Security Administration records, limited employee access to need to know. All employees are instructed in Social Security Administration confidentiality rules as a part of their initial orientation training.

RETENTION AND DISPOSAL:

The claims folder is initially maintained in the reviewing office. Later, both active and inactive folders are transferred to the Federal Archives and Records Center for storage and inactive (no one is entitled to benefits) folders are scheduled for destruction. The time for retention prior to destruction is 5-year retention—no record of surviving potential beneficiaries; 20-year retention—withdrawn claims, claims disallowed or lump-sum death payments only, and 55-year retention—potential future claimants indicated in the file.

When a subsequent claim is filed on the social security number, the claims file is recalled from the Records Center. Similarly, the claims files may be

recalled from the Records Center at any time by the Social Security Administration as necessary in the administration of social security programs.

SYSTEM MANAGER(S) AND ADDRESS:

SSA Privacy Officer, 6401 Security Boulevard, Baltimore Maryland 21235.

NOTIFICATION PROCEDURE:

An individual can determine if this system contains a record pertaining to him or her by contacting the most convenient social security office (see Appendix F.) for address and telephone information).

When requesting notification, an individual should provide his or her name, social security number, the type of claim he or she filed (retirement, survivors, disability, health insurance, black lung special minimum payments, or supplemental security income; if more than one claim is filed, each should be identified), whether he or she is or has been receiving benefits, whether payments are being received under his or her own social security number, and if not, the name and social security number under which received, if benefits have not been received, the appropriate date and place the claim was filed, and his or her address and/or telephone number.

As individual who requests notification of or access to a medical record shall, at the time he or she makes the request, designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion. However, SSA will grant direct access to a subject individual if the responsible SSA official determines that direct access is not likely to have an adverse affect on him or her. If the responsible SSA official is unable to make a determination, or makes the determination that some harm may occur to an individual, the official will send the record to the designated representative and inform the subject individual in writing that the records have been sent.

A parent or guardian who requests notification of or access to a minor's medical record shall at the time he or she makes the request designate a physician or other health professional (other than a family member) who will be willing to review the record and inform the parent or guardian of its contents at the physician's or health professional's discretion. These procedures are in accordance with HHS Regulations 45 CFR 5b.

RECORD ACCESS PROCEDURES:

Same as modification procedures. Requesters should also reasonably specify the information being sought. These procedures are in accordance with HHS Regulations 45 CFR 5b.

CONTESTING RECORD PROCEDURES:

Same as notification procedures. Requesters should also reasonably identify the record and specify the information to be contested. These procedures are in accordance with HHS Regulations 45 CFR 5b.

RECORD SOURCE CATEGORIES:

This information is obtained from the claimants, accumulated by the Social Security Administration from reports of employers or self-employed individuals, various local, State, and Federal agencies, claimant representatives and other sources to support factors of entitlement and continuing eligibilities.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09-60-0090

SYSTEM NAME:

Master Beneficiary Record HHS SSA OURV.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Office of Systems, 6401 Security Boulevard, Baltimore, Maryland 21235.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All social security beneficiaries currently entitled to receive retirement, survivors, disability, and special minimum social security benefits; records for beneficiaries whose entitlement has been terminated because of a termination event as defined in the Social Security Act; and denied and disallowed cases.

CATEGORIES OF RECORDS IN THE SYSTEM:

The master beneficiary data contains data applicable to all beneficiaries maintained on the record within a particular account and reflects the social security number under which benefits are awarded, the primary insurance amount (insured) or quarters of coverage required and earned (uninsured); provides information regarding benefit computation, insured status, use of railroad or military credits, and information for statistical and control purposes; contains the effective date of onset of disability for disability cases or date and proof of death for death cases;

contains information pertinent to all beneficiaries receiving payment on the record and the name and address (including ZIP Code) of the payee, the servicing social security district office code and the amount of the monthly check payable; reflects any special status of a payment being made; contains statistical and identifying information for each individual on the record such as the beneficiary subscript, beneficiary name, date of birth, date of entitlement, sex, race, and benefit payment status; contains information for those beneficiaries enrolled in the health or supplemental medical insurance provision of the Social Security Act; contains information relating to annual reports of earnings, representative payee data, and cross-reference data pertinent to any other account on which the beneficiary may be entitled to benefits; and a chronological sequence of payment history for each beneficiary. The records may be in the following form:

Master Beneficiary Record Computer File; Online Data Base (Query and Response); Various Microform Files as follows: Master File—a master record in social security number order, Alpha File—an alphabetic list of beneficiaries, Transaction File—monthly supplement (accretions, deletions, and changes) to the master file, in social security number order, Offline Query and Response, Treasury Payment Tape Files and Related Transaction Files, and Returned and Cancelled Check Files, and payment reference listing, Various One-Time Work Tape Files used in computer sorting of records and in subsystems processing of the master beneficiary record. After use they are returned to stock.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Payment of benefits is directed by the following sections: Sections 202a-205, 223, 226, 228, 1818, 1836, 1840 and of the Social Security Act.

PURPOSE(S):

Data in this system are used by a broad range of social security employees for responding to inquiries, generating, followups on beneficiary reporting events, computer exception processing statistical studies, conversion of benefits, and to generate records for the Treasury Department. Data in this system are also available to the DHHS Inspector General for use in the performance of his duties.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure may be made as indicated below:

1. To applicants or claimants, prospective applicants or claimants, other than the data subject, their authorized representatives or representative payees to the extent necessary to pursue social security claims and receive and account for benefit payments.
2. To third party contacts in situations where the party to be contacted has, or is expected to have, information relating to the individual's capability to manage his/her affairs or his/her eligibility for or entitlement to benefits under the social security program when:
 - (a) The individual is unable to provide information being sought (an individual is considered to be unable to provide certain types of information when):
 - (i) he/she is incapable or of questionable mental capability;
 - (ii) he/she cannot read or write;
 - (iii) he/she cannot afford the cost of obtaining the information;
 - (iv) a language barrier exists; or
 - (v) the custodian of the information will not, as a matter of policy, provide it to the individual; or
 - (b) The data are needed to establish the validity of evidence or to verify the accuracy of information presented by the individual, and it concerns one or more of the following:
 - (i) his/her eligibility for benefits under the social security program;
 - (ii) the amount of his/her benefit payment; or
 - (iii) any case in which the evidence is being reviewed as a result of suspected abuse or fraud, concern for program integrity, or for quality appraisal, or evaluation and measurement activities.
3. To third party contacts where necessary to establish or verify information provided by representative payees or payee applicants.
4. To a person (or persons) on the rolls when a claim is filed by another individual which is adverse to the person on the rolls:
 - (a) an award of benefits to a new claimant precludes an award to a prior claimant; or
 - (b) an award of benefits to a new claimant will reduce the benefit payments to the individual(s) on the rolls; but only for information concerning the facts relevant to the interests of each party in a claim.
5. To the Treasury Department for collecting social security taxes or as otherwise pertinent to tax and benefit payment provisions of the Social Security Act, (including social security

number verification services) and for investigating alleged theft, forgery, or unlawful negotiation of social security checks.

6. To the United States Postal Service for investigating alleged forgery or theft of social security checks.

7. To the Department of Justice for investigating and prosecuting violations of the Social Security Act to which criminal penalties attach, for representing the Secretary, and for investigating issues of fraud by agency officers or employees, or violation of civil rights.

8. To the Department of State for administering the Social Security Act in foreign countries.

9. To the American Institute on Taiwan for administering the Social Security Act on Taiwan.

10. To the Veterans Administration, Regional Office Philippines, for administering the Social Security Act in the Philippines.

11. To the Department of Interior for administering the Social Security Act in the Trust Territory of the Pacific Islands.

12. Information necessary to adjudicate claims filed under an international social security agreement that the United States has entered into pursuant to Section 233 of the Social Security Act may be disclosed to a foreign country which is a party to that agreement.

13. To the Office of the President for the purpose of responding to an inquiry received from that individual or from a third party on his or her behalf.

14. To the Office of Education for determining eligibility of applicants for basic educational opportunity grants.

15. To the Railroad Retirement Board for administering provisions of the Social Security Act relating to railroad employment.

16. To the Bureau of Census when it performs as a collecting agent or data processor for research and statistical purposes directly relating to the Social Security Act.

17. To the Department of the Treasury, Office of Tax Analysis, for studying the effects of income taxes and taxes on earnings.

18. To the Office of Personnel Management (formerly the Civil Service Commission) for the study of the relationship of civil service annuities to minimum social security benefits, and the effects on the trust fund.

19. To State social security administrators for administration of agreements pursuant to section 218 (State and local).

20. To the Energy Resources Development Administration for their

study of the long-term effects of low-level radiation exposure.

21. To a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

22. To contractors under contract to the Social Security Administration or under contract to another agency with funds provided by the Social Security Administration for the performance of research and statistical activities directly relating to the Social Security Act.

23. To the Department of Labor, for statistical studies of the relationship of private pensions and social security benefits to prior earnings.

24. In the event of litigation where the defendant is (a) the Department of Health and Human Services (HHS), any component of HHS, or any employee of HHS in his or her official capacity; (b) the United States where HHS determines that the claim, if successful, is likely to directly affect the operations of HHS or any of its components; or (c) an HHS employee in his or her individual capacity where the Justice Department has agreed to represent such employee. HHS may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to present an effective defense, provided such disclosure is compatible with the purpose for which the records were collected.

25. In response to legal process or interrogatories relating to the enforcement of an individual's child support or alimony obligations, as required by sections 459 and 461 of the Social Security Act

26. To Federal, State, or local agencies (or agents on their behalf) for administering income maintenance or health maintenance programs. Such disclosures include, but are not limited to, release of information to:

(a) the Railroad Retirement for administering provisions of the Railroad Retirement Act relating to railroad employment and for administering the Railroad Unemployment Insurance Act;

(b) the Veterans Administration for administering 38 U.S.C. 412, and upon request, for determining eligibility for or amount of VA benefits or verifying other information with respect thereto;

(c) State Welfare Departments for administering sections 205(c)(2)(B)(i)(II) and 401(a)(25) of the Social Security Act requiring information about assigned social security numbers of Aid Families with Dependent Children program purposes and for determining a recipient's eligibility under the AFDC program; and

(d) State agencies for administering the Medicaid program.

27. Upon request, information on the identity and location of aliens may be disclosed to the Department of Justice (Criminal Division, Office of Special Investigations) for the purpose of detecting, investigating, and where appropriate, taking legal action against suspected nazi war criminals in the United States.

28. To their party contacts (including private collection agencies under contract with the Social Security Administration for the purpose of their assisting the Social Security Administration in recovering overpayments.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Magnetic tape, magnetic disk, microfilm, and paper.

RETRIEVABILITY:

Based on social security number on magnetic tape, disk, microfilm readers and printers, listings, and online computer terminals.

SAFEGUARDS:

All magnetic tapes and discs are within an enclosure attended by security guards. Anyone entering or leaving this enclosure must have special badges which are issued only to authorized personnel. All microfilm and paper files are accessible only by authorized personnel with a need to know. For computerized records, electronically transmitted between Central Office and filed office locations (including organizations administering SSA programs under contractual agreements), systems securities are established in accordance with Department standards and National Bureau of Standards guidelines. Safeguards include a lock/unlock password system, exclusive use of leased telephone lines, a terminal oriented transaction matrix, and an audit trail.

RETENTION AND DISPOSAL:

Magnetic tape records are used to update the disc files and then are retained up to 90 days; the majority of magnetic tape reels are erased and returned to stock after processing is completed, while the disc files are continuously updated and retained indefinitely. Microfilm is disposed of by shredding after periodic replacement, of a complete file. Paper records are usually destroyed after use, by shredding, except where needed for documentation of the claims folder, in

which case they are retained therein indefinitely (see notices for Claims Folders and Post-Adjudicative Records of Applicants for and Beneficiaries of Social Security Benefits, 09-60-0089).

SYSTEMS MANAGER(S) AND ADDRESS:

Director, Office of User Requirements and Validation, 6401 Security Boulevard, Baltimore, Maryland 21235.

NOTIFICATION PROCEDURE:

An individual can determine if this system contains a record pertaining to him or her by contacting the most convenient social security office (see Appendix F.1 for address information).

When requesting notification, an individual should furnish his or her social security claim number (social security number plus alphabetic symbols), name, address, and proper identification. These procedures are in accordance with HHS Regulations 45 CFR 5b.

RECORD ACCESS PROCEDURES:

Same as notification procedures. Requesters should also reasonably specify the record contents being sought. These procedures are in accordance with HHS Regulations 45 CFR 5b.

CONTESTING RECORD PROCEDURES:

Same as notification procedures. Requesters should also reasonably identify the record and specify the information to be contested. These procedures are in accordance with HHS Regulations 45 CFR 5b.

RECORD SOURCE CATEGORIES:

The information for the Master Beneficiary Record comes primarily from the claims folder and/or is furnished by the beneficiary at the time of filing for benefits, via the application form and necessary proofs, and during the period of entitlement when notices of events such as changes of address, work, marriage, and given the Social Security Administration by the beneficiary; from States regarding health insurance third party premium payment/buy-in cases.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09-60-0094

SYSTEM NAME:

Recovery Accounting for Overpayment, HHS/SSA/OURV.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Office of Systems, 6401 Security Boulevard, Baltimore, Maryland 21235, Social Security Administration Program Service Centers, Office of International Policy (see Appendix A for Address information), Office of Disability Operations, Baltimore, Maryland 21241.

Lists of overpaid individuals, which are produced by this computer system, are maintained at each district or branch office (see Appendix F for address information).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All social security beneficiaries who received an overpayment of benefits. All persons holding conserved (accumulated) funds received on behalf of a social security beneficiary. All persons who received social security payments on behalf of a beneficiary and were found to have misused those payments.

CATEGORIES OF RECORDS IN THE SYSTEM:

Identifying characteristics of each overpayment or instance of misused or conserved funds. Name and address of the individual(s) involved. Recovery efforts made and the date of each action. Planned future actions.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 204(a) of the Social Security Act (42 United States Code 404(a)).

PURPOSES(S):

The users of this system are employees of district and branch offices, as well as selected personnel of social security program service centers, the Office of International Policy, and the Office of Disability Operations. The data are used to maintain control of overpayments and misused or conserved funds from the time of discovery to the final resolution and for the proper adjustments of payment and refund amounts. Data adjustment produce accounting and statistical reports at specified intervals.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure may be made as indicated below:

1. To a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.
2. To the Office of the President for the purpose of responding to an individual pursuant to an inquiry received from that individual or a third party on his/her behalf.

3. To third party contacts (including private collection agencies under contract with the Social Security Administration) for the purpose of their assisting the Social Security Administration in recovering overpayments.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**STORAGE:**

Magnetic tape, magnetic disk and microfiche in the Bureau of Data Processing, Microfiche in program service centers, the Bureau of Disability Insurance and the Division of International Operations. Paper listings in district and branch offices.

RETRIEVABILITY:

Magnetic tape, magnetic disk and microfiche indexed by social security number.

SAFEGUARDS:

Magnetic tape, magnetic disk, microfiche and paper records are protected through standard security measures used for all of the Social Security Administration's records—limited access to Social Security Administration offices—limited access to files to employees on a need to know basis.

RETENTION AND DISPOSAL:

Magnetic tape files are updated daily and retained for 10 days, after which the tapes are erased and returned to stock. The magnetic tape file produced in the last operation of the month is retained in security storage for a period of 30 days, after which the tapes are erased and returned to storage. The microfiche records are updated monthly, retained for one month after the month they are produced, and then destroyed by application of heat. Paper listings are destroyed when overpayment issue is resolved or updated listing is received. The disk files are continuously updated and retained indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of User Requirements and Validation, 6401 Security Boulevard, Baltimore, Maryland 21235.

NOTIFICATION PROCEDURE:

An individual can determine if this system contains a record pertaining to him or her by contacting the most convenient social security office (see Appendix F for address information) or the appropriate program service center (see Appendix A for address information).

When requesting notification, an individual should provide his or her

name, social security number, address, other information which will assist in locating the requested materials (e.g., data about a prior or current overpayment), and reference this system of records. These procedures are in accordance with HHS Regulations 45 CFR 5b.

RECORD ACCESS PROCEDURES:

Same as notification procedures. Requesters should also reasonably accordance with HHS Regulations 45 CFR 5b.

CONTESTING RECORD PROCEDURES:

Same as notification procedures. Requesters should also reasonably identify the record and specify the information to be contested. These procedures are in accordance with HHS Regulations 45 CFR 5b.

RECORD SOURCE CATEGORIES:

The information for the computer files is received directly from beneficiaries, from district and branch offices, and as the result of earnings enforcement operations. The paper listings are updated as a result of the computer operations.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09-60-103

SYSTEM NAME:

Supplemental Security Income Record HHS SSA OURV.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Office of Systems, 6401 Security Boulevard, Baltimore, Maryland 21235, Regional, district, and branch offices (see Appendices D and F for address information).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

This file contains a record for each individual who has applied for supplemental security income (SSI) payments including individuals who have requested an advance payment, and SSI recipients who have been overpaid and for each essential person associated with an SSI recipient.

CATEGORIES OF RECORDS IN THE SYSTEM:

This file contains data regarding SSI eligibility, citizenship, residence, medicaid eligibility, eligibility for other benefits, alcoholism or drug addiction data, if applicable (disclosure of this information may be restricted by 21

U.S.C. 1175 and 42 U.S.C.), income data, resources, payment amounts, including overpayments amounts, and data and amount of advance payments, living arrangements, case folder location data, appellate decisions, if applicable, social security numbers used to identify a particular individual, and a history of changes to any of the preceding categories for all persons who have applied for SSI payments.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Sections 1602, 1611, 1612, 1613, 1614, 1615, 1616, 1631, 1633, and 1634 of Title XVI of the Social Security Act.

PURPOSE(S):

Supplemental Security Income records begin in the social security district office where an individual files an application for supplemental security income payments. This application contains data which may be used to prove the identity of the applicant to determine his or her eligibility for supplemental security income payments and, in cases where eligibility is determined, to compute the amount of the payment. Information from the application, in addition to data used internally to control and process supplemental security income cases, is used to create the Supplemental Security Income Record (SSR). The SSR is also used as a means of providing a historical record of all activity on a particular individual's record. In addition, statistical data is derived from the SSR for actuarial and management information purposes.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure from this record may be made to:

1. the Treasury Department to prepare supplemental security income benefit checks and energy assistance checks.
2. the States to establish the minimum income level for computation of State supplement.
3. the following Federal and State agencies to prepare information or verification of benefit eligibility under section 1631(e):
 - a. Bureau of Indian Affairs
 - b. Civil Service Commission
 - c. Department of Agriculture
 - d. Department of Labor
 - e. Immigration and Naturalization Service
 - f. Internal Revenue Service
 - g. Railroad Retirement Board
 - h. State Pension Funds
 - i. State Welfare Office
 - j. State Workmen's Compensation
 - k. Department of Defense
 - l. United States Coast Guard

m. Veterans Administration

4. a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

5. identify title XVI eligibles under the age of 16 to State crippled children's agencies (or other agencies providing services to disabled children) for the consideration of rehabilitation services per section 1615 of the Social Security Act.

6. contractors under contract to the Social Security Administration or under contract to another agency with funds provided by SSA for the performance of research and statistical activities directly relating to Social Security Act.

7. State audit agencies for auditing State supplementation payments and Medicaid eligibility consideration.

8. Veterans Administration information requested for the purposes of determining eligibility for or amount of VA benefits or verifying other information with respect thereto.

9. the Railroad Retirement Board for administering the Railroad Unemployment Insurance Act.

10. effect and report the fact of Medicaid eligibility of title XVI recipients in the jurisdiction of those States which have elected Federal determinations of Medicaid eligibility of title XVI eligibles and to assist the States in administering the Medicaid program.

11. identify title XVI eligibles in the jurisdiction of those States which have not elected Federal determinations of Medicaid eligibility in order to assist those States in establishing and maintaining Medicaid rolls and in administering the Medicaid program.

12. enable States which have elected Federal administration of their supplementation programs to monitor changes in applicant/recipient income, special needs, and circumstances.

13. enable States which have elected to administer their own supplementation programs to identify SSI eligibles in order to determine the amount of their monthly supplemental payments.

14. enable the States to locate potentially eligible individuals and to make determinations of eligibility for the food stamp program.

15. enable the States to assist in the effective and efficient administration of the supplemental security income program.

16. enable those States which have an agreement with the Secretary, to carry out their functions with respect to Interim Assistance Reimbursement per Section 1631(g) of the Social Security Act.

17. enable States to locate potentially eligible individuals and to make eligibility determinations for extensions of social services under the provisions of title XX.

18. assist the States in determining initial and continuing eligibility in their income maintenance programs and for investigation and prosecution of conduct subject to criminal sanctions under these programs.

19. enable the States to administer energy assistance to low income groups under programs for which the States are responsible.

20. in the event of litigation where the defendant is (a) the Department of Health and Human Services (DHHS), any component of DHHS, or any employee of DHHS in his or her official capacity; (b) the United States where DHHS determines that the claim, if successful, is likely to directly affect the operations of DHHS or any of its components; or (c) any DHHS employee in his or her individual capacity where the Justice Department has agreed to represent such employee, DHHS may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to present an effective defense, provided such disclosure is compatible with the purpose for which the records were collected.

21. enable the States to administer energy assistance to low income groups under programs for which the States are responsible.

22. the Department of Education for determining the eligibility of applicants for Basic Educational Opportunity grants.

23. Federal, State, or local agencies (or agents in their behalf) for administering cash or non-cash income maintenance or health maintenance programs.

24. the United States Postal Service for investigating the alleged theft, forgery, or unlawful negotiation of supplemental security income checks.

24. the Treasury Department for investigating the alleged theft, forgery, or unlawful negotiation of supplemental security income checks.

25. to the Internal Revenue Service, Treasury Department, as necessary, for the purpose of auditing the Social Security Administration's compliance with safeguard provisions of the Internal Revenue Code of 1954, as amended.

26. the Office of the President for the purpose of responding to an inquiry received from that individual or from a third party on his or her behalf.

27. Upon request, information on the identity and location of aliens may be disclosed to the Department of Justice

(Criminal Division, Office of Special Investigations) for the purpose of detecting, investigating, and where appropriate, taking legal action against suspected Nazi war criminals in the United States.

28. To third party contacts (including private collection agencies under contract with the Social Security Administration) for the purpose of their assisting the Social Security Administration in recovering overpayments.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Magnetic tape, magnetic disc, and microfiche.

RETRIEVABILITY:

Magnetic tape, magnetic disc, and microfiche are indexed by social security number.

SAFEGUARDS:

All magnetic tapes and magnetic discs are within an enclosure attended by security guards. Anyone entering or leaving that enclosure must have special badges which are only issued to authorized personnel. All authorized personnel having access to the magnetic records are subject to the penalties of the Privacy Act. The microfiche are stored in locked cabinets, and are accessible to employees only on a need-to-know basis. All Supplemental Security Income Record (State Data Exchange records) are protected in accordance with agreements between the Social Security Administration and the respective States regarding confidentiality, use, and redisclosure.

RETENTION AND DISPOSAL:

Original input transaction tapes received which contain initial claims and posteligibility actions are retained indefinitely although these are processed as received and incorporated into processing tapes which are updated to the master supplemental security income tape file on a monthly basis. All magnetic tapes appropriate to SSI information furnished specified Federal, State, and local agencies for verification of eligibility for benefits and under section 1631(e) are retained, in accordance with the Privacy Act accounting requirements, for at least 5 years or the life of the record, whichever is longer.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of User Requirement and Validation, 6401 Security Boulevard, Baltimore, Maryland 21235, Social

Security District and Branch Offices (See Appendix F.1 for address information).

NOTIFICATION PROCEDURE:

An individual can determine if this system contains a record pertaining to him or her by writing to or visiting the most convenient social security district or branch office (see Appendix F.1 for address information).

An individual who requests notification of or access to a medical record shall, at the time he or she makes the request, designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion. However, SSA will grant direct access to a subject individual if the responsible SSA official determines that direct access is not likely to have an adverse effect on him or her. If the responsible SSA official is unable to make a determination, or makes the determination that some harm may occur to an individual, the official will send the record to the designated representative and inform the subject individual in writing that the records have been sent.

A parent or guardian who requests notification of or access to a minor's medical record shall at the time he or she makes the request designate a physician or other health professional (other than a family member) who will be willing to review the record and inform the parent or guardian of its contents at the physician's or health professional's discretion. These procedures are in accordance with HHS Regulations 45 CFR 5b.

RECORD ACCESS PROCEDURES:

Same as notification procedures. Requesters should also reasonably specify the record contents being sought. These procedures are in accordance with HHS Regulations 45 CFR 5b.

CONTESTING RECORD PROCEDURES:

Same as notification procedures. Requesters should also reasonably identify the record and specify the information to be contested. These procedures are in accordance with HHS Regulations 45 CFR 5b.

RECORD SOURCE CATEGORIES:

The information contained within the Supplemental Security Record is obtained for the most part from the applicant for SSI payments and is derived from the system of records Claims Folders and Post-Adjudicative Records of Applicants for and Beneficiaries of Social Security Benefits

(09-60-0089). The States also provide data affecting the Supplemental Security Record (State Data Exchange Files), affecting the Supplemental Security Income Record (State Data Exchange Files).

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 82-472 Filed 1-7-82; 8:45 am]

BILLING CODE 4190-11-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Renewal of National Public Lands Advisory Council

AGENCY: Bureau of Land Management, Interior.

ACTION: Renewal of National Public Lands Advisory Council.

SUMMARY: This notice is published in accordance with the provisions of section 7(a) of the Office of Management and Budget Circular A-63 (Revised). Pursuant to the authority contained in section 14(a) of the Federal Advisory Committee Act (Pub. L. 92-463), the Secretary of the Interior has determined that renewal of the National Public Lands Advisory Council is necessary and in the public interest.

The purpose of the Council is to advise the Secretary of the Interior, through the Director, Bureau of Land Management, on implementation of the Federal Land Policy and Management Act of 1976, Public Law 94-579, as well as on policies and programs of a national scope related to the resources and uses of public lands under the jurisdiction of the Bureau of Land Management.

The General Services Administration concurred in the renewal of this Council on December 24, 1981.

FOR FURTHER INFORMATION CONTACT:

Karen Slater, Bureau of Land Management (150), Department of the Interior, Washington, D.C. 20240 Telephone: (202) 343-5101.

Robert F. Burford,

Director.

January 4, 1982.

[FR Doc. 82-401 Filed 1-7-82; 8:45 am]

BILLING CODE 4310-84-M

National Park Service

World Heritage Nomination Process; Calendar Year 1982

AGENCY: National Park Service, Interior.

ACTION: Public notice and request for Comment.

SUMMARY: The Department of the Interior, through the National Park Service, announces the process that will be used in calendar 1982 to identify and prepare U.S. nominations to the World Heritage List. This notice lists the properties that were earlier included in the draft inventory of potential future U.S. World Heritage nominations, and solicits public comments and suggestions on properties that should be considered as potential U.S. World Heritage nominations this year. This notice identifies the requirements that U.S. properties must satisfy to be considered for nomination, and references the rules that the Department of the Interior has proposed to implement the World Heritage Convention. In addition, this notice contains the criteria which cultural or natural properties must satisfy for World Heritage status, and the 112 properties currently inscribed on the World Heritage List.

DATES: Comments or suggestions of cultural or natural properties as potential 1982 U.S. World Heritage nominations must be received on or before March 9, 1982. Comments should pertain to the merits of properties included on the draft inventory or others which the respondent believes should be considered for nomination to the World Heritage List in 1982. Comments should also specify how the recommended property satisfies one or more of the World Heritage criteria. The Department will select and publish in the *Federal Register* a list of potential U.S. World Heritage Nominations for 1982 on or before April 15, 1982, with a request for further public comment. Comments on the potential U.S. nominations must be received within 30 days of the April notice. The Department will publish in the *Federal Register* a final list of proposed 1982 U.S. World Heritage nominations on or before July 1, 1981. A detailed nomination document will be prepared for each proposed nomination. In November 1982, the Federal Interagency Panel will review the accuracy and completeness of the draft 1982 U.S. nominations, and will make recommendations to the Department of the Interior. The Assistant Secretary for Fish and Wildlife and Parks will subsequently transmit approved nomination(s) on behalf of the United States to the United Nations Educational, Scientific and Cultural Organization, through the Department of State, by December 15, 1982, for evaluation by the World Heritage Committee in a process that could lead

to inscription on the World Heritage List by fall 1983.

ADDRESS: Comments or suggestions should be sent to the Director, National Park Service, U.S. Department of the Interior, Washington, D.C. 20240 (Attention: World Heritage Convention/773).

FOR FURTHER INFORMATION CONTACT: Mr. Robert A. Ritsch, Acting Associate Director, National Park Service, U.S. Department of the Interior, Washington, D.C. 20240 (202-343-4462).

SUPPLEMENTARY INFORMATION: The Convention Concerning the Protection of the World Cultural and Natural Heritage, ratified by the United States and 60 other countries as of this date, has established a system of international cooperation through which cultural and natural 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 an elected 21-member World Heritage Committee assisted by 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 to assist participating countries in identifying, preserving, and protecting 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 importance of heritage conservation at the international level.

Participating nations identify and nominate their sites for inclusion on the World Heritage List, which currently includes 112 cultural and natural properties. The World Heritage Committee judges all nominations against established criteria, which are listed later in this notice. 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.

The Federal Interagency Panel for World Heritage makes recommendations on U.S. World Heritage policy, procedures, and nominations, and is chaired by the Assistant Secretary for Fish and Wildlife and Parks. 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.

In the United States, the Interior Department is responsible for directing and coordinating U.S. participation in the World Heritage Convention. The Department implements its responsibilities under the Convention in accordance with the statutory mandate contained in Title IV of the National Historic Preservation Act Amendments of 1980 (Pub. L. 96-515; 16 U.S.C. 470a-1, a-2). On October 20, 1981, the Interior Department published in the *Federal Register* the policies and procedures which it proposes to use to carry out this legislative mandate (46 FR 51557). The proposed rules contain additional information on the Convention and its implementation in the United States, and identify the specific requirements that U.S. properties must satisfy before they can be nominated for World Heritage status, i.e., the property must have previously been determined to be of national significance, its owner must concur in writing to its nomination, and its nomination must include evidence of such legal protections as may be necessary to ensure preservation of the property and its environment.

I. Potential U.S. World Heritage Nominations

The Department encourages any agency, organization, or individual to submit written comments on how one or more properties on the draft U.S. World Heritage inventory which follows, or other qualified property, relates to and satisfies one or more of the World Heritage criteria (Section II of this notice). In order for a United States property to be considered for nomination to the World Heritage List, it must satisfy the requirements set forth earlier, i.e., (a) it must have previously been determined to be of national significance; (b) its owner must concur in writing to such nomination; and (c) its nomination document must include

evidence of such legal protections as may be necessary to preserve the property and its environment. Information provided by interested parties will be used in evaluating the World Heritage potential of a particular cultural or natural property.

The following properties were published in the Federal Register in the draft inventory of potential future U.S. World Heritage nominations (46 FR 43892). The National Park Service is currently compiling a final U.S. inventory, using comments and suggestions that were made on the draft inventory. The September 1, 1981, draft inventory discussed briefly the significance of each site, and identified the specific World Heritage criteria that the sites appeared to satisfy. The properties included on the draft inventory are as follows:

A. Cultural Properties (grouped alphabetically by theme):

Archeology: Cape Krusenstern Archeological District, Alaska; Casa Grande National Monument, Arizona; Chaco Culture National Historical Park, New Mexico; Poverty Point, Louisiana; Taos Pueblo, New Mexico.

European Exploration and Colonial Settlement: Columbus Landing Site, Virgin Islands; La Fortaleza-San Juan National Historic Site, Puerto Rico; San Xavier Del Bac, Arizona; Vieux Carre Historic District, Louisiana.

Early U.S. Architecture: Monticello, Charlottesville, Virginia; University of Virginia Historic District, Charlottesville;

Modern U.S. Architecture: Auditorium Building, Chicago, Illinois; Carson, Pirie, Scott and Company Store, Chicago; Leiter II Building, Chicago; Marquette Building, Chicago; Prudential (Guaranty) Building, Buffalo, New York; Reliance Building, Chicago; Rookery Building, Chicago; South Dearborn Street-Printing House Row North Historic District, Chicago; Wainwright Building, St. Louis, Missouri.

Wright School Architecture: Fallingwater, Pennsylvania; Robie House, Chicago; Taliesin, Wisconsin; Unity Temple, Oak Park, Illinois; Frank Lloyd Wright Home and Studio, Illinois.

Engineering: Brooklyn Bridge, New York City; Eads Bridge, Illinois-St. Louis, Missouri; Washington Monument, District of Columbia; Wheeling Suspension Bridge, West Virginia.

Science and Industry: Bell Telephone Laboratories, New York City; Drake Oil Well, Pennsylvania; Ether Dome, Massachusetts General Hospital, Boston; General Electric Research Laboratory, Schenectady, New York; Goddard Rocket Launching Site, Massachusetts; Lowell Observatory,

Arizona; McCormick Farm and Workshop, Virginia; Pupin Physics Laboratories, Columbia University, New York City; Trinity Site, New Mexico.

Humanitarian Endeavor and Social Reform: Kalaupapa Leprosy Settlement, Hawaii; New Harmony Historic District, Indiana; Volta Bureau, District of Columbia; Warm Springs Historic District, Georgia.

International Relations: Aleutian Islands Unit of the Alaska Maritime National Wildlife Refuge (Fur Seal Rookeries), Alaska; Statue of Liberty National Monument, New York/New Jersey.

B. Natural Properties (grouped alphabetically by natural region):

Appalachian Ranges: Great Smoky Mountains National Park, Tennessee/North Carolina;

Atlantic Coastal Plain: Okefenokee National Wildlife Refuge, Georgia/Florida;

Brooks Range: Arctic National Wildlife Range, Alaska; Gates of the Arctic National Park, Alaska.

Cascade Range: Crater Lake National Park, Oregon; Mount Rainier National Park, Washington; North Cascades National Park, Washington.

Chihuahuan Desert: Big Bend National Park, Texas; Carlsbad Caverns National Park, New Mexico; Guadalupe Mountains National Park, Texas.

Colorado Plateau: Arches National Park, Utah; Bryce Canyon National Park, Utah; Canyonlands National Park, Utah; Colorado National Monument, Colorado; Rainbow Bridge National Monument, Utah; Zion National Park, Utah.

Hawaiian Islands: Hawaii Volcanoes National Park, Hawaii.

Mohave Desert: Death Valley National Monument, California/Nevada.

Pacific Mountain System: Aleutian Islands Unit of the Alaska Maritime National Wildlife Refuge, Alaska; Denali National Park, Alaska; Glacier Bay National Park, Alaska; Katmai National Park, Alaska.

Rocky Mountains: Glacier National Park, Montana; Grand Teton National Park, Wyoming; Rocky Mountain National Park, Colorado.

Sierra Nevada: Sequoia/Kings Canyon National Parks, California; Yosemite National Park, California.

Sonoran Desert: Organ Pipe Cactus National Monument/Cabeza Prieta National Wildlife Range, Arizona; Saguaro National Monument, Arizona.

Additional information on each of the properties listed above may be found in the September 1, 1981, Federal Register notice (46 FR 43892), which includes a description of the properties on the draft U.S. World Heritage inventory. This notice is available from the National

Park Service (See addresses). Written comments are welcome on these and other qualified properties.

II. World Heritage Criteria

The following criteria are used by the World Heritage Committee in evaluating 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: A monument, group of buildings or site which is nominated for inclusion on 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:

(a)(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 and tangibly associated with events or with ideas or beliefs of outstanding universal value; and

(b) Meet the test of authenticity in design, materials, workmanship or setting.

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: (a) The state of preservation of the property should be evaluated relatively, that is, it should be compared with other property of the same type dating from the same period; and (b) 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: A natural heritage property which is submitted for inclusion on 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*. This category would include sites which represent the major eras of geological history such as "the age of reptiles" where the development of the planet's natural diversity can well be demonstrated and such as the "ice age" where early man and his environment underwent major changes; 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 freshwater bodies. This category would include for example (a) as geological processes, glaciation and volcanism, (b) as biological evolution, examples of biomes such as tropical rainforests, deserts, and tundra, and (c) as interaction between man and his natural environment, terraced agricultural landscapes; 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, sweeping vistas covered by natural vegetation and exceptional combinations of natural and cultural elements; or

(iv) Contain *the foremost natural habitats where threatened species of animals and plants of outstanding universal value* from the points of view of science or conservation still survive.

In addition to the above criteria, the sites should also fulfill the conditions of integrity:

(i) The areas described in (i) above 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 (ii) above should have sufficient size and contain the necessary elements to demonstrate the key aspects of the process and to be self-perpetuating. For example, an area of "tropical rainforest" 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 (iii) above 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 streamflow or ocean currents which provide its nutrients.

(iv) The area containing threatened species as described in (iv) above should be of sufficient size and contain necessary habitat requirements for the survival of the species.

(v) In the case of migratory species, seasonable 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.

III. World Heritage List

The World Heritage Committee has approved the following 112 cultural and natural properties for inscription on the World Heritage List. The properties are arranged alphabetically by the country which nominated them:

- Algeria:* Al Qal'a of Ben Hammad;
- Argentina:* Los Glaciares;
- Australia:* Great Barrier Reef; Kakadu National Park; Willandra Lakes Region;
- Brazil:* Historic Town of Ouro Preto;
- Bulgaria:* Boyana Church; Madara Rider; Rock-hewn Churches of Ivanovo; Thracian Tomb of Kazanlak;
- Canada:* Anthony Island; Burgess Shale Site; Dinosaur Provincial Park; Head-Smashed-In Bison Jump; L'Anse aux Meadows; Nahanni National Park;
- Cyprus:* Paphos;
- Ecuador:* Galapagos National Park; Historic Center of Quito;
- Ethiopia:* Aksum; Fasil Ghebbi, Gondar Region; Lower Valley of the Awash; Lower Valley of the Omo; Rock-hewn Churches of Lalibela; Simen National Park; Tiya;
- Egypt:* Abu Mena; Ancient Thebes with its Necropolis; Islamic Cairo; Memphis and its Necropolis—the Pyramid Fields from Giza to Dahshur; Nubian Monuments from Abu Simbel to Philae;
- Federal Republic of Germany:* Aachen Cathedral; Speyer Cathedral; Wurzburg

Residence with the Court Gardens and Residence Square;

France: Amiens Cathedral; Chartres Cathedral; Chateau and Estate of Chambord; Cistercian Abbey of Fontenay; Decorated Grottoes of the Vezere Valley; Mont St. Michel and its Bay; Palace and Park of Fontainebleau; Palace and Park of Versailles; Roman and Romanesque Monuments of Arles; The Roman Theatre and its Surroundings and the Triumphal Arch of Orange; Vezelay, Church and Hill;

Ghana: Ashante Traditional Buildings; Forts and Castles, Volta Greater Accra.

Guatemala: Antigua; Archeological Park and Ruins of Quirigua; Tikal National Park;

Guinea: Nimba Strict Nature Reserve;

Honduras: Maya Site of Copan;

Iran: Median-e Sha, Esfahan; Persepolis; Tchogha Zanbil;

Italy: Church and Dominican Convent of Santa Maria delle Grazie with "The Last Supper" by Leonardo da Vinci; Historic Centre of Rome; Rock Drawings in Valcamonica;

Malta: City of Valetta; Ggantija Temples; Hal Saflieni Hypogeum;

Morocco: Medina of Fez;

Nepal: Kathmandu Valley; Sagarmatha National Park;

Norway: Bryggen; Roros; Urnes Stave Church;

Pakistan: Archeological Ruins at Mohenjodaro; Buddhist Ruins at Takht-i-Bahi and Neighboring City Remains at Sahr-i-Bahlol; Fort and Shalimar Gardens at Lahore; Thatta; Taxila;

Panama: Darien National Park; Fortifications on the Caribbean Side of Panama-Portobelo San Lorenzo;

Poland: Auschwitz Concentration Camp; Bialowieza National Park; Historic Centre of Cracow; Historic Centre of Warsaw; Wieliczka Salt Mines;

Senegal: Djoudj National Bird Sanctuary; Island of Goree; Niokolo-Koba National Park;

Syrian Arab Republic: Ancient City of Bosra; Ancient City of Damascus; Site of Palmyra;

Tanzania: Ngorongoro Conservation Area; Ruins of Kilwa Kisiwani and Ruins of Songa Mnara; Serengeti National Park;

Tunisia: Amphitheatre of El Djem; Archeological Site of Carthage; Ichkeul National Park; Medina of Tunis;

United States of America: Everglades National Park; Grand Canyon National Park; Independence Hall; Mammoth Cave National Park; Mesa Verde National Park; Olympic National Park; Redwood National Park; Yellowstone National Park;

Yugoslavia: Durmitor National Park; Historical Complex of Split with the Palace of Diocletian; Natural and Cultural-Historical Region of Kotor; Ohrid Region with its Cultural and Historical Aspects and its Natural Environment; Old City of Dubrovnik; Plitvice Lakes National Park; Stari Ras and Sopocani;

Zaire: Garamba National Park; Kahuzi-Biega National Park; Virunga National Park;

International—Canada/U.S.: Kluge National Park-Wrangell/St. Elias National Park, and

Old City of Jerusalem and Its Walls (Territory in dispute).

Dated: January 4, 1982.

G. Ray Arnett,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 82-507 Filed 1-7-82; 8:45 am]

BILLING CODE 4310-70-M

Office of Surface Mining Reclamation and Enforcement

Address Changes for Office of Surface Mining Operations

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Notice of address changes for Office of Surface Mining operations.

SUMMARY: On May 21, 1981 Interior Secretary James Watt announced a reorganization of the Office of Surface Mining (OSM). The reorganization is being completed in stages as States assume primary responsibility for enforcing the Surface Mining Control and Reclamation Act of 1977. All western States have achieved primacy and OSM operations in the West are being reorganized into four State Offices and one Technical Service Center. OSM's regional offices in Kansas City, Missouri and Denver, Colorado will be closed.

DATE: Effective date: January 11, 1982.

ADDRESSES: The following addresses and telephone numbers are effective on January 11, 1982.

New Mexico State Office

FTS Telephone: 736-7927

Commercial Telephone: (505) 766-1486

Address: Office of Surface Mining, New Mexico State Office, 219 Central NW., Albuquerque, New Mexico 87102

Wyoming State Office

FTS Telephone: 328-5776

Commercial Telephone: (307) 261-5550-Ext. 5776

Address: Office of Surface Mining, Wyoming State Office, Freden

Building, 935 Pendell Boulevard, Mills, Wyoming 82644

Oklahoma State Office

FTS Telephone: 736-7927

Commercial Telephone: (918) 581-7927

Address: Office of Surface Mining,

Oklahoma State Office, Room 3432, 333 West 4th Street, Tulsa, Oklahoma 74103

Missouri State Office

FTS Telephone: 758-5527

Commercial Telephone: (816) 374-5527

Address: Office of Surface Mining,

Missouri State Office, Scarritt Building, 818 Grand Avenue, Kansas City, Missouri 64106

Denver Technical Service Center

FTS Telephone: 327-5511

Commercial Telephone: (303) 837-5511

Address: Office of Surface Mining,

Technical Service Center, Brooks Tower, 1020 15th Street, Denver, Colorado 80202

FOR FURTHER INFORMATION CONTACT:

Ray Booker, Program Evaluation Officer, Office of the Director, (202) 343-4781.

Dated: January 4, 1982.

J. Steven Griles,

Deputy Director, Office of Surface Mining.

[FR Doc. 82-436 Filed 1-7-82; 8:45 am]

BILLING CODE 4310-05-M

INTERNATIONAL COMMUNICATION AGENCY

Advisory Commission on Public Diplomacy; Meeting

A meeting of the U.S. Advisory Commission on Public Diplomacy will be held on January 12-13, 1982 in the Commission's offices, Room 1008, 1750 Pennsylvania Avenue, N.W., Washington, D.C. For Further information, please call Elizabeth Fahl, 724-9243.

Jane S. Grymes,

Management Analyst, Management Analysis/Regulations Staff, Associate Director for Management, International Communication Agency.

[FR Doc. 82-445 Filed 1-7-82; 8:45 am]

BILLING CODE 8230-01-M

INTERSTATE COMMERCE COMMISSION

Motor Carriers; Intent To Engage in Compensated Intercorporate Hauling Operations

This is to provide notice as required by 49 U.S.C. 10524(b)(1) that the named corporations intend to provide or use compensated intercorporate hauling

operations as authorized in 49 U.S.C. 10524(b).

1. Parent Corporation and address of principal office: Columbia Distributing Corporation (CDC), 1009 Airport Blvd., P.O. Box 996, Columbia, SC 29202.

2. Wholly-owned Subsidiary and address of principal office: Columbia Distributing Corporation of Charlotte, Inc., 217 Southside Dr., Charlotte, NC 28210.

1. Parent Corporation and address of principal office: Dart & Kraft, Inc., 2211 Sanders Road, Northbrook, IL 60062.

2. Wholly-owned subsidiaries which will participate in the operations, and State(s) of incorporation:

(A) Dart Industries Inc. (Delaware) and the following divisions:

- (1) Absorbent Cotton Company.
- (2) Action Technology Company.
- (3) American Gasket & Rubber Co.
- (4) Aztec Chemicals.
- (5) Capitol Controls Company.
- (6) Catalyst Division.
- (7) Colorite Plastics Company.
- (8) Coppercraft Guild.
- (9) Dart Resorts.
- (10) Electrochemicals.
- (11) Environmental & Research/Lancy.
- (12) Equipment Systems Division.
- (13) Fiberfil Company.
- (14) Gering Products.
- (15) Interpur International.
- (16) Liggett Drug Company.
- (17) Nappe/Babcock.
- (18) Plastech Alloys Division.
- (19) PureChem.
- (20) Ralph Wilson Plastics Co.
- (21) Rexcel.
- (22) San Fernando Laboratories.
- (23) Seamco Sporting Goods.
- (24) Seamless Hospital Products.
- (25) Styro Products.
- (26) Synthetic Products Company.
- (27) Thatcher Glass Manufacturing Co.

(28) Thatcher Plastic Packaging.

(29) Thermo-Serv Company.

(30) The West Bend Company.

(31) Thompson Industries Co.

(32) Tupco.

(33) Tupcraft Company.

(34) Tupperware Home Parties.

(35) Tupperware Manufacturing International.

(36) U.S. Operations Tupperware Company.

(37) Vanda Beauty Counselor-U.S.

(38) Ware Chemical Company.

(39) Wilson Products Company.

(B) Duracell International Inc.

(Delaware) and the following divisions:

- (1) Duracell Company, U.S.A.
- (2) Laboratory for Physical Science.
- (3) Lithium Systems Division.
- (4) Battery Technology Company.
- (C) Hobart Corporation (Delaware).

(D) Kraft, Inc. (Delaware) and the following groups (divisions):

- (1) Dairy Group.
- (2) Foodservice Group.
- (3) Industrial Group.
- (4) Operations Group.
- (5) Retail Group.
- (6) Humko-Sheffield Division.

(E) Universal Packaging Corporation (Delaware).

(F) Universal Bow Transport, Inc. (New Hampshire).

1. Parent corporation and address of principal office: DEKALB AgResearch, Inc., Sycamore Road, DeKalb, IL 60115.

2. Wholly-owned subsidiaries which will participate in the operations, and State(s) of incorporation:

(i) DEKALB Swine Breeders, Inc. (Delaware).

(ii) Lindsay Manufacturing Company (Delaware).

(iii) Heartland Hatcheries, Inc. (Indiana).

(iv) Hillcrest Hatcheries, Inc. (Delaware).

(v) Ridgeview Hatcheries, Inc. (Delaware).

1. Parent corporation and address of principal office: Fluor Corporation, 3333 Michelson Drive, Irvine, California 92730.

2. Wholly-owned subsidiaries which will participate in the operations and States of incorporation:

(i) Aftermarket Diesel, Inc., a South Carolina corporation.

(ii) Amarillo Freightliner Sales, Inc., a Texas corporation.

(iii) Deer Park Equipment Company, a California corporation.

(iv) Fluor Alaska, Inc., an Alaska corporation.

(v) Fluor Canada Ltd., incorporated in Canada.

(vi) Fluor Constructors, Inc., a California corporation.

(vii) Fluor Distribution Companies, Inc., a California corporation.

(viii) Fluor Drilling Services, Inc., a California corporation.

(ix) Fluor Engineers and Constructors, Inc., a California corporation.

(x) Fluor Mining & Metals, Inc., a California corporation.

(xi) Fluor Northwest, Inc., an Alaska corporation.

(xii) Fluor Pipe and Piling Company, a Delaware corporation.

(xiii) Fluor Power Services, Inc., a Delaware corporation.

(xiv) Fluor Supply Company, a Texas corporation.

(xv) Goldston Inc., a North Carolina corporation.

(xvi) Goldston Transfer, Inc., a North Carolina corporation.

(xvii) Jacksonville Freightliner, Inc., a Florida corporation.

(xviii) Kilsby-Roberts Co., an Illinois corporation.

(xix) Liquefied Coal Development Corporation, a California corporation.

(xx) Oklahoma City Freightliner, Inc., an Oklahoma corporation.

(xxi) Republic Supply Company of California (The), a California corporation.

(xxii) Triad Freightliner, Inc., a North Carolina corporation.

1. Parent corporation and address of principal office: Imperial Sugar Company, P.O. Box 9, Sugar Land, TX 77478.

2. Wholly-owned subsidiaries which will participate in the operations, and address of their respective principal offices:

(a) CSCO, Inc., P.O. Box 449, Galveston, TX 77550.

(b) Fort Bend Utilities Company, P.O. Box 9, Sugar Land, TX 77478.

(c) Imperial Sweetener Distributors, Inc., P.O. Box 9, Sugar Land, TX 77478.

1. The parent corporation and address of the principal office: Kayser-Roth Corporation, 640 Fifth Avenue, New York, NY 10019.

2. Wholly-owned subsidiaries which will participate in the operations, and State of Incorporation.

(i) Kayser-Roth Industries, Inc. a Massachusetts Corporation, Plimpton Park, Norwood, Massachusetts.

(ii) W. Stanhouse Sons, Inc., a Delaware Corporation, 100 W. Tenth Street, Wilmington, Delaware.

(iii) Kayser-Roth Corporation, a Delaware Corporation, 640 Fifth Avenue, New York, New York.

(iv) L & L Manufacturing Corp., a Massachusetts Corporation, 1235 Adam Street, Dorchester, Massachusetts.

(v) Excello Shirts, Inc., a New York Corporation, 1221 Avenue of the Americas, New York, New York.

(vi) Haleyville Textile Mills, Inc. an Alabama Corporation, 717-20 First National Bank Building, Montgomery, Alabama.

(vii) Her Majesty Industries, Inc., a Delaware Corporation, Mauldin, South Carolina.

(viii) Kayser-Roth Glove Company, Inc. a North Carolina Corporation, Suite 523, 111 Coccoran Street, Durham, N.C.

(ix) Kayser-Roth Men's Apparel, Inc. a Delaware Corporation, 100 West 10th Street, Wilmington, Delaware.

(x) Rolane Corporation, a Delaware Corporation, Greensboro, North Carolina.

(xi) S.L.S. Corp., a Delaware Corporation, Pageland, South Carolina.

(xii) Allendale Industries, Inc., a New York Corporation, 1350 Broadway, New York, New York.

(xiii) Ardmore Industries, Inc., a Tennessee Corporation, Ardmore, Tennessee.

(xiv) Century Curtain Company, Inc., a Delaware Corporation, 295 Fifth Avenue, New York, New York.

(xv) Century Mills, Inc., a North Carolina Corporation, Burlington, North Carolina.

(xvi) Champion Slacks, Inc., a New York Corporation, 640 Fifth Avenue, New York, New York.

(xvii) Colonial Corporation of America, a Delaware Corporation, 100 West Tenth Street, Wilmington, Delaware.

(xix) Kayser-Roth Intimate Apparel Company, Inc., a North Carolina Corporation, Suite 523, 111 Coccoran Street, Durham, North Carolina.

(xx) No Nonsense Fashions, Inc., a New York Corporation, 640 Fifth Avenue, New York, New York.

I. Parent corporation and address of principal office: Martin Gas Sales, Inc., P.O. Drawer 191, Kilgore, TX 75662.

II. Wholly-owned subsidiaries which will participate in the operations, and States of incorporation:

A. Martin Gas Transport, Inc.—Texas Corporation.

B. Heavy Fuels, Inc.—Texas Corporation.

C. Martin Truck Leasing, Inc.—Texas Corporation.

1. Billy R. Ramsey and Carolyn Sue Ramsey, 604 Hudson Road, Chattanooga, TN 37405, own 100% of the stock of the subsidiaries named below.

2. The wholly-owned subsidiaries that will participate in the operations, and their states of incorporation are as follows:

(a) Ramsey Trucking, Inc., 604 Hudson Road, Chattanooga, TN 37405, a Tennessee corporation.

(b) Mid-South Recycling Corporation, 604 Hudson Road, Chattanooga, TN 37405, a Tennessee corporation.

1. Parent corporation and address of principal office: Ross Consolidated Corp., 394 Giles Road, Grafton, OH 44044.

2. Wholly-owned subsidiaries which will participate in the operations, and State(s) of incorporation:

(i) Ross Incineration Services, Inc.—Ohio corporation;

(ii) Ross Transportation Services, Inc.—Ohio corporation; and

(iii) Ross Administrative Services, Inc.—Ohio corporation.

1. Parent corporation and address of principal office: The Salt Lake Hardware Co., a Utah corporation, 105 North 400 West, P.O. Box 1079, Salt Lake City, UT 84110.

2. Wholly-owned subsidiaries which will participate in the operations, and State(s) of incorporation: Mountain Transport, Inc., a Utah corporation, 105 North 400 West, Salt Lake City, UT 84110.

1. Parent Corporation and address of principal office: SCA Services, Inc., 60 State Street, Boston, Massachusetts 02109.

2. Wholly-owned subsidiaries which will participate in the operations, and State(s) of incorporation:

Name of Subsidiary and State of Incorporation

A.A. Mastrangelo, Inc.—New Jersey
 Amphibian Realty, Inc.—New York
 Avon Landfill Corporation—New Jersey
 B & C Distribution Services, Inc.—Massachusetts
 CAS Service Corp.—California
 Chem-Trol Pollution Services, Inc.—Delaware
 Chula Vista Sanitary Services, Inc.—California
 Dewey's Rubbish Service—California
 East Yolo Waste Disposal Co., Inc.—California
 Great Western Reclamation, Inc.—California
 Harmony Sanitary Landfill Co.—Pennsylvania
 J.K. Municipal Services, Inc.—Massachusetts
 Industrial Haulage Corp.—New Jersey
 Instant Disposal Service, Inc.—New Jersey
 Intercity Service, Incorporated—New Jersey
 Interstate Waste Removal Co., Inc.—New Jersey
 Laguana Beach Disposal Service—California
 Landfill & Development Company—New Jersey
 Mar-Tee Contractors, Inc.—New Jersey
 Mobile Waste Controls, Inc.—Delaware
 Modern Trash Removal of York, Inc.—Pennsylvania
 Mohawk Valley Sanitation, Inc.—New York
 Oklahoma City Disposal, Inc.—Oklahoma
 Palm Desert Disposal Service, Inc.—California
 Rabwil Corp.—Pennsylvania
 Recycling Industries, Inc.—Massachusetts
 Rite-Way Service, Inc.—Pennsylvania
 Sani-Tainer, Inc.—California
 SAWDCO—California
 SCA Chemical Services, Inc.—Delaware
 SCA Disposal Services of New England, Inc.—Massachusetts
 SCA Services of Arizona, Inc.—Arizona
 SCA Services of Colorado, Inc.—Colorado
 SCA Services of Connecticut, Inc.—Connecticut

SCA Services of Florida, Inc.—Florida
 SCA Services of Georgia, Inc.—Georgia
 SCA Services of Illinois, Inc.—Illinois
 SCA Services of Indiana, Inc.—Indiana
 SCA Services of Kentucky, Inc.—Kentucky
 SCA Services of Louisiana, Inc.—Louisiana
 SCA Services of Maine, Inc.—Maine
 SCA Services of Michigan, Inc.—Michigan
 SCA Services of New Hampshire, Inc.—Connecticut
 SCA Services of New Jersey, Inc.—New Jersey
 SCA Services of Ohio, Inc.—Ohio
 SCA Services of Passaic, Inc.—New Jersey
 SCA Services of Pennsylvania—Pennsylvania
 SCA Services of South Carolina—South Carolina
 SCA Services of Tennessee, Inc.—Tennessee
 SCA Services of Texas, Inc.—Texas
 SCA Services of Wisconsin, Inc.—Wisconsin
 SCAT, Inc.—South Carolina
 Shayne Bros., Inc.—District of Columbia
 South Carolina SCA Services, Inc.—South Carolina
 System Disposal Services, Inc.—Delaware
 United Carting Company, Inc.—New Jersey
 United Disposal Corp.—District of Columbia
 Violet Leasing Company, Inc.—California
 Waste Disposal, Inc.—New Jersey
 Zeigler's Liquid Waste Management, Inc.—Pennsylvania
 Zeigler's Refuse Collector's, Inc.—Pennsylvania
 SCA Services of Oregon, Inc.—Oregon
 Adams Center Sanitary Landfill, Inc.—Indiana
 J.K. Municipal Services of New Jersey, Inc.—New Jersey
 J.K. Municipal Services of Rhode Island, Inc.—Rhode Island
 SCA Services of Maryland, Inc.—Maryland
 River Basin Waste Disposal, Inc.—Maine
 Agatha L. Mergenovich,
 Secretary.

[FR Doc. 82-494 Filed 1-7-82; 8:45 am]
 BILLING CODE 7035-01-M

[Ex Parte No. MC-43]

Motor Carriers; Lease and Interchange of Vehicles by Motor Carriers

Decided: December 23, 1981.

The Kaplan Trucking Company
 (Certificate No. MC-2304 and Permit No.

MC-127070) and Dan's Transit, Inc., (Certificate No. MC-135306) have filed a petition for waiver of paragraph (e) of § 1057.22 of the Lease and Interchange of Vehicles Regulations (49 CFR Part 1057) which requires a simple written agreement between authorized carriers signed "by the parties or their authorized representatives" affixing control and responsibility on the lessee during the trip lease and an exchange of equipment receipts during transfer.

Findings

1. Petitioners are commonly controlled.

2. Petitioners have not justified granting of the waiver. If granted, waiver would permit the owner-operator to act as a party with the authorized carrier lessee to the trip lease. The exemption is available only to authorized carriers.

3. The legal relationship between the authorized carrier trip lessor and the owner-operator is governed by Subpart B, or §§ 1057.11 and 1057.12 of the leasing regulations.

4. Paragraph (c) of § 1057.12 that requires the owner-operator be under a permanent lease for at least 30 days exclusively to the authorized carrier-lessee who under the § 1057.22 exemption would be the trip lessor. There is no basis for waiving paragraph (c).

5. Paragraph (e) of § 1057.12 provides that a permanent lease between the owner-operator and authorized carrier lessee fix responsibility for compensation on the authorized carrier lessee. There is likewise no basis for waiving this paragraph.

6. Paragraph (g) of § 1057.12 requires that the permanent lease obligate the authorized carrier lessee (who is the authorized trip lessor under § 1057.22) to compensate the permanent lessor or owner-operator within 15-days "after submission of the necessary delivery documents and other paperwork." Again, there is no basis for waiving this paragraph.

It is ordered, That the petition of Kaplan Trucking Company (Certificate No. MC-2304 and Permit No. 127070) Dan's Transit, Inc. (Certificate No. MC-135306) is denied.

By the Commission, Motor Carrier Leasing Board, Board Members J. Warren McFarland, Bernard Gaillard, and John H. O'Brien, Board Member McFarland not participating.

Agatha L. Mergenovich,
 Secretary.

[FR Doc. 82-500 Filed 1-7-82; 8:45 am]
 BILLING CODE 7035-01-M

Motor Carriers; Long- and Short-Haul Application for Relief (Formerly Fourth Section Application)

January 4, 1982.

This application for long- and short-haul relief has been filed with the I.C.C. Protests are due at the I.C.C. within 15 days from the date of publication of the notice.

No. 43950, Southwestern Freight Bureau, Agent (No. B-146), carload rates on cottonseed hulls between stations in Southwestern Territory, including Mississippi River Crossings Memphis, TN and South; also between points in Southwestern Territory, on the one hand, and stations in Illinois and Western Trunk Line Territory, on the other hand, and only for account of the BN and/or FWD, in Supplement 206 to its tariff ICC SWFB 4450, effective January 24, 1982. Grounds for relief—Origin Rate Relationship.

By the Commission.
Agatha L. Mergenovich,
Secretary.

[FR Doc. 82-495 Filed 1-7-82; 8:45 am]

BILLING CODE 7035-01-M

[Volume No. 217]

Motor Carriers; Permanent Authority Decisions; Restriction Removals; Decision-Notice

Decided: January 5, 1982.

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 88747.

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 15242 (Sub-14)X, filed December 16, 1981. Applicant: CAUTHEN GIN & BAG CO., Route 4, Box 550, Monroe, NC 28110. Representative: Eric Meierhoefer, Suite 1009, 1029 Vermont Avenue, NW, Washington, D.C. 20005. Subs 8, 9F, 12F, and 13F, broaden: (1) Sub 8, textile products and materials and supplies used in the manufacture of textile products (except in bulk) to "textile mill products"; vinyl film and sheeting, and materials and supplies used in the manufacture of vinyl film and sheeting (except in bulk) to "rubber and plastic products"; liquid detergents and abrasives, and materials and supplies used in the manufacture of liquid detergents and abrasives (except in bulk) to "chemicals and related products"; Sub 9F, textile products, and equipment, materials, and supplies used in the manufacture of textile products (except in bulk) to "textile mill products"; Sub 12F, textile products to "textile mill products"; Sub 13, office furniture to "furniture and fixtures"; (2) replace the facilities and cities with county-wide authority, Sub 8, York County, PA (York, PA), Essex, Union, Hudson and Bergen Counties, NJ (Fairfield, Jersey City and Elizabeth, NJ), Sub 9F, Cherokee, Greenville, Pickens, Anderson, Spartanburg, Union and Laurens Counties, SC (Gaffney, Greenville and Spartanburg, SC), Mecklenburg, Union, Gaston, Cabarrus, Rowan, Halifax and Robeson Counties, NC (Charlotte, Roanoke Rapids, Salisbury, Pineville, Monroe, and Lumberton, NC); Sub 12F, Suffolk County, NY (Bay Shore, NY); and Sub 13, New York City, NY (facilities at or near Brooklyn, NY); and (3) to radial authority, Subs 8, 9F, and 13.

MC 36974 (Sub-14)X, filed December 17, 1981. Applicant: HMIELESKI TRUCKING CORP., 108 New Era Drive, South Plainfield, NJ 07080. Representative: Morton E. Kiel, Suite 1832, Two World Trade Center, New York, NY 10048. Lead and Subs 4, 5, 7, 8, 9, 10, 11F, 12F, and 13F certificates: (1) broaden (a) general commodities (with the usual exceptions) to "general commodities" (except classes A and B explosives), lead (part 1) and Subs 7, 8 (part 1), 10 (part 1), 11F, 12F, and 13F; (b) lubricating oil and grease to "petroleum, natural gas and their products." lead (part 2); (d) lumber to "lumber and wood

products," lead (part 3); (e) roofing slate to "clay, concrete, glass or stone products," lead (part 4); (f) anthracite to "coal and coal products," lead (part 5); (g) prepared roofing and asphalt to "building materials, ores and minerals, and petroleum, natural gas and their products," lead (part 6); (h) wire, cable, rods, and materials and supplies to "metal products, and materials and supplies," lead (part 7); (i) asphalt, meats, sugar, dairy products, and scrap metals to "ores and minerals, petroleum, natural gas and their products, food and related products, and waste or scrap materials," Sub 4 (part 1); (j) lead and lead products, and clay products to "metal products and clay, concrete, glass or stone products," Sub 4 (part 2); (k) ventilating and heating equipment and supplies to "machinery equipment and supplies," Sub 8 (part 2); and (1) new and used household appliances (Sub 5) and household appliances (Sub 10) to "machinery"; (2) eliminate restrictions, in containers, in rolls, in drums, lead, and except commodities in bulk, Sub 9; (3) remove the facilities limitation, Sub 9; (4) change one-way to radial authority, lead and Subs 4, 5, 9 and 10; (4) change cities to counties: (a) Point Pleasant, NJ (Ocean County), points in that part of Middlesex County, NJ east of NJ highway 18 (Middlesex County), Bayway, NJ (Essex and Union Counties), Sewaren, NJ (Middlesex County), East Stroudsburg, PA (Monroe County, PA and Warren County, NJ), Olyphant, PA (Lackawanna County), Wilkes Barre, PA (Luzerne County), Scranton, PA (Lackawanna County), Harrisburg, PA (Dauphin, Cumberland, and Perry Counties), Bangor, PA (Northampton County), Pen Argyl, PA (Northampton and Monroe Counties), Hazleton, PA (Luzerne and Carbon Counties), Port Newark, NJ (Essex County), Binghamton, NY (Broome County, NY and Susquehanna County, PA), Elmira, NY (Chemung County, NY and Bradford County, PA), Williamsport, PA (Lycoming County), Stroudsburg, PA (Monroe County, PA and Warren County, NJ), Centralia, PA (Columbia and Schuylkill Counties), Tamaqua, PA (Schuylkill County), Lansford, PA (Schuylkill and Carbon Counties), Allentown, PA (Lehigh and Northampton Counties), Reading, PA (Berks County), Sunbury, PA (Snyder, Northumberland, and Union Counties), Easton, PA (Northumberland County, PA and Warren County, NJ), Dunmore, Tamaqua, Mahoney City, and Blakely, PA and points within five miles thereof (Lackawanna, Schuylkill and Carbon Counties), Linden, NJ (Union, Essex and Middlesex Counties, NJ and Richmond

County, NY), Kearny, NJ (Hudson County), Stelton, NJ (Middlesex County), and Perth Amboy, NJ (Middlesex County NJ and Richmond County, NY), lead; Perth Amboy, NJ (Middlesex County NJ and Richmond County, NY), Sub 4; Edison, NJ (Middlesex County), Sub 5; Newark, NJ (Essex, Union, Hudson, Middlesex, Bergen and Passaic Counties, NJ and Kings, Nassau, Queens, Bronx, New York, Richmond, and Westchester Counties, NY), New Brunswick, NJ (Middlesex, Union, and Somerset Counties), points in NJ within 15 miles of New Brunswick (Middlesex, Monmouth, Mercer, Somerset, Morris, and Union Counties), and Chester, PA (Delaware County, PA and Gloucester County, NJ), Sub 8; Edison, NJ (Middlesex County), Sub 9; New Brunswick, NJ (Middlesex, Union and Somerset Counties), points within 15 miles of New Brunswick, (Middlesex, Monmouth, Mercer, Somerset, Morris and Union Counties, NJ and Richmond County, NY), and Langhorne, PA (Bucks County), Sub 10; New Brunswick, NJ (Middlesex, Union, and Somerset Counties), points within 15 miles of New Brunswick (Middlesex, Monmouth, Mercer, Somerset, Morris and Union Counties, NJ and Richmond County, NY) and Newark, NJ (Essex, Union, Hudson, Middlesex, Bergen and Passaic Counties, NJ and Kings, Nassau, Queens, Bronx, New York, Richmond, and Westchester Counties, NY), Subs 11F and 13F; South Plainfield, NJ (Middlesex and Union Counties) and East Brunswick, NJ (Middlesex County), Sub 12F; and Philadelphia, PA (Philadelphia, Montgomery, Chester, Delaware and Buck Counties, PA, Hunterdon, Mercer, Monmouth, Burlington, Camden, Gloucester and Salem Counties, NJ and New Castle County, DE), Lead and Subs 4, 8, and 10.

MC 42604 (Sub-9)X, filed December 21, 1981. Applicant: GEORGE HUSACK, INC., 167 Locust Drive, Schnecksville, PA 18078. Representative: Francis W. Doyle, 323 Maple Avenue, Southampton, PA 18966. Lead and Subs-Nos. 5 and 7 certificates, broaden: (1)(a) lead, to "lumber and wood products" from lumber; (b) Sub-5, "machinery, and miscellaneous products of manufacturing" from lamps and lampshades, and materials used in their production (except commodities in bulk, in tank vehicles); and (c) Sub-7, "coal and coal products" from coal; (2) to countywide authority: lead, Essex County, NJ (Newark); Sub-5, Lehigh County, PA (plantsite near Slatington); and (3) to radial service.

MC 106194 (Sub-46)X, filed November 20, 1981. Applicant: HORN

TRANSPORTATION, INC., P.O. Box 1172, Pueblo, CO 81001. Representative: Frank W. Taylor, Jr., 1221 Baltimore Ave., Ste. 600, Kansas City, MO 64105. Sub-Nos. 4, 14, 18, 20, 22, 27, 28, 32, 33, 35F, 37F, 38, and 43 certificates, and Sub-Nos. E1 through E11 E-letter notices: (1) change territorial descriptions from one-way to radial authority; (2) remove (a) "originating at and/or destined to," or service "having a subsequent movement in foreign commerce" restrictions (Sub-Nos. 14, 20, 22, and 33), (b) restrictions limiting service to transportation of traffic when moving incidental to and in the same vehicle with other described commodities (Sub-Nos. 20 and 22), and (c) exception of CO (Sub-No. 22); (3) broaden commodity descriptions, as follows: (a) "metal products," from iron and steel articles (except size and weight commodities, and oilfield and pipeline commodities), and from iron and steel articles, in Sub-Nos. 4, 14, 20, 27, 28, 32, 33, 37, and E1 through E11; (b) "building materials" from wallboard, in Sub-No. 18; (c) "metal products and machinery," from self-propelled circular irrigation systems, and parts, accessories and components (Sub 22); (d) "metal products and Mercer commodities," from iron and steel articles used in or in connection with the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum, and iron and steel articles when used in or in connection with the construction, operation, repair, servicing, maintenance and dismantling of pipelines (Sub-Nos. 35 and 37); (e) "chemicals and related products and coal and coal products," from drilling mud, mud additives, cottonseed hulls, bentonite, lignite coal, demulsifiers, inhibitors, corrosives, surfactant, oxygen scavengers and antifoulants (except commodities in bulk) (Sub-No. 38); and (f) "farm products" from livestock, agricultural commodities, and binder twine: "coal and coal products" from coal; "lumber and wood products" from lumber; "metal products" from wire; and "machinery" from farm machinery (Sub-No. 43); (4) broaden plantsites to countywide authority: Sub-Nos. 4, 18, 20, 27, 35, and 37, Cass, Jackson, Clay and Platte Counties, MO and Johnson, Wyandotte and Leavenworth Counties, KS (Kansas City, KS/MO commercial zone); Sub-No. 14, Pueblo County, CO (plantsite near Pueblo); Sub-No. 22, El Paso and Teller Counties, CO (Colorado Springs), and Jefferson, Douglas, Adams, Arapahoe, Boulder and Denver Counties, CO (Denver); Sub-No. 27, Reno County, KS (Hutchinson); Sub-Nos.

28 and 37 (route 7), Tulsa and Osage Counties, OK (facilities near Sand Springs); Sub-No. 32, Houston County, TX (Grapeland); Sub-No. 33, Madison and Stanton Counties, NE (facilities near Norfolk); Sub-No. 43, Scotts Bluff County, NE (Scottsbluff), Weld and Logan Counties, CO (Greeley and Sterling), and Laramie County, WY (Cheyenne); Sub-No. 4, points in NE in and south of Cass, Sarpy, Douglas, Dodge, Colfax, Butler, Platte, Polk, Merrick, Hamilton, Hall, Buffalo, Kearney, Phelps, Dawson, Lincoln, Keith, Garden, Morrill and Scotts Bluff Counties, (that part of NE on and south of the Platte and North Platte Rivers); and Sub-No. E4, Sarpy County, NE (La Platte).

MC 107496 (Sub-1284)X, filed December 18, 1981. Applicant: RUAN TRANSPORT CORPORATION, 666 Grand Avenue, Des Moines, IA 50309. Representative: E. Check, P.O. Box 855, Des Moines, IA 50304. Subs 264 and 959G: (1) broaden (a) cement to "clay, concrete, glass and stone products", Sub 264, and (b) petroleum products and liquid petrochemicals to "petroleum, natural gas and their products" and sulphuric acid and dry chemicals to "chemicals and related products", Sub 959G; (2) remove the in bulk, in tank vehicles restriction, Sub 959G; (3) remove the facilities limitations, Subs 264 and 959G; (4) remove ex-rail and cement, in bulk restrictions, Sub 264; (5) change one-way to radial authority, Sub 959G; and (6) replace cities with counties: Platte, SD (Charles Mix County), Dubuque, IA (Dubuque County), and Hammond, IN (Lake County), Sub 959G.

MC 124551 (Sub-1)X, filed December 10, 1981. Applicant: CON-OV-AIR FREIGHT SERVICE, INC., 55 Edgeboro Road, East Brunswick, NJ 08816. Representative: Warren A. Goff, 2008 Clark Tower, 5100 Poplar Avenue, Memphis, TN 38137. Lead certificate, (1) remove all restrictions in the general commodities authority "except classes A and B explosives, household goods, and commodities in bulk", (2) broaden airports to citywide authority: Newark, NJ (Newark Airport), and New York, NY (Idlewild and LaGuardia Airports); (3) remove restrictions prohibiting service in Plainsboro and Rocky Hill, NY; and (4) remove the restriction limiting traffic to that having an immediately prior or subsequent movement by air.

MC 125551 (Sub-29)X, filed December 18, 1981. Applicant: K & W TRUCKING CO., INC., P.O. Box 1415, St. Cloud, MN 56301. Representative: Robert D. Givold, 1600 TCF Tower, Minneapolis,

MN 55402. Sub 27, broaden: (1) general commodities with the usual exceptions to "general commodities (except classes A and B explosives)" and drilling mud compounds, in bulk, to "mercer commodities".

MC 138073 (Sub-4)X, filed December 8, 1981. Applicant: BUF-AIR FREIGHT, INC., 495 Aero Drive, Cheektowaga, NY 14225. Representative: Robert D. Gunderman, Can-Am Building, 101 Niagara Street, Buffalo, NY 14202. MC-138073 and Sub-Nos. 1 and 2 certificates, (1) remove all restrictions in the general commodities authority "except classes A and B explosives, household goods, and commodities in bulk"; (2) remove restrictions in: lead and Sub-No. 2, which limit transportation of traffic to that having a prior or subsequent movement by air; and (b) Sub-No. 1, which limit transportation of individual articles moving in shipments not exceeding 500 pounds in weight, on bills of lading of surface interstate freight forwarders; and (3) Broaden airports to countywide authority: in the lead, Buffalo, Rochester, Albany, New York, and Syracuse, NY, and Broome, Cattaraugus, Chautauqua, Chemung, Jefferson, Herkimer, Oneida, Onondaga, St. Lawrence and Tompkins Counties, NY, and Susquehanna and Bradford Counties, PA (The Greater Buffalo Int'l Airport, Rochester-Monroe County Airport, Albany County Airport, Broome County Airport, Olean Municipal Airport, Jamestown Municipal Airport, Chemung County Airport, Watertown Airport, Oneida County Airport, Clarence E. Hancock Airport, LaGuardia Airport, John F. Kennedy Int'l Airport, Massena Airport, and Tompkins County Airport); Newark, NJ (Newark Airport); Cleveland, OH (Cleveland-Hopkins Municipal Airport); and McKean County, PA and Chautauqua County, NY (Bradford-McKean County Airport); and Sub-No. 2, Buffalo, NY (The Greater Buffalo Int'l Airport near Cheektowaga).

MC 138177 (Sub-13)X, filed December 28, 1981. Applicant: BROWN TRUCKING, INC., 7622 Apple Valley Rd., Germantown, TN 38138. Representative: John Paul Jones, P.O. Box 3140, Front Street Station, 189 Jefferson Avenue, Memphis, TN 38103-0140. Sub-Nos. 2, 3, 4, 6, 8, 10F, 11F, certificates broaden: (1) Sub 2 from sand and gravel to "nonmetallic minerals except fuels"; Sub 3, from aggregate; and Sub 4 from lightweight aggregate to "clay, concrete, glass or stone products"; Sub 6 from coal, in bulk in dump vehicles to "coal"; Sub 8, from general commodities (with exceptions) to "general commodities (except classes A

and B explosives); self-propelled articles (except motor vehicles as defined in 49 U.S.C. 10102(14)) related machinery, tools, parts, and supplies moving in connection with such self-propelled articles; and contractors' machinery, equipment, materials, and supplies (except commodities in bulk) to "self-propelled articles, machinery, and contractors' equipment, materials, and supplies;" Sub 10F from cement to "clay, concrete, glass, or stone products"; Sub 11F, from commodities in bulk, in dump vehicles and metals and alloys to "commodities in bulk, and metal products," (2) to radial authority in Sub-Nos. 2, 3, 4, 6 and 11 (3) Lehi, AR to Crittenden County, AR, in Sub-No. 3; (4) in Sub-No. 6, remove the ex-water restriction and broaden Morgantown, KY, Memphis, TN, Nashville, TN, and W. Memphis, AR to Butler County, KY, Davidson and Shelby Counties, TN, Crittenden County, AR; and remove facilities limitation; (5) in Sub-No. 8, broaden Memphis, TN, to Shelby County; Florence, Muscle Shoals, Sheffield, and Tusculumbia, AL, to Colbert and Lauderdale Counties; Cairo, IL, to Alexander County; remove originating at or destined to restriction and remove a restriction against service to named facilities at Memphis, TN, (6) in Sub-No. 10, broaden Memphis, TN, and Little Rock, AR, to Shelby County, TN, and Pulaski County, AR.

MC 141500 (Sub-12)X, filed December 21, 1981. Applicant: SUPERIOR TRUCKING CO., INC., P.O. Box 35, Kewaskum, WI 53040. Representative: Richard C. Alexander, 710 North Plankinton Avenue, Milwaukee, WI 53203. Sub 3 permit: (1) broaden coal, in dump vehicles, to "commodities in bulk," and (2) broaden the territorial description to between points in the U.S., under continuing contract(s) with a named shipper.

MC 141603 (Sub-7)X, filed December 28, 1981. Applicant: CANADIAN PACIFIC EXPRESS & TRANSPORT LTD, Suite E-330, Atria North, 2255 Sheppard Avenue, East, Willowdale, Ontario, Canada M2J 4Y1. Representative: Harry J. Jordan, John D. Quinn, Suite 502, Solar Building, 1000 16th Street, NW, Washington, DC 20036. Sub-3 certificate and Sub-5 permit, (1) broaden to "general commodities (except classes A and B explosives)" from general commodities (with exceptions), Sub-3; and to "commodities in bulk" from lime, in bulk, Sub-5; (2) expand: Buffalo, NY, to Erie and Niagara Counties, NY, and Detroit, MI, to Macomb, Oakland, Wayne, Washtenaw and Monroe Counties, MI, and ports of entry at Buffalo, NY, and Detroit, MI, to

ports of entry in New York and Michigan in Sub-3; (3) eliminate shipment weight restrictions in Sub-3; and (4) to between points in the U.S. under continuing contract(s) with named shipper, in Sub-5.

MC 145511 (Sub-2)X, filed December 11, 1981. Applicant: G. P. TRUCKING CO., 1990 Hays Lane, Woodland, CA 95695. Representative: Thomas M. Loughrau, 100 Bush Street, 21st Floor, San Francisco, CA 94104. Lead and Sub 3F permits: (1) broaden (a) dry fertilizer to "fertilizer," lead and Sub 3F, and (b) sulfate of ammonia to "chemicals and related products," Sub 3F; (2) remove the in bulk restriction, lead and Sub 3F; and (3) broaden the territorial authority to between points in the U.S., under continuing contract(s) with named shippers.

MC 145636 (Sub-23)X, filed December 21, 1981. Applicant: BOB BRINK, INC., 165 Steuben St., Winona, MN 55987. Representative: Edward H. Instenes, P.O. Box 676, Winona, MN 55987. Subs 1, 2, 3, 5, 6, 7, 8, 15, 16, 17 and 18 to broaden: (1) waste materials, in bales, to "waste and scrap materials not identified by industry producing," Sub 1; processed grain products to "food and related products," Sub 2; plastic articles to "rubber and plastic products," Sub 3; metal wares to "metal products," Sub 5; iron chains and steel chains and rubber chain tighteners to "metal products and rubber and plastic products," Sub 6; steel fasteners to "metal products," Sub 8; lighting fixtures to "machinery," Sub 15; confectionery to "food and related products," Sub 16; and Sub 18, part (1), plastic materials and resinate cloth, to "rubber and plastic products, chemicals and related products and textile mill products," Sub 17 part (1), (2) remove facilities limitations at and/or broaden city to countywide authority, (a) Winona, MN to Winona County, Subs 1, 3, 5, 6, 7, 15, 16, 17 and 18, (b) Bunker Hill, KS to Russell County; St. Charles and Stockton, MN to Winona County, Subs 2, (c) Decorah, IA to Winneskiek County, Sub 8, (d) Delano, PA to Schuylkill County, Sub 17 and (3) to radial authority, Subs 1, 2, 3, 5, 6, 7, 8, 15, and 16.

MC 145752 (Sub-2)X, filed December 18, 1981. Applicant: FRANK M. DANIELSEN, d.b.a. DANIELSEN TRUCKS AND TRACTORS, 26643 Whitehorn Drive, Palos Verdes, CA 90274. Representative: Frank M. Danielsen, (same as applicant). Sub-No. 1F permit: broaden (1) lumber, plywood, and wooden paneling to "lumber and wood products"; (2) delete prior interstate movement restriction; (3)

broaden to between points in the U.S. under continuing contract(s) with named shippers.

MC 149375 (Sub-2)X, filed December 7, 1981. Applicant: F. W. NEWCOMB, SR. and F. W. NEWCOMB, JR., d.b.a. F. W. NEWCOMB TRUCKING, 2716 Isette Avenue, Muscatine, IA 52761. Representative: James M. Hodge, 100 United Central Bank Bldg., Des Moines, IA 50309. No. MC-149375F and Sub-No. 1 certificates, and MC-144785 (Sub-No. 1F) permit, (1) broaden as follows: (a) to "farm products and food and related products" from corn products; (b) to "metal products" from lighting fixtures; and (c) to "clay, concrete, glass or stone products" from sand and gravel; (2) delete restrictions which specify "except in bulk," "in bags," and "in dump vehicles"; and (3) broaden (a) lead and Sub-No. 1 certificates to countywide: Muscatine County, IA (facilities at Muscatine); (b) Sub-No. 1 permit to "between points in the U.S.," under continuing contract(s) with a named shipper; and (c) lead certificate to authorize radial service.

MC 153107 (Sub-2)X, filed December 15, 1981. Applicant: CRETEWAYS TRANSPORTATION, INC., P.O. Box 189, Crete, NE 68333. Representative: Max H. Johnston, P.O. Box 6597, Lincoln, NE 68506. Lead and Sub-1 certificates: broaden: (1) lead (part 4) and Sub-1, to "food and related products" from meats, meat products and byproducts, and articles distributed by meat packing houses, (except hides and commodities in bulk); (2) to countywide authority: lead, Worcester County, MA (Fitchburg); Middlesex County, MA (Lowell), Hall County, NE (Grand Island), Cherokee and Polk Counties, IA (Cherokee and Des Moines), Fairfield County, CT (Bridgeport), Cumberland County, NJ (Millville), Cook County, IL (Chicago Heights), Pinellas County, FL (St. Petersburg); Sub-1, Dodge and Colfax Counties, NE (Fremont and Schuyler); and (3) lead, to radial service.

[FR Doc. 82-493 Filed 1-7-82; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after February 9, 1981, are governed by Special Rule of the Commission's rules of practice, see 49 CFR 1100.251. Special Rule 251 was published in the *Federal Register* 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 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 the 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. OP1-331

Decided: December 21, 1981.

By the Commission, Division 2, acting as an Appellate Division, Commissioners Gresham, Gilliam, and Taylor.

MC 157530 (Sub-1), filed September 8, 1981. Applicant: PLAINS EXPRESS, INC., 411 North Dumas Ave., Dumas, TX 79029. Representative: Barry Weintraub, Suite 510, 8133 Leesburg, VA 22180 (703-442-8330). To operate as a *common carrier* by motor vehicle, in interstate or foreign commerce, transporting *general commodities* (except classes A and B explosives), between Snyder, Mist, Hamburg, AR; Fallbrook, CA; Bell, FL; Astoria, Easton, Five Points, Clare, Esmond, Lindenwood, IL; Minerva, Clemons, St. Anthony, Zearing, IA; Tyro, Peru, Sedan, Cedarvale, Dexter, KS; Taylor Maywood Durham, Ewing, Lewiston, La Belle, Knox City, Edina, Hurdland, Brashear, MO; Livonia, NY; Cheyenne, Butler, Reydon, OK; Keystone, SD; Allison, Briscoe, Mobectie, TX; Krakow, Green Valley, Gillett, Wittenberg, Tigerton, Marion, Burkhardt, Deer Park, Clear Lake, Clayton, Comstock, Cumberland, Barronett, Shell Lake, WI, on the one hand, and, on the other, points in the United States.

Note.—The purpose of this application is to substitute motor carrier for abandoned rail carrier service.

Volume No. OP1-332

Decided: December 29, 1981.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 38591 (Sub-3), filed December 17, 1981. Applicant: NATIONWIDE MOVING & STORAGE CO., INC., 100 Peters Road, Bloomfield, CT 06002. Representative: Sidney L. Goldstein, 109 Church St., New Haven, CT 06510, (203) 787-1288. Transporting *household goods and machinery*, between points in CT, MA, RI, ME, NH, VT, NY, NJ, PA, MD, DE, OH, VA, WV, NC, SC, GA, AL, FL, AR, IL, IN, KY, LA, MI, MS, TN, TX and DC. Condition: The person or persons who appear to be engaged in common control of another regulated carrier must either file an application under 49 U.S.C. § 11343(A) or submit an affidavit indicating why such approval is unnecessary to the Secretary's office. In order to expedite issuance of any

authority please submit a copy of the affidavit or proof of filing the application(s) for common control to team 1, Room 6358.

MC 39491 (Sub-18), filed December 2, 1981. Applicant: COLONIAL COACH CORP., 17 Franklin Turnpike, Mahwah, NJ 07430. Representative: Samuel B. Zinder, 98 Cutter Mill Rd., Great Neck, NY 11021, (516) 482-0881. Transporting (A) over regular routes *passengers and their baggage* in the same vehicle with passengers, (1) between Coatesville, PA and Atlantic City, NJ, from Coatesville, over US Hwy 30 to junction US Hwy 322 at or near Downingtown, PA, then over US Hwy 322 to junction PA Hwy 3 at or near West Chester, PA, then over PA Hwy 3 to junction PA Hwy 352 near Rocky Hill, PA, then over PA Hwy 352 to junction Interstate Hwy 95 at or near Chester, PA, then over Interstate Hwy 95 to US Hwy 322, then over US Hwy 322 to junction NJ Spur Hwy 536 near Williamstown, NJ, then over NJ Spur Hwy 536 to junction Atlantic City Expressway, then over Atlantic City Expressway to Atlantic City, NJ and return over the same route, (2) between junction US Hwys 322 and 130 at or near Bridgeport, NJ and junction NJ Spur Hwy 536 and Atlantic City Expressway at or near Sicklerville, NJ, from junction US Hwys 322 and 130, over US Hwy 130 to junction NJ Hwy 534 near Woodbury, NJ, then over NJ Hwy 534 to junction NJ Hwy 45, then over NJ Hwy 45 to junction Interstate Hwy 295, then over Interstate Hwy 295 to junction NJ Hwy 42 at or near Bellmawr, NJ, then over NJ Hwy 42 to junction Atlantic City Expressway, then over Atlantic City Expressway to junction NJ Spur Hwy 536, and return over the same route, (3) between junction US Hwy 130 and NJ Spur Hwy 551 at or near Gibbstown, NJ and junction NJ Hwy 544 and Atlantic City Expressway at or near Turnersville, NJ, from junction US Hwy 130 and NJ Spur Hwy 551, over NJ Spur Hwy 551 to junction NJ Hwy 551, then over NJ Hwy 551 to junction NJ Hwy 534 at Woodbury, NJ, then over NJ Hwy 534 to junction NJ Hwy 544, then over NJ Hwy 544 to junction NJ Hwy 42, then over NJ Hwy 42 to junction Atlantic City Expressway and return over the same route, (4) between Coatesville, PA and junction NJ Hwy 42 and Atlantic City Expressway at or near Turnersville, NJ, from Coatesville, PA over US Hwy 30 to junction US Hwy 1 near Philadelphia, PA, then over US Hwy 1 to junction Interstate Hwy 76 at Philadelphia, PA, then over Interstate Hwy 76 to junction NJ Hwy 42, then over NJ Hwy 42 to junction Atlantic City Expressway, and return over the same route, restricted

against the pickup or discharge of passengers on Interstate Hwy 76 in Philadelphia, Philadelphia County, PA, (5) between Lansdale, PA, and junction NJ Hwy 42 and Atlantic City Expressway, from Lansdale, over PA Hwy 63 to junction US Hwy 309, then over US Hwy 309 to junction Bethlehem Pike at or near Lower Gwynedd, PA, then over Bethlehem Pike to junction Butler Pike at or near Ambler, PA, then over Butler Pike to junction Fayette St., then over Fayette St. to junction Interstate Hwy 76, at or near W. Conshohocken, PA, then over Interstate Hwy 76 to junction NJ Hwy 42, then over NJ Hwy 42 to junction Atlantic City Expressway, and return over the same route, (6) between junction Bethlehem Pike and Butler Pike in Ambler, PA and junction Interstate Hwy 295 and NJ Hwy 42 near Bellmawr, NJ, from junction Bethlehem Pike and Butler Pike over Bethlehem Pike to junction Interstate Hwy 276 at or near Fort Washington, PA, then over Interstate Hwy 276 to junction US Hwy 1 at or near Linconia, PA, then over US Hwy 1 to junction PA Hwy 132, then over PA Hwy 132 to junction US Hwy 13 at or near Eddington, PA, then over US Hwy 13 to Philadelphia, PA, then over city streets to junction NJ Hwy 73 at or near Palmyra, NJ, then over NJ Hwy 73 to junction Interstate Hwy 295 at or near Fellowship, NJ, then over Interstate Hwy 295 to junction NJ Hwy 42 and return over the same route, restricted against the pickup or discharge of passengers on Interstate Hwy 276 in Montgomery and Bucks Counties, PA or on PA Hwy 132 and US Hwy 13 in Bucks County, PA, or on Interstate Hwy 76 in Philadelphia, Philadelphia County, PA, (7) between Phoenixville, PA and junction Fayette St. and Interstate Hwy 76, at or near W. Conshohocken, PA, from Phoenixville, over PA Hwy 23 to junction US Hwy 202 at or near Norristown, PA, then over US Hwy 202 to junction US Hwy 422, then over US Hwy 422 to junction Butler Pike at or near Plymouth Meeting, PA, then over Butler Pike to Fayette St. at or near W. Conshohocken, PA, and return over the same route, restricted against the pickup or discharge of passengers on Interstate Hwy 76 in Philadelphia, Philadelphia County, PA, (8) between junction PA Hwys 23 and 252 near Valley Forge, PA and junction US Hwy 1 and Interstate Hwy 76 near Philadelphia, PA, from junction PA Hwys 23 and 252, over PA Hwy 252 to junction US Hwy 30 near Devon, PA, then over US Hwy 30 to junction US Hwy 1 near Philadelphia, PA, then over US Hwy 1 to junction Interstate Hwy 76, and return over the same route, (9)

between junction PA Hwy 363 and 23 near Port Kennedy and junction US Hwy 422 and Butler Pike near Plymouth Meeting, PA, serving all intermediate points in Montgomery County, PA on PA Hwy 363, from junction PA Hwys 363 and 23, over PA Hwy 363 to junction Interstate Hwy 276 near King of Prussia, PA, then over Interstate Hwy 276 to junction US Hwy 422, then over US Hwy 422 to junction Butler Pike, and return over the same route, (10) between junction PA Hwys 23 and 363 near Port Kennedy and junction US Hwys 422 and 202 near Penn Square, PA, from junction PA Hwys 23 and 363, over PA Hwy 363 to junction US Hwy 422 near Norriton Square, PA, then over US Hwy 422 to junction US Hwy 202, and return over the same route, (11) between Doyleston, PA and junction PA Hwy 132 and US Hwy 13 at or near Eddington, PA, from Doyleston over PA Hwy 611 to junction PA Hwy 132 at or near Neshaminy, PA, then over PA Hwy 132 to junction US Hwy 13, and return over the same route, restricted against the pickup or discharge of passengers on PA Hwy 132 east of Upper Southampton, Bucks County, PA or on US Hwy 13 in Bucks County, PA, (12) between junction NJ Hwy 73 and Interstate Hwy 295 at or near Fellowship, NJ and junction NJ Spur Hwy 536 and Atlantic City Expressway at or near Sicklerville, NJ, from junction NJ Hwy 73 and Interstate Hwy 295 over NJ Hwy 73 to junction NJ Spur Hwy 536, then over NJ Spur Hwy 536 to junction Atlantic City Expressway, and return over the same route, serving all intermediate points in routes (1) to (8) and (10) to (12), and off-route points in Chester, Montgomery, Delaware, Bucks and Philadelphia Counties, PA and Atlantic City, NJ in routes (1) to (12) and (B) over irregular routes, *passengers and their baggage* in the same vehicle with passengers, in special operations, beginning and ending at points in Chester, Montgomery, Delaware, Bucks and Philadelphia Counties, PA, and extending to points in Atlantic City, NJ.

Note.—Applicant intends to tack the above regular-route operations in (1) to (12) above, with its existing regular route operations.

MC 113271 (Sub-84), filed December 18, 1981. Applicant: TRANSYSTEMS INC., P.O. Box 399, Black Eagle, MT 59414. Representative: Patrick W. Rice, P.O. Box 2644, Great Falls, MT 59403, (406) 727-7500. Transporting *foodstuffs* between points in AZ, CA, ID, MT, OR and WA.

MC 116101 (Sub-15), filed December 21, 1981. Applicant: QUICK AIR FREIGHT, INC., Cargo Bldg., Columbus

International Airport, Columbus, OH 43219. Representative: Russell S. Bernhard, 1625 K St. NW., Washington, DC 20006. (202) 393-3390 Transporting *general commodities* (except classes A and B explosives), (a) between points in IL, IN, KY, MI, NY, OH, PA and WV, and (b) between points in IL, IN, KY, MI, NY, OH, PA and WV, on the one hand, and, on the other, points in CA, CT, DE, FL, GA, IA, KS, MD, MA, MO, NJ, NC, SC, TN, TX, VA and WI.

MC 120080 (Sub-7), filed December 18, 1981. Applicant: MORGAN EXPRESS, INC., 10130 Monroe Dr., Dallas, TX 75229. Representative: Max G. Morgan, P.O. Box 1540, Edmond, OK 73034. (405) 348-7700. Over regular routes Transporting *general commodities* (except classes A and B explosives), between Vicksburg and Jackson, MS, over US Hwy 80 (also Interstate Hwy 20), serving all intermediate points.

MC 121171 (Sub-2), filed December 18, 1981. Applicant: WILLIAMS TRANSPORTATION, INC., 1925 East Vernon Avenue, Los Angeles, CA 90058. Representative: Robert L. Cope, 1730 M St. NW., Suite 501, Washington, DC 20036. Transporting *general commodities* (except classes A and B explosives, household goods as defined by the Commission and commodities in bulk), between points in CA. Condition: Issuance of a certificate in this proceeding is subject to the coincidental cancellation, at applicant's written request of its certificate of registration in MC-121171 Sub 1.

Note.—The purpose of this application is to convert a certificate of registration to a certificate of public convenience and necessity and to extend its operating rights.

MC 123490, (Sub-18), filed December 15, 1981. Applicant: CHIP CARRIERS INC., 11218 Elm St., Omaha, NE 68144. Representative: James F. Crosby, 7363 Pacific St., Suite 210B, Omaha, NE 68114. (402) 397-9900. Transporting *such commodities* as are dealt in or used by manufacturers and distributors of shipping containers, between points in the U.S., under a continuing contract(s) with McCollister Container Service, Inc., of Council Bluffs, IA.

MC 124170 (Sub-193), filed December 21, 1981. Applicant: FROSTWAYS, INC., 3000 Chrysler Service Drive, Detroit, MI 48207. Representative: William J. Boyd, 2021 Midwest Rd., Suite 205, Oak Brook, IL 60521. (312) 629-2900. Transporting *food and related products*, between points in Galveston County, TX, on the one hand, and, on the other, points in AL, AR, CO, GA, IA, IL, IN, KS, KY, LA, MN, MS, MT, MO, NC, NE, OH, OK, ND, NM, SC, SD, TN, TX, VA, WI, WY, WY and DC.

MC 124170 (Sub-194), filed December 21, 1981. Applicant: FROSTWAYS, INC., 3000 Chrysler Service Dr., Detroit, MI 48207. Representative: William J. Boyd, 2021 Midwest Rd., Suite 205, Oak Brook, IL 60521. (312) 629-2900. Transporting *food and related products*, (1) between points in Charleston County, SC, on the one hand, and, on the other, points in AL, AR, DE, FL, GA, IA, KS, LA, MD, MO, MN, MS, NC, ND, NE, NJ, OK, SD, TX, VA, WI, and DC, (2) between points in Hillsborough County, FL, on the one hand, and, on the other, points in AR, KS, MO, NE, TX and OK, (3) between points in Mobile County, AL, on the one hand, and, on the other, points in AL, AR, FL, GA, IA, KS, LA, MN, MO, MS, NC, NE, ND, OK, SC, SD, TX, and WI, and (4) between points in Harrison County, MS, on the one hand, and, on the other, points in AL, AR, CO, FL, GA, LA, NC, NM, OK, SC and TX.

MC 140950 (Sub-5), filed December 22, 1981. Applicant: BROOKVILLE TRANSPORT, LTD., 1170 Old Rothesay Rd., St. John, NB, Canada. Representative: John C. Lightbody, 30 Exchange St., Portland, ME 04101. (207) 773-5651. Transporting *general commodities* (except classes A and B explosives, household goods as defined by the Commission, and commodities in bulk), between ports of entry on the International Boundary line between the U.S. and Canada, on the one hand, and, on the other, points in the U.S.

MC 143741 (Sub-1), filed December 15, 1981. Applicant: WILLIAMS BROTHERS TRUCKING, INC., P.O. Box 188, Hazelhurst, GA 31539. Representative: Clyde W. Carver, P.O. Box 720434, Atlanta, GA 30328. (404) 256-4320. Transporting *metal products* between points in Telfair County, GA, on the one hand, and, on the other, points in AR, GA, IA, IL, KY, MS, NC, OH, PA, SC, TN, TX, VA and WI.

MC 147020 (Sub-4), filed December 21, 1981. Applicant: NORTHWESTERN TRADING COMPANY, INC., Route 4, Box 116B, Milton-Freewater, OR 97863. Representative: M. C. Risser, Suite 501, 1410 SW. Morrison St., Portland, OR 97205. (503) 222-9261. Transporting *food and related products*, between points in Los Angeles, Fresno, Sacramento and Stanislaus Counties, CA, on the one hand, and, on the other, points in Walla Walla and Spokane Counties, WA.

MC 147821 (Sub-2), filed December 14, 1981. Applicant: JOEL OLSON TRUCKING, INC., P.O. Box 837, Clatskanie, OR 97016. Representative: Lawrence V. Smart, Jr., 419 NW. 23rd Ave., Portland, OR 97210. (503) 226-3755. Transporting (1) *building materials and materials, supplies and equipment* used

in the manufacture and repair of boats, between points in OR, WA and CA; and (2) *lumber and wood products*, between points in OR, WA, ID, NV, CA and AZ.

MC 148021, filed December 21, 1981. Applicant: TRUXILLO DELIVERY SERVICE, INC., 364 Hord St., Harahan, LA 70123. Representative: Michael Truxillo, 2221 Pasadena St., Metairie, LA 70001. (504) 454-3332. Transporting *food and related products*, between points in AL, AR, FL, GA, LA, MS, NC, SC, TN and TX.

MC 151450 (Sub-2), filed December 14, 1981. Applicant: JOE GILBERT GONZALES, P.O. Box 93, Dixon, NM 82527. Representative: Charles M. Williams, 1600 Sherman St., No. 665, Denver, CO 80203. (303) 839-5856. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S., under continuing contract(s) with Drywall Supply, Inc. of Denver, CO.

MC 151471 (Sub-13), filed December 21, 1981. Applicant: STEINBECKER BROS., INC., P.O. Box 852, Greeley, CO 80632. Representative: Jack B. Wolfe, 1600 Sherman St., No. 665, Denver, CO 80203. (303) 839-5856. Transporting *food and related products*, between points in the U.S., under continuing contract(s) with E. A. Miller & Sons Packing Co., Inc. of Hyrum, UT.

MC 152730 (Sub-14), filed December 21, 1981. Applicant: DEPENDABLE TRANSIT, INC., P.O. Box 349, County Road 300 South, Hartford City, IN 47348. Representative: Larry Garrett (same address as applicant). (317) 348-0051. Transporting *building materials*, between points in Wells and Huntington Counties, IN, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 153560 (Sub-1), filed December 14, 1981. Applicant: AGRICULTURAL CARRIERS, INC., P.O. Box 13081, Wichita, KS 67213. Representative: Jack B. Wolfe, 1600 Sherman St., No. 665, Denver, CO 80203. (303) 839-5856. Transporting (1) *rubber and plastic products*, between points in OK, TX, AR, MO, IA, NE, KS, CO, and NM, (2) *textile mill products*, between points in KS, on the one hand, and, on the other, points in TX, OK, NM, CO, NE, IA, MO, and AR, (3) *clay, concrete, glass or stone products and ores and minerals* between points in TX on the one hand, and, on the other, points in CO, KS, OK, AR, MO, LA and NM, and, (4) *metal products* between points in OK, on the one hand, and, on the other, points in CO and TX.

MC 154170 (Sub-1), filed December 22, 1981. Applicant: BUNYON TRUCKING

COMPANY, INC., 6500 Mt. Zion Blvd., Morrow, GA 30260. Representative: Alan E. Serby, 3390 Peachtree Rd., NE., 5th Floor, Lenox Towers South, Atlanta, GA 30260, (404) 262-7855. Transporting *tractor parts and tractor attachments*, between points in the U.S., under continuing contract(s) with Jackson Tractor Parts Company of Georgia, Inc., of Norcross, GA.

MC 156611 (Sub-1), filed December 18, 1981. Applicant: FOOD TRANSPORT, INC., 614 W. Sycamore St., P.O. Box 446, Fayetteville, AR 72701. Representative: Grant M. Davis, 2217 Juneway Terrace, Fayetteville, AR 72701, (501) 443-3257. Transporting *food and related products*, between points in the U.S., under continuing contract(s) with Oldham Farm Sausage, Inc. of Holton, KS.

MC 157400 (Sub-2), filed December 7, 1981. Applicant: W. N. PHELPS DRAYAGE, INC., 2109 Angelica Street, St. Louis, MO 63133. Representative: Austin C. Knetzger, 214 No. Clay, Kirkwood, MO 63122, (314) 821-4616. Transporting (1) *those commodities which because of their size or weight require the use of special handling or equipment*, between points in the St. Louis-East St. Louis, MO, Commercial zone, on the one hand, and, on the other, points in AL, AR, IL, IN, IA, KS, KY, MI, MN, MS, OH, OK, TN, WI and points in Putnam County, WV, and (2) *iron and steel articles*, between points in IL, IN, and TN, on the one hand, and, on the other, points in St. Louis County, MO.

MC 159720, filed December 14, 1981. Applicant: JORASON TRANSPORT CORP., Municipal Pier, Providence, RI 02905. Representative: Wesley S. Chused, 15 Court Square, Boston, MA 02108, (617) 742-3530. Transporting *general commodities* (except classes A and B explosives), between points in RI, on the one hand, and, on the other, points in CT, DE, ME, MD, MA, NH, NJ, NY, PA, RI, VT, and DC.

MC 159791, filed December 21, 1981. Applicant: ENGLER AUTOMOTIVES, INC., P.O. Box 223, Wind Gap, PA 18091. Representative: Stanley S. Engler, 592 Getz Rd., Pen Argyl, PA 18072, (215) 759-5943. Transporting *wrecked or disabled vehicles and replacement vehicles* between points in PA, NY, NJ, MD, DE, VA, WV, OH, CT, RI, MA, VT, NH and ME.

MC 159801, filed December 21, 1981. Applicant: LARRY D. SMITH, P.O. Box 285, Marshville, NC 28103. Representative: Judy E. Smith (same address as appl.), (704) 847-8804. Transporting (1) *building materials* and (2) *lumber and wood products*, between points in NC, SC, GA, TN and VA.

MC 159821, filed December 21, 1981. Applicant: ALLAN L. BLACKBURN d.b.a. A & B TRUCKING, 343 Schneiders Lane, Elkton, MD 21921. Representative: Allan L. Blackburn (same address as applicant), (301) 398-8687. Transporting *transportation equipment*, between (1) the facilities of National Railroad Passenger Corporation located at points in CT, DE, PA, IL, IN, NY and DC, and (2) the facilities of National Railroad Passenger Corporation located at points in CT, DE, PA, IL, IN, NY and DC, on the one hand, and, on the other, points in the U.S.

Volume No. OPY-3-229

Decided: December 11, 1981.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams.

MC 143885 (Sub-3), filed December 4, 1981. Applicant: HARLAND A. WILCOX AND LEROY H. WILCOX d.b.a. WILCOX TRUCKING, 206 Charles Street, Elk Rapids, MI 49629. Representative: Rick A. Rude, Suite 611, 1730 Rhode Island Ave., NW., Washington, DC 20036, (202) 233-5900. Transporting for on behalf of the United States Government, (1) *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S., and (2) *general commodities* (except classes A and B explosives), between South Haven, Cableton, Covert, Toquin, Lamson, Bay Shore, Charlevoix, Ellsworth, Harpers, Central Lake, Bellaire, Alden, Rapid City, Barker Creek, Williamsburg, Bates, State Hospital, Grawn, Interlocken, Henry, Kaleva, Chief Lake, Norwalk, Douglas, and Wealthy, MI, on the one hand, and, on the other, points in the U.S.

Note.—The purpose of part (2) of the application is to substitute motor service for abandoned rail service.

MC 151404 (Sub-2), filed December 7, 1981. Applicant: NORTHLAND PRODUCE, INC., 4350 Lincoln Rd., Holland, MI 49423. Representative: Edward N. Button, 635 Oak Hill Ave., Hagerstown, MD 21740, (301) 739-4860. As a *broker of general commodities* (except household goods), between points in the U.S.

MC 159585, filed December 7, 1981. Applicant: KENNETH TIPTON d.b.a. KENNETH TIPTON TRUCKING, 2635 Washington St., Unionville, MO 63565. Representative: (same as applicant), (816) 947-3374. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizer*, and *other soil conditioners* by the owner of

the motor vehicle in such vehicle, between points in the U.S.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 82-491 Filed 1-7-82; 8:45 am]

BILLING CODE 7035-01-M

[Volume No. OP2-076]

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 noticed in the Federal Register.

An original and one copy of an appropriate petition for leave to intervene, setting forth in detail the precise manner in which petitioner has been prejudiced, must be filed with the Commission within 30 days after the date of this Federal Register notice.

By the Commission.
Agatha L. Mergenovich,
Secretary.

MC 109633 (Sub-53) (republication), filed May 21, 1981, published in the Federal Register of June 10, 1981, and republished this issue: Applicant: ARBET TRUCK LINES, INC., P.O. Box 697, Sheffield, IL 61361. Representative: Arnold L. Burke, 180 North LaSalle Street, Chicago, IL 60601. A decision of the Commission, *Division 1*, decided November 23, 1981, and served November 30, 1981, finds that the present and future public convenience and necessity require operations by applicant in interstate or foreign commerce, over irregular routes, as a *common carrier*, by motor vehicle, transporting *household appliances*, between points in Calhoun County, AL, Los Angeles County, CA, Knox and Williamson Counties, IL, Fayette County, IN, and Bradley County, TN, on the one hand, and, on the other, points in Alabama, Arkansas, California, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Massachusetts, Maryland, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Hampshire, New Jersey, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Virginia, Vermont, West Virginia, Wisconsin, and the District of Columbia; that applicant is fit, willing, and able properly to perform the granted service and to conform to the requirements set forth in the Code of Federal Regulations:

insurance (49 CFR 1043), between points in Henry County, KY, Essex County, NJ, and Lucas County, OH, on the one hand, and, on the other, those points in the United States in and east of Minnesota, Iowa, Missouri, Arkansas, and Louisiana, and (6) *lumber and wood products*, between points in Alpena County, MI, Lucas County, OH, Elkhart County, IN, and Wilkes County, NC, on the one hand, and, on the other, those points in the United States in and east of Minnesota, Iowa, Missouri, Arkansas, and Louisiana; that applicant is fit, willing, and able properly to perform the granted service and to conform to the requirements set forth in the Code of Federal Regulations: insurance (49 CFR 1043), designation of process agent (49 CFR 1044), and tariffs (49 CFR 1310). The purpose of this republication is to broaden the scope of authority.

MC 109633 (Sub-53) (republication), filed May 21, 1981, published in the *Federal Register* of June 10, 1981, and republished this issue: Applicant: ARBET TRUCK LINES, INC., P.O. Box 697, Sheffield, IL 61361. Representative: Arnold L. Burke, 180 North LaSalle Street, Chicago, IL 60601. A decision of the Commission, *Division 1*, decided November 23, 1981, and served November 30, 1981, finds that the present and future public convenience and necessity require operations by applicant in interstate or foreign commerce, over irregular routes, as a *common carrier*, by motor vehicle, transporting *household appliances*, between points in Calhoun County, AL, Los Angeles County, CA, Knox and Williamson Counties, IL, Fayette County, IN, and Bradley County, TN, on the one hand, and, on the other, points in Alabama, Arkansas, California, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Massachusetts, Maryland, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Hampshire, New Jersey, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Virginia, Vermont, West Virginia, Wisconsin, and the District of Columbia; that applicant is fit, willing, and able properly to perform the granted service and to conform to the requirements set forth in the Code of Federal Regulations: insurance (49 CFR 1043), designation of process agent (49 CFR 1044), and tariffs (49 CFR 1310). The purpose of this republication is to broaden the scope of authority.

[FR Doc. 82-492 Filed 1-7-82; 8:45 am]
BILLING CODE 7035-01-M

[Docket No. AB-6 (Sub-No. 108)]

Rail Carriers; Burlington Northern Railroad Co.—Abandonment—in Crawford County, KS and Jasper County, MO; Notice of Findings

Notice is hereby given pursuant to 49 U.S.C. 10903 that the Commission, Review Board Number 3, has issued a certificate authorizing the Burlington Northern Railroad Company to abandon its rail line known as the Pittsburg, Kansas, to Empire, Missouri Line extending from railroad milepost 136.34 near Pittsburg, KS, to railroad milepost 142.94, at the end of the line, near Empire, MO, a distance of 6.60 miles in Crawford County, KS and Jasper County, MO, subject to certain conditions. Since no investigation was instituted, the requirement of § 1121.38(b) of the Regulations that publication of notice of abandonment decisions in the *Federal Register* be made only after such a decision becomes administratively final was waived.

Upon receipt by the carrier of an actual offer of financial assistance, the carrier shall make available to the offeror the records, accounts, appraisals, working papers, and other documents used in preparing Exhibit I (§ 1121.45 of the regulations). Such documents shall be made available during regular business hours at a time and place mutually agreeable to the parties.

The offer must be filed with the Commission and served concurrently on the applicant, with copies to Richard A. Kelly, Room 5417, Interstate Commerce Commission, Washington, DC 20423, no later than 10 days from publication of this Notice. The offer, as filed, shall contain information required pursuant to § 1121.38(b) (2) and (3) of the regulations. If no such offer is received, the certificate of public convenience and necessity authorizing abandonment shall become effective 30 days from the service date of the certificate.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 82-497 Filed 1-7-82; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte No. 387 (Sub-No. 78)]

Rail Carriers; Denver and Rio Grande Western Railroad Co., Exemption for Contract Tariff ICC-DRGW-C-0006

AGENCY: Interstate Commerce Commission.

ACTION: Notice of provisional exemption.

SUMMARY: Petitioner is granted a provisional exemption under 49 U.S.C. 10505 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: Donald J. Shaw, Jr., or Jane F. Mackall, (202) 275-7656.

SUPPLEMENTARY INFORMATION: The Denver and Rio Grande Western Railroad Company (DRGW) filed a petition on December 22, 1981, seeking an exemption under 49 U.S.C. 10505 from the statutory notice provisions of 49 U.S.C. 10713(e). It requests that we permit its contract tariff ICC-DRGW-C-0006 to become effective December 31, 1981.¹ The tariff was filed to become effective on January 16, 1982. The tariff provides for the movement of carload shipments of copper and copper products between the shipper and the DRGW.

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 shall be granted. The contract tariff between the shipper and a destination carrier east of the Chicago and Streator, Illinois junctions for shipments moving in Official Territory will become effective on December 31, 1981. Without an advanced effective date on DRGW's contract, the shipper's production will either be curtailed or materials that will move under the terms of the contract will have to be stockpiled, causing increased inventory carrying costs at origin. We find that to be the type of exceptional circumstance which warrants a provisional exemption.

DRGW's contract tariff 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.

¹ Because of the lateness in filing the petition, this date cannot be met.

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 this exemption 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: January 4, 1982.

By the Commission, Division 2,
Commissioners Gresham, Gilliam and Taylor.
Commissioner Taylor did not participate.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 82-499 Filed 1-7-82; 8:45 am]

BILLING CODE 7035-01-M

[Amendment No. 2 to Third Revised I.C.C. Order No. 80 Under Service Order No. 1344]

Rail Carriers; St. Louis Southwestern Railway Co. et. al.; Rerouting Traffic

In the matter of the St. Louis Southwestern Railway Company; Cadillac & Lake City Railway Company; Oklahoma, Kansas and Texas Railroad Company; and Chicago and North Western Transportation Company.

Upon further consideration of Third Revised I.C.C. Order No. 80 and good cause appearing therefor:

It is ordered, I.C.C. Order No. 80 is amended by substituting the following paragraph (g) for paragraph (g) thereof: (g) *Expiration date*. The order shall expire at 11:59 p.m., February 28, 1982, unless otherwise modified, amended or vacated.

Effective date. This order shall become effective at 11:59 p.m., December 31, 1981.

This amendment shall be served upon the Association of American Railroads, Transportation Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association. A copy of this amendment shall be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., December 23, 1981.

Interstate Commerce Commission.
J. Warren McFarland,
Agent.

[FR Doc. 82-496 Filed 1-7-82; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-10 (Sub-No. 24)]

Rail Carriers; Wabash Railroad Co., and Norfolk and Western Railway Co.; Abandonment in La Porte, Porter, and Lake Counties, IN; Notice of Findings

The Commission has found that the public convenience and necessity permit the Wabash Railroad Company and the Norfolk and Western Railway Company to abandon the 42.89 mile line of railroad between milepost 203.74 near Dillon, IN and Clarke Junction, IN (milepost 246.63) and to discontinue operations over 5.77 miles of trackage rights over a line of railroad owned by the Baltimore and Ohio Chicago Terminal Railroad Company between Clarke Junction (milepost 246.63) and State Line Junction, IN (milepost 252.4), in LaPorte, Porter, and Lake Counties, IN. A certificate will be issued authorizing this abandonment unless within 15 days after this publication the Commission also finds that: (1) a financially responsible person has offered assistance (through subsidy or purchase) to enable the rail service to be continued; and (2) it is likely that the assistance would fully compensate the railroad.

Any financial assistance offer must be filed with the Commission and served concurrently on the applicant, with copies to Mr. Richard Kelly, Room 5417, Interstate Commerce Commission, Washington, DC 20423, no later than 10 days from publication of this Notice. Any offer previously made must be remade within this 10-day period.

Information and procedures regarding financial assistance for continued rail services are contained in 49 U.S.C. 10905 and 49 CFR 1121.38.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 82-498 Filed 1-7-82; 8:45 am]

BILLING CODE 7035-01-M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

[Delegation of Authority No. 40]

Regional Assistant Administrator, et al.; Delegation of Authority Regarding Source, Origin and Nationality for Procurement

Pursuant to the authority delegated to me by Delegation of Authority No. 1, dated October 1, 1979 (44 FR 57521), as amended, from the Director of the International Development Cooperation Agency, it is hereby directed as follows:

Section I—Goods and Services

To the Assistant Administrators for Africa, Asia, Latin America and the Caribbean, Near East, Food for Peace & Voluntary Assistance, Science & Technology, and Private Enterprise and the Director of the Office of Foreign Disaster Assistance, each for countries or programs for which he or she is responsible, I hereby delegate authority to waive, in accordance with the criteria prescribed in Supplement B of AID Handbook 1:

A. U.S. source, origin, and nationality requirements to permit AID financing of the procurement of goods and services, other than transportation services, in countries included in AID Geographic Code 941 (Selected Free World) and the cooperating country when the cost of the goods and services does not exceed \$3,000,000 per transaction (exclusive of transportation costs); and

B. U.S. or Code 941 source, origin, and nationality requirements for specific transactions to permit AID financing of the procurement of goods and services, other than transportation services, in any country included in AID Geographic Code 899 (Free World) or AID Geographic Code 935 (Special Free World) when the cost of the goods and services does not exceed \$3,000,000 per transaction (exclusive of transportation costs); *provided, however*,

1. That all waivers of source, origin, and nationality for procurement of goods authorized pursuant to this section I.B. shall contain a certification by the approving official that "Exclusion of procurement from free world countries other than the cooperating country and countries included in Code 941 would seriously impede attainment of U.S. foreign policy objectives and objectives of the foreign assistance program"; and

2. That all waivers of the nationality requirements for services, other than ocean transportation services, authorized pursuant to this section I.B. shall contain a certification by the approving official that "The interests of the United States are best served by permitting the procurement of services from free world countries other than the cooperating country and countries included in Code 941".

Section II—Transportation Services

To the Assistant to the Administrator for Management I hereby delegate the authority to waive, in accordance with the criteria prescribed in Supplement B of AID Handbook 1,

A. U.S. transportation source requirements to permit AID financing of

ocean transportation services on vessels under flag registry of countries included in Code 941 and the cooperating country; and

B. U.S. or Code 941 and the cooperating country transportation source requirements to permit AID financing of ocean transportation services on vessels under flag registry of countries included in Code 899 or Code 935; *provided, however*, that all waivers of transportation source requirements authorized pursuant to paragraph II.B. shall contain a certification by the approving official that "The interests of the U.S. are best served by permitting financing of transportation services on ocean vessels under flag registry of free world countries other than the cooperating country and countries included in Code 941".

Section III—General Provisions

A. Any reference in this Delegation of Authority to any Act of Congress, order, determination, or Delegation of Authority shall be deemed to be a reference to such Act of Congress, order, determination, or Delegation of Authority as amended from time to time.

B. Any official of AID to whom authorities are delegated under this Delegation of Authority may redelegate any of the authorities *provided, however*, that the authority to waive source and origin requirements for procurement of motor vehicles shall not be redelegated for transactions in excess of \$50,000 (exclusive of transportation costs).

C. I retain for myself concurrent authority to exercise any of the functions herein delegated.

D. Delegation of Authority No. 40 dated February 20, 1981 (46 FR 15237, March 4, 1981), as amended, is hereby revoked. This revised delegation shall not be construed to affect the validity of any waiver or redelegation granted by a properly authorized official prior to the effective date of this revised delegation. Any such waiver or redelegation shall continue in effect unless modified or revoked by an official to whom such authority has been delegated by this order.

E. This Delegation of Authority is effective immediately.

Dated: December 29, 1981.

M. Peter McPherson,
Administrator.

[FR Doc. 82-474 Filed 1-7-82; 8:45 am]

BILLING CODE 6116-01-M

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 701-TA-83, 701-TA-84, and 731-TA-51 (Preliminary)]

Hot-rolled Carbon Steel Plate From Belgium; Hot-Rolled Carbon Steel Plate From Brazil, and Hot-Rolled Carbon Steel Plate From Romania

Determinations

On the basis of the record¹ developed in investigation No. 701-TA-83 (Preliminary), the Commission determines that there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury² by reason of imports from Belgium of hot-rolled carbon steel plate, provided for in item 607.6615 of the Tariff Schedules of the United States Annotated (1981), which are alleged to be subsidized by the Government of Belgium.

On the basis of the record¹ developed in investigation No. 701-TA-84 (Preliminary), the Commission determines that there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury³ by reason of imports from Brazil of hot-rolled carbon steel plate, provided for in item 607.6615 of the Tariff Schedules of the United States Annotated (1981), which are alleged to be subsidized by the Government of Brazil.

On the basis of the record¹ developed in investigation No. 731-TA-51 (Preliminary), the Commission determines that there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury⁴ by reason of imports from Romania of hot-rolled carbon steel plate, provided for in item 607.6615 of the Tariff Schedules of the United States Annotated (1981), which are alleged to be sold in the United States at less than fair value (LTFV).

¹ The record is defined in § 207.2(j) of the Commission's rules of Practice and Procedure (19 CFR 207.2(j)).

² Chairman Alberger and Commissioner Frank determine that there is a reasonable indication that an industry in the United States is materially injured by reason of imports from Belgium of hot-rolled carbon steel plate which are alleged to be subsidized by the Government of Belgium.

³ Chairman Alberger and Commissioner Frank determine that there is a reasonable indication that an industry in the United States is materially injured by reason of imports from Brazil of hot-rolled carbon steel plate which are alleged to be subsidized by the Government of Brazil.

⁴ Chairman Alberger and Commissioner Frank determine that there is a reasonable indication that an industry in the United States is materially injured by reason of imports from Romania of hot-rolled carbon steel plate which are alleged to be sold in the United States at less than fair value.

Background

On November 18, 1981, the U.S. International Trade Commission received advice from the U.S. Department of Commerce that it was initiating countervailing duty investigations on imports of hot-rolled carbon steel plate from Belgium and Brazil and an antidumping investigation on imports of hot-rolled carbon steel plate from Romania. Accordingly, effective November 18, 1981, the Commission instituted investigations pursuant to sections 703(a) and 733(a) of the Tariff Act of 1930 (19 U.S.C. 1671b(a) and 1673b(a)) to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports of the merchandise which is the subject of the investigations by the Department of Commerce.

Notice of the institution of the Commission's investigations and of a public conference to be held in connection therewith was duly given by posting copies of the notices at the Office of the Secretary, U.S. International Trade Commission, Washington, D.C., and by publishing the notices in the *Federal Register* of November 25, 1981 (46 FR 57784). The conference was held in Washington, D.C., on December 14, 1981, and all persons who requested the opportunity were permitted to appear in person or by counsel.

Views of the Commission

After considering all available information, we conclude: (1) There is a reasonable indication that an industry in the United States is materially injured or threatened with material injury by reason of imports of hot-rolled carbon steel plate from Romania allegedly sold at less than fair value (LTFV); (2) there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury by reason of allegedly subsidized imports of hot-rolled carbon steel plate from Belgium; (3) there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury by reason of allegedly subsidized imports of hot-rolled carbon steel plate from Brazil.⁵

⁵ Chairman Alberger and Commissioner Frank, having found a reasonable indication of material injury with respect to imports from Romania, Belgium and Brazil, do not reach the issue of threat in any of the three investigations.

In the following analysis we will first define the domestic industry pursuant to section 771(4)(A) of the Tariff Act of 1930. We will then examine the state of the domestic industry in terms of the relevant economic indicators set forth in section 771(7)(C)(iii). Finally, we will examine the causal relationship between the state of the domestic industry and the dumped or subsidized imports on a country by country basis.^{6,7}

Domestic Industry

Section 771(4)(A) of the Tariff Act of 1930 defines the term "industry" as the "domestic producers as a whole of a like product or those producers whose collective output of the like product constitutes a major proportion of the total domestic production of that product." Section 771(10) defines "like product" as a product which is like, or in the absence of like, most similar in characteristics and uses with the article under investigation.

In its Notice of Initiation, the Department of Commerce defined the scope of the countervailing duty and antidumping investigations regarding carbon steel plate as follows:

For the purposes of this investigation, the term "hot rolled carbon steel plate" covers steel not alloyed; not pickled and not cold rolled; not in coils; not coated or plated with metal and not clad; 0.1875 inch or more in thickness and over eight inches in width, as currently provided for in item 607.6615 of the Tariff Schedules of the United States Annotated.^{8,9}

The information obtained in these preliminary investigations shows that imported Belgian,¹⁰ Brazilian and

Romanian hot-rolled carbon steel plate and domestic hot-rolled carbon steel plate consists of a variety of widths, lengths and thicknesses. There are no clear dividing lines between the characteristics and uses of different sizes and shapes of plate.¹¹ Accordingly, for purposes of this preliminary investigation, the like product consists of all hot-rolled steel plate, not alloyed, not pickled and not cold-rolled; not coated or plated with metal and not clad; not in coils, 0.1875 inch or more in thickness and over 8 inches in width.

Condition of the Domestic Industry

It is clear from a review of the relevant economic indicators set forth in section 771(7)(C)(iii) that there is a reasonable indication that the domestic hot-rolled carbon steel plate industry is experiencing severe difficulties. The domestic industry's production, capacity utilization, and employment, while fluctuating from year to year, have shown sharp overall declines during the period under investigation. Thus production fell from 6,094,000 tons in 1979 to 5,750,000 tons in 1980.¹² During the first 9 months of 1981, production remained at low levels comparable to those reached in 1980.

Capacity declined markedly from 1979 to 1980 from 10,096,000 tons to 9,683,000 tons. This trend continued in 1981 with a further decline in practical domestic capacity.¹³ While capacity utilization remained relatively stable from 1978-81, showing only a slight decline from 61.5 percent utilization in 1978 to 59.8 percent utilization in January-September 1981,

economically manufactured by U.S. mills. Clabecq's mill is a somewhat unusual combination of a reversing mill followed by a four stand finishing mill. According to Clabecq, the mill can produce certain thinner gages of plate in widths exceeding 84 inches. Clabecq alleges that plate in these gages and widths can be produced in U.S. mills, but as a much higher cost.

The advantage of the wider plate lies in the lower number of welds required to cover a given surface area. According to Clabecq, the narrower U.S. plate requires more welds, thus increasing the cost of covering a given area. Clabecq did not furnish information as to how, if at all, the alleged width-thickness differences affect the use of the imported article.

For purposes of this preliminary investigation, we conclude that hot-rolled steel plate of all widths is "like" the Belgian imported article. There is information indicating that the wider varieties of Belgian plate can be cut into smaller sizes. Such smaller sizes are produced in the United States. Furthermore, U.S. products in narrower widths can be welded together in a processor to form plate of widths and thicknesses equivalent to that of the allegedly unique Belgian plate.

¹¹ See Stainless Clad Steel Plate from Japan, Inv. No. 731-TA-50 (Preliminary), USITC Pub. 1196 (1981).

¹² Staff Report at A-22, Table 8.

¹³ *Id.*

such stability is misleading.¹⁴ The industry's practical capacity declined significantly from 1979 to the present. Although there have been some additions to practical capacity, notably at Bethlehem Steel's Chesteron, Indiana facilities in 1978, there have been a number of closures of carbon steel plate facilities during the period, most recently in February 1981 the permanent shutdown of Jones & Laughlin Steel's only plate mill and a hot strip mill at Pittsburgh, Pa.¹⁵

Employment of production and related workers in the carbon steel plate sector fell from 17,909 workers in 1979 to 17,096 workers in 1980 and 16,612 workers in January-September 1981.¹⁶ The 2.8 percent decline in the carbon steel plate sector during January-September 1981 compared to the same period in 1980 is noteworthy because overall employment in facilities in which carbon steel plate was produced rose during the same period.¹⁷

Part of the industry's problems can be attributed to shrinking demand. During the period under investigation, U.S. consumption of carbon steel plate showed a significant overall decline. Consumption fell from 8,467,000 tons in 1978 to 7,683,000 tons in 1980.¹⁸ While consumption rose slightly in the first 9 months of 1981, it remained significantly below levels attained in 1978-79. Shipments by domestic producers also showed a declining trend, falling by 8 percent in 1980 and by another 2 percent in January-September, 1981.¹⁹

Throughout the period under investigation, profitability in the carbon steel plate industry remained extremely low. The industry showed a ratio of operating profit to net sales of 4.0 percent in 1978 and 3.7 percent in 1979.²⁰ In 1980 the industry's performance deteriorated, recording an operating profit to net sales ratio of only 1.4 percent. The industry turned a profit in 1981, but the January-September 1981 operating profit to net sales ratio of 3.1 percent hardly qualifies as grounds for optimism. Indeed, three U.S. producers

¹⁴ *Id.* at A-22.

¹⁵ *Id.* at A-10 to A-11.

¹⁶ *Id.* at A-26, Table 11.

¹⁷ *Id.* Commissioner Frank notes that it is reasonable to presume such recent levels of capacity utilization are not sufficient per se to enable the industry to return to a more healthy condition in view of its capital intensive nature. He also finds it appropriate to observe in this context that continuance of these capacity utilization levels surely would affect industry management decisions as to the nature, magnitude and timing of future capital investment in productive facilities, aside from other economic and financial considerations.

¹⁸ *Id.* at A-21, Table 7.

¹⁹ *Id.* at A-23.

²⁰ *Id.* at A-31, Table 16.

⁶ Commissioner Paula Stern fully joins the views of the Commission on carbon steel plate. In her separate views on Hot-Rolled Carbon Steel sheet from France, Inv. No. 701-TA-85, she has discussed in detail issues of interest in all these cases.

⁷ Commissioner Frank notes that the statute and legislative history require the Commission in its preliminary determinations in both antidumping and countervailing duty investigations to exercise only a low threshold test based upon the best information available to it at the time of such determination that the facts reasonably indicate that an industry in the United States could possibly be suffering injury, threat thereof or material retardation. H.R. Rep. No. 96-317, 96th Cong., 1st sess., 52 (1979).

⁸ 46 FR 56635 (Nov. 18, 1981).

⁹ One Belgian manufacturer, Cockerill Sambre, S.A., argued that the Commerce Department improperly included cut-to-length hot-rolled steel band in the investigation. Transcript of Public Conference, pp. 192-94. Cockerill contends that the Commerce Department incorrectly defined the imported articles subject to this investigation by TSUS numbers, rather than according to commercial practice. According to Cockerill, this confusion resulted in the mistaken inclusion of hot-rolled steel band in the investigation. We believe that the resolution of this issue should be left to the Department of Commerce.

¹⁰ A Belgian firm, Forges de Clabecq, argued that the great majority of its plate falls within certain combinations of width and thickness that cannot be

reported operating losses for the partial accounting year ending in September 1981.²¹

Reasonable Indication of Material Injury by Reason of Imports

We turn now to the impact of the allegedly dumped or subsidized imports on the state of the domestic industry. We will discuss the reasons for our affirmative determinations on a country-by-country basis because we find a reasonable indication of material injury due to the imports of each country individually, rather than cumulatively.²²

1. Hot-Rolled Carbon Steel Plate From Romania

Introduction

Our determination that there is a reasonable indication that allegedly dumped hot-rolled carbon steel plate from Romania has caused or threatens to cause²³ material injury to the domestic industry is based principally on the dramatic rise in imports of Romanian plate during 1980-81, lost sales, and the large margins of underselling. There are preliminary indications that underselling attributable to Romanian imports has caused both price suppression and depression in the U.S. steel market. Our finding that there is a reasonable indication of a threat of material injury²⁴ by reason of imports from Romania rests on the likelihood that imports of Romanian plate will continue at their current penetration levels during a period in which the domestic industry is particularly vulnerable to injury.

Volume of Imports

The information developed in our preliminary investigation reveals a dramatic rise in imports of Romanian

hot-rolled carbon steel plate. Imports remained below 1 percent of apparent U.S. consumption from 1978-80, accounting for a mere 0.6 percent of apparent U.S. consumption in 1978, 0.2 percent in 1979, and 0.4 percent in 1980.²⁴ This relatively low level of import penetration changed in 1981 with a sudden increase in the first nine months of 1981 to 3.1 percent. Imports from Romania totaled 35,000 tons during 1980. In the first 9 months of 1981, imports jumped to 184,000 tons.²⁵ Thus imports for the first three quarters of 1981 are more than five times the level attained over an entire year in 1980. We see indications that this increase has materially disturbed domestic markets at a time of declining overall domestic plate demand.

Impact on Prices

Preliminary indications of possible price suppression or depression form an additional linkage between the state of the domestic industry and the alleged dumping of Romanian plate. For the reasons set forth in the Staff Report it is difficult to make price comparisons between imported and domestic plate.²⁶ Some quarterly price comparisons, however, are available for 1980 and the first three quarters of 1981. The Romanian product undersold at significant margins the domestically produced hot-rolled plate in six of the seven quarters.²⁷

The Commission was also able to confirm that the domestic industry lost sales to Romanian imports.²⁸ Price was the determining factor in every case. Purchasers reported that Romanian offering and selling prices were as much as 100 dollars per ton below domestic producers' published prices. We conclude that the information available on pricing and lost sales indicates a reasonable possibility of price suppression.

The underselling by Romanian producers may have broader implications. The carbon steel plate industry appears to be highly price-sensitive, and even more so during periods of stagnant or declining demand. According to information obtained by the Commission, buyers generally are aware of prevailing market prices and are able to play off competing domestic

and foreign offers. Hence the low prices of one firm, foreign or domestic, may have a broad-ranging effect on the market. The margins of underselling attributable to possibly dumped imports may be suppressing or depressing domestic prices.²⁹

Accordingly, we conclude that there is a reasonable indication that the domestic industry has incurred material injury by reason of allegedly LTFV imports.

Threat of Material Injury³⁰

We further determine that there is a reasonable indication that the domestic industry is threatened with material injury by reason of allegedly dumped imports of hot-rolled carbon steel plate from Romania. The issue of whether there is a reasonable indication of a threat of material injury turns on the "likelihood of a particular situation developing into actual material injury."³¹ The threat must be real and imminent, not a mere possibility based on supposition and conjecture.³² Information available in this preliminary investigation reasonably indicates that Romanian exporters have the capacity, the export capability and the financial incentive to direct large and increasing quantities of hot-rolled plate to the U.S. market.

Romania's capacity for producing hot-rolled carbon steel plate has increased and will continue to increase. Capacity rose substantially from 1979-80 to January-October, 1981.³³ As a new plant constructed by Combinat Siderurgica Galati (CSG) comes on stream, capacity is projected to increase further in 1985.³⁴ Since there was substantial unused capacity in 1981, the Romanian steel industry has the ability to substantially increase its production and its exports to the United States. The dramatic increase in Romanian plate imports during January-September 1981 demonstrates that Romania has the ability to increase rapidly its exports to the United States.

We also note that there are preliminary indications that Romania is currently experiencing a shortage of hard currency. This appears to be a particular problem for the steel industry, since the rolling mill equipment for the new CSG plant was purchased with a U.S. Export-Import Bank loan which

²¹ Commissioner Frank notes that steel industry association data cite certain productivity statistics, e.g., tons per hour, that indicate that this industry manifests greater productivity than Belgian, Brazilian and Romanian producers. He believes that, if final Commission investigations are conducted, the Commission should independently obtain relevant comparative productivity data from domestic and Belgian, Romanian, and Brazilian producers.

²² Commissioner Frank, while not cumulating the impact of allegedly subsidized imports from Belgium and Brazil as a principal factor in reaching his determinations in these preliminary investigations, notes, based on the record developed to date, the appropriateness of Commerce's self-initiated investigations against these countries inasmuch as aggregated imports of carbon steel plate represent overall over 32% of total carbon steel plate imports for consumption by quantity and value as of September 1981. He did consider, however, the cumulative impact of such imports (including Romanian imports) as an adjunct to his analyses in reaching his determinations in these preliminary investigations.

²³ See footnote 5.

²⁴ Staff Report at A-41 to A-42, Table 20.

²⁵ *Id.* at A-41 to A-42, Table 19.

²⁶ *Id.* at A-46. Commissioner Frank points out that there are some differences in handling freight, transportation costs, and other considerations which affect net prices to end users and domestic purchasers, making price comparisons difficult in some circumstances.

²⁷ *Id.* at A-51 Table 26.

²⁸ *Id.* at A-51 to A-52.

²⁹ *Id.* at A-51, Table 28; A-52, Table 27.

³⁰ See footnote 5.

³¹ H.R. Rep. No. 96-317, 96th Cong., 1st Sess. 47 (1979).

³² *Alberta Gas Chemicals, Inc. v. United States*, 515 F. Supp. 780 (Ct. Int'l Trade 1981).

³³ Staff Report at A-57.

³⁴ *Id.*

must be repaid in dollars.³⁵ Until the loan is repaid, it would appear that the Romanian steel industry has reason to export in order to obtain U.S. currency.³⁶ Representatives of the Romanian industry argued that rising Romanian demand will absorb projected increases in steel production, thus removing the threat of future Romanian imports. However, they also stated that they could not be "precise" about when and to what extent demand will increase.³⁷ This claim can be investigated in our final investigation.

We conclude that the capacity, export capability, and financial needs of the Romanian steel industry establish a reasonable indication of a real and imminent threat of material injury by reason of imports of hot-rolled plate from Romania.

2. Hot-Rolled Carbon Steel Plate From Belgium

Introduction

We conclude that there is a reasonable indication that the domestic industry has suffered or is threatened with³⁸ material injury by reason of allegedly subsidized imports of hot-rolled carbon steel plate from Belgium. Our determination is based, among other things, on the continued significant volume of Belgian imports, lost sales, and a consistent pattern of underselling.

Volume of Imports

During January 1978–September 1981, Belgium was the largest exporter of hot-rolled plate to the United States, accounting for 17 percent of total imports.³⁹ While Belgian imports have fluctuated in terms of tonnage,⁴⁰ they have consistently accounted for a sizeable share of domestic consumption. After falling from 4.6 percent of apparent domestic consumption in 1978 to 2.7 percent in 1979, Belgian imports rose to 3.7 percent of apparent domestic consumption in 1980 and 3.9 percent in January–September, 1981. During January–September, 1981, imports totaled 232,000 tons, as opposed to 200,000 tons during the comparable period of 1980. This represents an increase of 16 percent.

Price

Pricing data collected by the Commission show that imported Belgian plate consistently undersold domestic plate. On sales to service center

distributors underselling occurred in every quarter, with the margin of underselling ranging as high as 18 percent.⁴¹ Sales to end-user customers also showed repeated instances of underselling, although at somewhat smaller margins.

The Commission was able to confirm instances of lost sales to imports from Belgium.⁴² In each case, the purchaser stated that price was the principal reason for its decision to purchase Belgian plate over a competing domestic offer. Furthermore, in several situations, domestic producers lowered their prices to avoid losing sales to Belgian competitors.⁴³ Thus, the information developed in this preliminary investigation suggests that imports of Belgian hot-rolled plate have contributed to price suppression or depression in the U.S. market.^{44 45}

The continued significant volume of Belgium imports of hot-rolled plate, coupled with underselling and confirmed lost sales, establishes a reasonable indication that allegedly subsidized Belgian imports have caused material injury to the domestic industry.⁴⁶

Threat of Material Injury⁴⁷

The Belgian steel industry has significant plate-making capacity. Capacity utilization has remained relatively low, ranging from 47.4 percent in 1979 to 59.5 percent in January–September 1981.⁴⁸ Hence it is possible for the Belgian steel producers to increase greatly their production of hot-

rolled plate. Furthermore, according to data supplied by the Belgian government, almost all Belgian plate is exported. In 1979, exports of 1,323,000 tons exceeded Belgian production of 1,314,000 tons.⁴⁹ During January–September 1981, Belgian production of 1,188,000 tons barely exceeded exports of 1,148,000 tons. After falling to 214,000 tons in 1979, imports from Belgium rose in 1980 and in January–September 1981.⁵⁰ It is clear from past import patterns that the Belgian producers are capable of exporting significant quantities of plate to the United States. For these reasons, there is a reasonable indication that imports from Belgium pose a threat of material injury.

3. Hot-Rolled Carbon Steel Plate From Brazil

Introduction

The sharp increase in imports of hot-rolled plate from Brazil, indications of underselling, and confirmed lost sales form the principal bases for our determination that there is a reasonable indication that allegedly subsidized Brazilian imports have caused or threaten⁵¹ to cause material injury to the domestic hot-rolled carbon steel plate industry.

Volume of Imports

The volume of imports of hot-rolled plate from Brazil rose consistently during the period under investigation. Brazilian imports totalled 80,000 tons in 1978.⁵² They increased to 206,000 tons in 1979 and 323,000 tons in 1980. This trend continued in 1981. In January–September 1981, 228,000 tons of imported Brazilian plate entered the United States, as opposed to 218,000 tons during the comparable period of 1980.⁵³

These increases in volume were accompanied by equivalent increases in import penetration. Thus, the ratio of Brazilian imports to domestic consumption went from 0.9 percent in 1978 to 2.6 percent in 1979 and 4.2 percent in 1980.⁵⁴ Accordingly, Brazilian plate played an increasing role in the U.S. market during a period in which the health of the domestic industry declined.

Price

The pricing data regarding Brazil are mixed. There are repeated, albeit irregular, indications of underselling at margins ranging from 2 to 7 percent.⁵⁵

³⁵ Transcript at 226–27.

³⁶ *Id.*

³⁷ *Id.* at 240.

³⁸ See footnote 5.

³⁹ Staff Report at A–41.

⁴⁰ *Id.* at A–41, Table 19.

⁴¹ *Id.* at A–50, Table 24. The underselling was particularly marked in the Northeast and Southeast areas.

⁴² *Id.* at A–51.

⁴³ *Id.* at A–52, Table 27.

⁴⁴ Commissioner Frank notes that during the 1980 to September 1981 period there also appears to be an indication of possible price distortions in both domestic and imported hot-rolled carbon steel plate which warrants further scrutiny should a final Commission investigation in this matter be undertaken.

⁴⁵ Commissioner Frank notes that the U.S. Department of Commerce, in announcing its self-initiated countervailing duty investigation specifically indicated those government programs which it intends to investigate that are listed in the Report on pages A–6 through A–7. He also observes that Under Secretary of Commerce Olmer in his testimony at the Commission's public conference disclosed that the Commerce Department had already made an estimate of the per ton value of just two of the government programs of nearly \$40 per ton in some cases and indicated the total value of subsidization under all such programs to be determined after a thorough investigation could be much higher.

⁴⁶ Commissioner Frank believes it should be emphasized that such pricing patterns, trends and indications of impact should be scrutinized *per se* totally independent of such impacts on Trigger Price Mechanisms in effect, which for the purpose of this subsidy investigations are not relevant.

⁴⁷ See footnote 5.

⁴⁸ *Id.* at A–54, Table 28.

⁴⁹ *Id.*

⁵⁰ *Id.* at A–41, Table 19.

⁵¹ See footnote 5.

⁵² Staff Report at A–41, Table 19.

⁵³ *Id.*

⁵⁴ *Id.* at A–41, Table 20.

⁵⁵ *Id.* at A–50, Table 25.

Furthermore, the Commission was able to confirm instances in which potential purchasers of hot-rolled plate selected the Brazilian product over a competing domestic offer.⁵⁶ Each purchaser cited the lower price of the Brazilian plate as the basis for its decision to purchase the imported article.

The steel market is highly price sensitive, particularly during periods of stagnant or declining demand. There is information available which indicates that buyers generally are aware of prevailing market prices and are able to play off competing domestic and foreign offers. Hence the low prices of one firm, foreign or domestic, may have a broad-ranging effect on the market.

There are preliminary indications that Brazilian imports, by virtue of a competitive advantage allegedly derived from government subsidization, are taking sales away from domestic manufacturers and may be materially suppressing or depressing prices in the U.S. market.⁵⁷ Accordingly, we conclude that there is a reasonable indication of material injury by reason of allegedly subsidized imports from Brazil.⁵⁸

Threat of Material Injury⁶⁰

Section 771(7)(E)(i) of the Tariff Act of 1930 provides:

(i) Nature of subsidy.—In determining whether there is a threat of material injury, the Commission shall consider such information as may be presented to it by the administering authority as to the nature of the subsidy (particularly as to whether the subsidy is an export subsidy inconsistent with the Agreement) provided by a foreign

⁵⁶ *Id.* at A-51.

⁵⁷ Commissioner Frank notes that the U.S. Department of Commerce in self-initiating its countervailing duty investigation has indicated its intention to investigate participation by the Brazilian industry in certain export incentive programs as well as other governmental programs that may provide countervailable benefits which are described in the Report on pages A-7 to A-8. He notes additionally that Commerce has currently estimated a total ad valorem benefit of up to 27 percent for three principal programs which have been found countervailable in previous cases; and further, he notes that Commerce has indicated that it does not currently have sufficient information to estimate the ad valorem value of other possible countervailable assistance, which may be substantial.

⁵⁸ Commissioner Frank notes that during the 1980 to September 1981 period there also appears to be an indication of possible price distortions in both domestic and imported hot-rolled carbon steel plate which warrants further scrutiny should a final Commission investigation in this matter be undertaken.

⁵⁹ Commissioner Frank believes it should be emphasized that such pricing patterns, trends and indications of impact should be scrutinized *per se* totally independent of such impacts on Trigger Price Mechanisms in effect, which for the purpose of this subsidy investigation are not relevant.

⁶⁰ See footnote 5.

country and the effects likely to be caused by the subsidy.

In its Notice of Investigation,⁶¹ the Department of Commerce alleged that certain of the Brazilian subsidies under investigation are specifically directed at stimulating exports. Exports have accounted for an increasing portion of Brazil's hot-rolled plate production, with the bulk of these exports directed at the United States. Approximately 55 percent of Brazilian plate exports entered the United States in 1979 and 68 percent in 1980. During the period under investigation, Brazil's exports of carbon steel plate to the United States have more than doubled from 177,000 tons in 1979 to 389,000 tons in 1980.⁶²

Information obtained in the course of this preliminary investigation indicates that the Brazilian industry's plate capacity may increase as the two facilities currently under construction begin production.⁶³

Hence, the Brazilian steel industry appears to have the capacity and the financial incentive to increase its shipments to the United States over present levels. Such shipments would further injure a domestic industry that is already weakened.

Issued: January 4, 1982.

By order of the Commission.

Kenneth R. Mason,
Secretary.

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[Investigation No. 701-TA-85 (Preliminary)]

Hot-Rolled Carbon Steel Sheet From France

Determination

On the basis of the record¹ developed in investigation No. 701-TA-85 (Preliminary), the Commission unanimously determines that there is a reasonable indication that an industry in the United States is materially injured² by reason of imports from France of hot-rolled carbon steel sheet, provided for in items 607.6610, 607.6700, 607.8320, or 607.8342 of the Tariff Schedules of the United States Annotated (1981), which

¹ 46 FR 56636-37 (Nov. 18, 1981).

² Staff Report at A-55, Table 29.

³ *Id.* at A-55 to A-57.

¹ The record is defined in § 207.2(j) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(j)).

² Vice Chairman Calhoun and Commissioner Stern determine that there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury by reason of imports from France of hot-rolled carbon steel sheet which are alleged to be subsidized by the Government of France.

are alleged to be subsidized by the Government of France.

Background

On November 18, 1981, the U.S. International Trade Commission received advice from the U.S. Department of Commerce that it was initiating a countervailing duty investigation on imports of hot-rolled carbon steel sheet from France. Accordingly, effective November 18, 1981, the Commission instituted investigation No. 701-TA-85 (Preliminary) pursuant to section 703(a) of the Tariff Act of 1930 (19 U.S.C. 1671b(a)) to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports of the merchandise which is the subject of the investigation by the Department of Commerce.

Notice of the institution of the Commission's investigation and of a public conference to be held in connection therewith was duly given by posting copies of the notices at the Office of the Secretary, U.S. International Trade Commission, Washington, D.C., and by publishing the notices in the *Federal Register* of November 25, 1981 (46 FR 57785). The conference was held in Washington, D.C., on December 14, 1981, and all persons who requested the opportunity were permitted to appear in person or by counsel.

Views of Chairman Bill Alberger, Vice Chairman Michael J. Calhoun, Commissioner Alfred E. Eckes, and Commissioner Eugene J. Frank

We have determined that there is a reasonable indication that an industry in the United States is materially injured³ by reason of allegedly subsidized imports from France of hot-rolled carbon steel sheet. Our determination is based on the following considerations.⁴

³ Vice Chairman Calhoun also finds that there is a reasonable indication of a threat of material injury. See *fn.* 28.

⁴ Commissioner Frank notes that the Statute and legislative history require the Commission in its preliminary determinations in both antidumping and countervailing duty investigations to exercise only a low threshold test based upon the best information available to it at the time of such determination that the facts reasonably indicate that an industry in the United States could possibly be suffering material injury, threat thereof, or material retardation. H.R. Rept. No. 96-317, 96th Cong., 1st Sess., p. 52 (1979).

The Domestic Industry

The domestic industry is defined in section 771(4)(A) of the Tariff Act of 1930 as consisting of all domestic producers of a product that is like that being imported, or those producers whose total output of the like product constitutes a major portion of domestic production of that product.⁵ "Like product" is defined by section 771(10) of the Act as "a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation * * *"⁶

This investigation concerns allegedly subsidized imports of hot-rolled carbon steel sheet from France. Hot-rolled sheet, whether imported or domestically produced, is used in car bodies, large appliances such as washing machines and refrigerators, electrical equipment, machinery and equipment, and certain types of welded pipe and tube. In its Notice of Institution, the Department of Commerce defined the imported articles as follows:

For the purposes of this investigation, the term "hot rolled carbon steel sheet" covers steel not alloyed; not cold rolled; whether or not pickled; not coated or plated with metal and not clad; over twelve inches in width; and in coils, or if not in coils under 0.1875 inch in thickness, as currently provided for in items 607.6610, 607.6700, 607.8320, or 607.8342 of the Tariff Schedules of the United States. Annotated.

46 FR 56640 (Nov. 18, 1981). For purposes of this investigation, then, the term hot-rolled sheet refers to steel less than 0.1875 inch thick which has been cut to length, or which has been coiled, regardless of thickness.

Steel sheet is either coiled to facilitate handling or sheared to various lengths and widths.⁷ Coiled sheet is sold to end-users who unroll the coiled sheet and cut it to the dimensions desired.

Hot-rolled sheet, whether imported or domestic, comes in a spectrum of lengths, widths, and gages.⁸ Any differences in characteristics and uses are insignificant for purposes of this preliminary investigation.⁹ All

⁵ 19 U.S.C. 1677(4)(A).

⁶ 19 U.S.C. 1677(10).

⁷ The manufacturing process for hot-rolled sheet is described in detail in the Staff Report and will not be discussed here. Staff Report at A-1 and A-2.

⁸ *Id.* at A-2 et seq.

⁹ Some French producers argued that certain of their imports fall into categories that should be excluded from the definition of the like product. In particular, they contended that lighter gage products in widths of 84 inches or more are either in short supply or unavailable from domestic sources. Transcript of public conference of December 14, 1981, at 157, 179, 183-84. There are no persuasive data, however, to substantiate the product mix of French imports, the lack of alternative domestic sources, or the alleged uniqueness of the French products. Furthermore, information available to the

domestically produced hot-rolled carbon steel sheet, regardless of width or gage, is "like" the French imports. Consequently, we believe the "continuum principle" set forth in *Stainless Clad Steel Plate from Japan*,¹⁰ is appropriate to consideration of the like product in this investigation. That case involved clad steel plate custom-made in a variety of sizes and shapes. The Commission found that the like product consisted of a general category of clad steel plate, rather than plate of particular sizes or shapes. In reaching its conclusion, the Commission stated:

Since this is a case in which the like product candidates consist of a group of products slightly distinguishable from each other, among which no clear dividing lines can be drawn based on characteristics and uses, we find the like product in this preliminary investigation is all members of the group.¹¹

Accordingly, we find that the like product is all hot-rolled carbon steel sheet within the category defined by the Commerce Department. Thus, the relevant domestic industry in this investigation consists of those domestic producers who produce hot-rolled carbon steel sheet.

Reasonable Indication of Material Injury

1. *Condition of the domestic industry.* The Commission last examined the condition of the U.S. steel industry, including that portion of the industry producing hot-rolled carbon steel sheet, in May 1980.¹² Data available at that time revealed an industry adversely affected by increasing import competition and achieving profitability levels that were exceedingly low both in absolute terms and in comparison with other manufacturing groups. Information obtained in the present investigation demonstrates that the domestic industry's health has not substantially improved.

Domestic production of hot-rolled carbon steel sheet declined from 11.3 million tons in 1978 to 9.5 million tons in 1980, or by about 16 percent. Although production rebounded in the first three quarters of 1981 as compared to the same period in 1980, it is unlikely, in light of currently shrinking demand, to

Commission suggests that 84-inch French sheet competes with narrower widths of U.S.-produced sheet, which can be welded together to cover an equivalent surface area.

¹⁰ Inv. No. 731-TA-50 (Preliminary), USITC Pub. 1196 (1981).

¹¹ *Id.* at 4.

¹² Certain Carbon Steel Products from Belgium, the Federal Republic of Germany, France, Italy, Luxembourg, the Netherlands, and the United Kingdom, Investigations Nos. 731-TA-18 to 24 (Preliminary), USITC Pub. 1064 (1980).

reach the full-year levels attained in 1978 and 1979.¹³ Utilization of capacity remained steady between 1978 and 1979, but declined approximately 20 percent in 1980 as a result of declining production. Capacity utilization for the first nine months in 1981, although higher than the comparable period of 1980, was still below the percentages reported for 1978 and 1979.¹⁴

Domestic shipments of hot-rolled carbon steel sheet increased slightly from 1978 to 1979, but fell sharply in 1980. Shipments increased in January-September 1981, as compared to the same period in 1980.¹⁵ Year-end inventories declined 14 percent from 1978 to 1980. However, they increased dramatically—42 percent in the first nine months of 1981, as compared to the same period in 1980 signalling the current downturn in demand.¹⁶

Total employment in U.S. facilities producing hot-rolled carbon steel sheet, and well as employment of production and related workers in particular, rose from 1978 to 1979, but declined in 1980. While total employment continued to fall in the first three quarters of 1981, employment of production and related workers (including those specifically engaged in producing hot-rolled sheet) increased from 1980, reflecting the general trend in production, but employment was still below levels reached in 1978 and 1979.¹⁷

Especially significant in the assessment of injury is the extremely low level of profitability in this industry. On both their overall and hot-rolled sheet operations domestic producers are currently receiving a far lower ratio of operating profit to net sales than are either all iron and steel company operations or all manufacturing companies.¹⁸ The data show that net

¹³ Staff Report at A-16.

¹⁴ *Id.* As noted in the Staff Report, some hot-rolled sheet is produced on the same equipment used to make hot-rolled plate, and allocation of a plant's total capacity must be made in order to arrive at a capacity figure for each product.

¹⁵ *Id.* at A-17. Exports represent approximately 1 percent of total domestic shipments for the relevant period.

¹⁶ *Id.* at A-19.

¹⁷ Commissioner Frank notes that the hours paid for production and related workers for hot-rolled carbon steel sheet also evidence some increase on nine month figures of 1981 as compared to 1980, but likewise showed declines from 1978 and 1979. *Id.* at A-20.

Commissioner Frank further notes that unit labor costs per ton in the production of hot-rolled carbon steel sheet were down 6.2 percent for the January-September 1981 period from the comparable 1980 period. Labor productivity in terms of tons per hour was higher also. *Id.* at A-24, Table 15.

¹⁸ *Id.* at A-27. Profit-and-loss data were received from nine producers accounting for roughly 87 percent of domestic shipments in 1980. *Id.* at A-23.

sales of hot-rolled sheet increased 19 percent, from \$3.4 billion in 1978 to \$4.0 billion in 1979, then declined to \$3.1 billion in 1980. In the first three quarters of 1981, net sales increased by 46 percent over the same period in 1980, from \$2.2 billion to \$3.2 billion.¹⁹ However, aggregate operating profits from sales of hot-rolled sheet declined from \$168 million in 1978 to an operating loss of \$234 million in 1980, while the ratio of operating profit to net sales fell from a positive 5 percent in 1978 to a negative 7.6 percent in 1980. Despite increased net sales in 1981, the industry continued to suffer an operating loss, amounting to \$58 million in the first three quarters, for a ratio of operating loss to net sales of 1.8 percent.²⁰ These negative profitability figures amply demonstrate the present weakened condition of the domestic industry.

Furthermore, other considerations, such as the low level of return on equity the industry has shown, do not make it an attractive magnet for investment capital.²¹

2. *Volume of Imports.* One of the most important factors influencing our determination is the changing pattern of imports. The most recent monthly data emphasizes that the volume of imports of hot-rolled sheet from France is increasing. In particular, imports of sheet from France rose from 90,083 tons in the three-month period August to October 1980 to 149,832 tons in the same period of 1981, an increase of 66 percent.²²

Until 1981, imports steadily declined throughout the period of investigation. They fell from 693,613 tons in 1978 to 395,351 tons in 1980.²³ The ratio of imports to apparent U.S. consumption, which reached 4.0 percent in 1978, declined to 3.1 percent in 1979, and remained constant in 1980. However, the ratio of imports to domestic shipments began to increase in 1981, rising to 5.4 percent in August-October, the most recent period for which data are available.²⁴ From our perspective, both the absolute rise in the level of sheet imports from France and the imports to

domestic shipments ratio point to an affirmative preliminary determination.

3. *Price.* Pricing information on imported hot-rolled carbon steel sheet from France warrants further investigation. The Commission requested delivered selling prices for hot-rolled carbon steel sheet, commercial quality, 0.1210-0.1799 inches in thickness and over 36 but less than 72 inches in width from domestic producers and from importers of French hot-rolled sheet. This information was used for price comparisons. Data supplied by importers of the French product showed that in certain instances French sheet sold for a higher price than the comparable domestic product. Thus on sales to service center-distributors the French imports consistently sold at a higher price than domestic sheet, with the margins of overselling ranging from 1 percent to 24 percent.²⁵ However, sales to end-user customers reveal a pattern of underselling at margins ranging from 1 percent to 17 percent.²⁶ The usefulness of these comparisons is affected by the difficulty of calculating freight charges for domestic shipments.²⁷ Certain domestic companies reported that they were unable to calculate freight, since this cost was assumed by the purchaser. Others emphasized that inclusion of freight charges can distort a comparison of prices. Therefore, for purposes of this preliminary investigation, we note there is a reasonable indication of a pattern of underselling of imports in some parts of the market.

Furthermore, information obtained from domestic purchasers calls into question claims that French sheet sold at higher price. In questionnaire responses, five domestic producers provided information regarding 86 alleged lost sales to imports of competing hot-rolled sheet from France.²⁸ The Commission staff contacted a representative sample of 17 purchasers. Twelve purchasers confirmed lost sales.²⁹ The principal reason given by these purchasers for the lost sales was the lower price of the French product. Only one purchaser reported paying a premium for the French import. Staff also verified instances in which domestic hot-rolled sheet producers lowered their prices in order to avoid losing a sale to a

competing French offer.³⁰ Accordingly, in spite of its alleged higher quality, there is evidence that French sheet sold for a lower price than domestic hot-rolled sheet.

The market for hot-rolled carbon steel sheet is highly price sensitive. The lower prices of one source of supply, foreign or domestic, can have ripple effects on the market. We believe that the information regarding French prices demonstrates a reasonable possibility that the imports from France have suppressed, and, on occasion, depressed prices in the domestic market. During a final investigation, the staff will have an opportunity to verify any data submitted and to obtain additional information.

Conclusion

On the basis of the record before us,³¹ we conclude that there is a causal link between allegedly subsidized imports of hot-rolled carbon steel sheet and the reasonable indication of material injury. The principal bases for our determination are the increasing volume

¹⁹ With regard to threat of material injury, Vice Chairman Calhoun observes that the two major French producers of hot-rolled sheet, Usinor and Sacilor, increased their capacity from 1987 to 1980. Both firms retain significant amounts of unused capacity that could be used to increase production. Since the Simonet-Davignon Plan apparently restricts shipments within the European Community, it is possible that any increases in French production would be directed at export markets.

France clearly has the ability to export large amounts of hot-rolled sheet to the United States, although it has not fully exploited this capability in recent years. Nevertheless, imports from France increased in January-September 1981 by comparison with the comparable period of 1980, rising from 270,500 tons to 297,903 tons. This trend becomes even more apparent when examined on a month-to-month basis. During 1980, imports from France fluctuated from month to month, both in terms of tonnage and as a ratio of imports to domestic shipments. No clear pattern of increasing volume or import penetration is apparent. In contrast, month-to-month figures for January-October 1981 show a pattern of sharp increases in tonnage and as a ratio of imports to domestic shipments.

The French steel industry's excess capacity, demonstrated export capability, and the recent rising trend in French imports establishes a reasonable indication of a threat of material injury. Furthermore, French hot-rolled carbon steel sheet is allegedly of superior quality and at a price competitive with domestic steel. For a price sensitive industry this provides an added basis for a finding of a reasonable indication of threat of material injury.

³¹ On the basis of the record before him, Commissioner Frank concludes that there is a causal link between allegedly subsidized imports of hot-rolled carbon steel sheet from France with the material injury experienced by the domestic industry. The principle bases for his affirmative determination are the significant volume of French imports and information regarding lost sales, as well as a reasonable indication that these French imports through their impact on domestic prices, have had a material adverse effect on the condition of the domestic industry.

¹⁹ *Id.* at A-26.

²⁰ *Id.* at A-26.

²¹ Commissioner Frank notes that total capital expenditures have risen since 1978, the majority of which went into machinery and equipment. He notes also that research and development expenditures in the industry have increased consistently since 1976 including the first nine months of 1981. *Id.* at A-27 and A-28.

²² *Id.* at A-30.

²³ *Id.* at A-29, Table 20.

²⁴ Commissioner Frank notes that production of hot-rolled carbon steel sheet by the two French producers meanwhile has increased in 1979 and 1980 and rates of production to capacity are up for the first 9 months of 1981. Staff Rept. at *Id.* at A-47.

²⁵ *Id.* at A-37 through A-39, Table 25.

Commissioner Frank notes that a number importer-distributors are owned by French producers. *Id.* at A-8.

²⁶ *Id.*

²⁷ *Id.* at A-37.

²⁸ *Id.* at A-39 and A-40.

²⁹ *Id.*

of French imports, information regarding lost sales by reason of underselling, and price suppression leading to reduced profitability.

Views of Commissioner Paula Stern

Introduction

On the basis of the record in this investigation, I have found that there is a reasonable indication that an industry in the United States is materially injured by reason of imports of hot-rolled carbon steel sheet allegedly subsidized by the government of France.

The present case has focused on a basic industry which has been the subject of intense discussion throughout the industrial world. Many issues important to this case appeared earlier in cases before the Commission in 1980³² and bear review.

Important legal issues in the previous cases centered on the appropriate breadth of product aggregation in describing the domestic industry and the propriety of judging the cumulative impact of the subject imports on the domestic industry. The question of aggregation—which the Commission chose to approach on a product line basis—apparently has been settled for the steel industry. In the present case all parties seemed agreed on the appropriateness of examining each product line separately. I have found it unnecessary at this preliminary stage to address the issue of cumulation because looking at the subject imports' cumulative impact would not have affected the finding I was able to make on an individual basis.³³ For the sake of brevity, I am incorporating in these Views the previous discussions of product aggregation and cumulation found in *Certain Carbon Steel Products* (May 1980). Both these issues played a role in setting the stage of reaching the primarily economic findings on the existence or threat of injury and the causation of the problems experienced by the U.S. steel industry.³⁴

³²There is a tendency to regard the Commission as having found in this case that subsidized imports have injured the U.S. industry. Rather, emphasis should be given to the fact that the Commission has determined in this preliminary case that there is a reasonable indication of material injury or threat thereof due to alleged subsidized imports. See "Statement of Reasons of Commissioner Paula Stern" in *Certain Carbon Steel Products*, Inv. Nos. 731-TA-18-24 (Preliminary) USITC Pub. No. 1064, May 1980, at 39-71.

³³See the companion cases, *Carbon Steel Plate from Romania*, Inv. No. 731-TA-51 (Preliminary), and *Carbon Steel Plate from Belgium and Brazil*, Inv. Nos. 701-TA-83 and 84 (Preliminary).

³⁴Since there are many firms already in existence, the establishment of an industry in the United States was not at issue and will not be discussed further.

Statutory Standards

Section 771(7) gives specific guidance on what factors, among others, the Commission must consider in evaluating whether a domestic industry has suffered material injury by reason of allegedly subsidized imports. Three general categories of analysis are mentioned: (i) The volume of imports of the merchandise which is the subject of the investigation; (ii) the effect of imports of that merchandise on prices in the United States for like products; and (iii) the impact of imports of such merchandise on domestic producers of like products.

The volume of subject imports is to be evaluated by considering its overall magnitude and any increase either absolute or relative to consumption in the United States.³⁵ In analyzing price effects, the Act directs the Commission to look for evidence that subject imports have brought about "significant" undercutting, depression or suppression of domestic prices.³⁶ Finally, the impact on the affected industry is to be judged on the basis of "all relevant economic factors" including output, sales, market share, profits, productivity, return on investments, capacity utilization, and factors affecting domestic prices, cash flow, inventories, employment, wages, growth, ability to raise capital, and investment.³⁷ The record in these investigations contains some information on virtually all these factors; a detailed compilation may be found in the Report.

Condition of the Domestic Industry

In preliminary investigations Commission practice is to gather data for three full years plus the partial

³⁵Section 771(7)(C)(i) states: "In evaluating the volume of imports of merchandise the Commission shall consider whether the volume of imports of the merchandise, or any increase in that volume, either in absolute terms or relative to production or consumption in the United States, is significant."

³⁶Section 771(7)(C)(ii) states: "In evaluating the effect of imports of such merchandise on prices, the Commission shall consider whether—(i) there has been significant price undercutting by the imported merchandise as compared with the price of like products of the United States, and (ii) the effect of imports of such merchandise otherwise depresses prices to a significant degree or prevents price increases, which otherwise would have occurred, to a significant degree."

³⁷Section 771(7)(C)(iii) enumerates these factors as follows: "In examining the impact on the affected industry, the Commission shall evaluate all relevant economic factors which have a bearing on the state of the industry, including, but not limited to—(i) actual and potential decline in output, sales, market share, profits, productivity, return on investments, and utilization of capacity, (ii) factors affecting domestic prices, and (iii) actual and potential negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital, and investment."

current year. Such questionnaire data is supplemented by publicly available information and in cases such as the present one, material gathered by the Commission in previous investigations of the same industry. Because the scope of the sheet industry in this investigation follows industry practices in defining sheet rather than TSUS numbers, the information gathered in the current investigation is not directly comparable to that found in the previous Commission report.³⁸ This second detailed look at the steel industry in less than two years confirms my earlier general judgments. But now the same continuing problems have been exacerbated by the heightened macroeconomic difficulties of the U.S. economy. In short, despite a temporary partial recovery in many of the economic indicators of the industry's performance for the first nine months of this year compared to those for the like period of 1980, the domestic hotrolled steel sheet industry remains unhealthy.³⁹

U.S. production of hot-rolled sheet has been irregular but generally at troubling levels over the period of investigation. From 11.3 million and 12.2 million short tons in 1978 and 1979, it fell to 9.5 million tons in 1980. Data for the first nine months of 1981 show a growth to 8.8 million tons from the 6.5 million tons recorded in the like period of 1980. What the fall of 1981 will look like is not yet clear; however, there are strong indications that the fourth quarter of 1981 will show a sharp reduction in output as the prolonged and deepening recession in the U.S. automobile industry continues to affect adversely the demand for hot-rolled sheet.⁴⁰

Capacity in the industry remained relatively stable over the period. From 17.4 million tons in 1978, it grew to 19.0 million tons in 1979 before falling off to 18.4 million tons in 1980. Partial year data for 1981 indicate a capacity level for this year will be at the 1979 level again. Capacity utilization declined from 64 percent in 1978 to 52 percent in 1980 and then increased to 61 percent in January-September 1981. In view of the sharp decline apparently occurring in the fourth quarter of 1981, the capacity utilization for the full year may well be

³⁸Accompanying Report at A-2.

³⁹Except as otherwise noted, data below are collected by the Commission's staff from nine questionnaire respondents covering approximately 87 percent of U.S. hot-rolled sheet shipments in 1980.

⁴⁰The automobile industry is one of the major customers of hot-rolled sheet. At this stage, it remains unclear what effect, if any, the increased demand for pipe and tube is having on hot-rolled sheet. Should this case return, more information on the structure of demand would be helpful.

close to the depressed level recorded in 1980.

Caution must be used in evaluating these capacity and capacity utilization figures. Hot-rolled carbon sheet is produced in hotstrip mills that use equipment common to the production of carbon steel plate. Thus, an allocation of a plant's total capacity must be made to obtain figures for specific product lines. As the report notes, the integrated nature of all steelmaking facilities results in steel companies altering their mix of product lines in order to keep the primary production facilities (common to all the lines) operating at high capacity levels.⁴¹ This freedom of operation normally requires excess capacity at rolling and finishing mills. There is general agreement that capacity utilization in the production of raw steel is a better indicator of performance for both the broad industry and the individual firm. The capacity for raw steel production in the United States declined slowly from 157.9 million tons in 1978 to 153.7 million tons in 1980. However, U.S. production fell sharply to 111.8 million tons in 1980 from the approximately 137 million ton level of 1978 and 1979. The result was a decline in capacity utilization in raw steel from 87 percent in 1978 to 73 percent in 1980.

Shipments by U.S. producers followed a course similar to that followed by domestic production—a slight increase from 1978 to 1979, followed by a sharp decline in 1980. The first nine months of 1981 saw a noticeable increase over the same period of 1980.

U.S. exports of hot-rolled sheet are not significant, having never exceeded one percent of shipments. They rose irregularly from 77.9 thousand tons in 1978 to 92.4 thousand tons in 1980. Partial year data shows exports down sharply in January-September 1981 from the equivalent period in 1980.

End-of-period inventories declined by 14 percent from 1978 to 1980 before rising by 42 percent as of September 30, 1980, compared to one year earlier. Although inventories stood at five to six percent of shipments from 1978 through 1980, they rose to over seven percent of nine-month shipments in 1981.

Employment attributed to production of hot-rolled sheet declined irregularly from 21,500 in 1978 to 18,500 in 1980 before increasing to 20,300 in January-September 1981. The trend in manhours employed in this product line was similar. Wages and total compensation allocated to workers producing hot-rolled sheet followed a pattern similar to that of employment. However, compared to employment, wages and total

compensation increased by a greater percentage in 1979 and declined by a smaller percentage in 1980. Average hourly compensation⁴² increased dramatically from \$14.29 in 1978 to \$19.68 for the first nine months of 1981. Meanwhile, labor productivity was relatively stable between 1978 and 1980 before increasing in January-September 1981. Only in 1981 did unit labor costs actually fall.⁴³

The clearest overall picture of the condition of the industry producing hot-rolled sheet emerged from the data on financial performance. Of nine reporting firms, five sustained operating losses in 1978, four in 1979, eight in 1980, and five in the partial accounting year ending in September 1981. Aggregate net operating profit declined from \$168 million in 1978 to \$95 million in 1979. In 1980 these profits turned to net operating losses of \$234 million. Data for partial-year 1981 indicate further losses of \$58 million as of September 30. As a share of net sales, operating profit declined from 5.0 percent in 1978 to a negative 7.6 percent in 1980.

The conclusions I have reached on the condition of this industry are similar in form and substance to those I made in the previous cases.⁴⁴ The relevant indicators have worsened. Modest profits have become losses. The industry's gains from its most recent upswing—which now appears ended—will not be sufficient to sustain a rate of investment necessary to modernize adequately the industry.⁴⁵

I, therefore, have found that there is a reasonable indication of material injury to the domestic hot-rolled sheet industry. It is now necessary to examine the question of whether there is a reasonable indication that the allegedly subsidized French imports are causing a material portion of this injury.

Causation

The link between the French imports and the injury the industry is experiencing has not been definitively established. Furthermore, there are other factors which contribute significantly to any reasonable explanation of the industry's problems. Notwithstanding these serious

reservations, the "reasonable indication" standard prescribed by statute was satisfied and I have concluded that this case should not be terminated at this stage.

In reaching my conclusions on causation, I have concentrated on those parts of the record bearing on the volume of subject imports, price effects of the import competition, and lost sales by domestic producers. Furthermore, I have considered whether other explanations of the steel industry's problems could account for the material injury from which the industry suffers.

Imports of hot-rolled sheet from France declined from 694,000 short tons in 1978 to 395,000 in 1980 and then increased from 271,000 tons in January-September 1980 to 298,000 tons in the comparable period of 1981. As a share of consumption, they declined from 4.0 percent in 1978 to 2.7 percent in January-September 1981. This remains a significant import share in the sheet market. In general, France remains the largest European exporter of hot-rolled sheet to the United States, having been replaced by Japan as the largest exporter to the United States in 1979. Although the role of French imports is smaller than it has been, France remains a definite factor in the market. Furthermore, there is no indication that France is withdrawing from the U.S. market.⁴⁶

Comparative data on steel prices—though far more complete in this preliminary investigation than the previous ones—have proved to be inconclusive. Pricing data in this industry are notoriously complex. Domestic firms followed no uniform methods in calculating, recording, and reporting transaction prices. Adjustments for different transportation costs are difficult and for different product quality inherently subjective. The data showed that imports were frequently higher in price than the domestic product.⁴⁷

Lost sales information, though far more complete in its coverage, seemed to contradict the comparative price data. In a random selection from lost sales allegations by domestic producers, over 70 percent were confirmed. The principal reason cited for buying the French product was price. Only one instance was turned up where a customer paid a premium for French sheet. These lost sales examples, while few in number, are definitely

⁴²This includes wages and all fringe benefits. See Report at A-23.

⁴³Report at A-23. Over a period as short as three years, the behavior of labor productivity in an industry with extensive capital facilities most frequently reflects the degree of capacity utilization.

⁴⁴See "Views of Commissioner Paula Stern," *Certain Carbon Steel Products* at 59-60.

⁴⁵Testimony at the Conference pointed to a capital replacement cycle in steel that was moving toward a fifty year period compared to a desirable one of fourteen years. See Conference Transcript at 109.

⁴⁶Monthly data indicate that October 1981 was a particularly high month for French imports. In making my determination, I have avoided relying on monthly data because they tend to be so volatile.

⁴⁷Report at A-37 through A-39.

⁴¹Report at A-16.

comparable because they each involve a single customer and compare actual delivered prices.

Without weighing other causes against those of the alleged LTFV imports, I believe it is important in closing to note the factors which have kept the costs of the steel industry from falling to a point at which adequate profits might be earned even at the prevailing prices in the subject product lines.

Partly as a result of a very effective cost-of-living adjustment negotiated by the United Steel Workers of America and the unexpected increase in the rate of inflation during the last decade, there has been an accelerating growth of wages at a rate far higher than in general manufacturing. By 1980 steel wages stood at 153 percent of those in general manufacturing. By 1980 this number had grown to 175 percent. The wages of French steel workers have remained considerably below those of their U.S. counterparts. In 1980 the French average hourly compensation in steel was less than 60 percent of that in the United States.⁴⁸

Significant portions of the total investment that has been undertaken has gone to satisfying stricter mandatory standards for environmental protection. Further investment funds have gone into diversification beyond the traditional bounds of the steel industry. While these investments may be socially desirable or economically sound, they have not added in the short run to productivity in the steel industry.

Additionally, foreign producers not the subject of this investigation, including some of the world's most efficient and low-cost steelmakers, are influential participants in the U.S. market. In hot-rolled sheet, Japan is the single largest foreign supplier. Without adequate comparable data for all significant foreign suppliers, I have been unable to dismiss the possibility that some other foreign producer stands to gain if the subject imports are reduced. The allegedly subsidized imports may be hurting foreign suppliers rather than domestic producers.

Citing these other possible causes of injury does not *ipso facto* imply that the subject imports have failed to contribute in a material way to injury for which they may not be primarily responsible. Even a relatively small market share captured by subsidized imports can result in injury by price depression if the product in question is inelastically demanded (and has a price which is very sensitive to small changes in supply). However, there is no

information on the record to suggest that steel's price in any line is unusually price-sensitive to changes in supply.

There is ample evidence that the steel market is quite competitive; sales can be made or lost on the basis of small price differences.⁴⁹

Thus, there remains the possibility that, even without significant underselling and price depression or suppression, loss of volume by the domestic industry to subsidized imports can be injurious.

The previous investigation was conducted when raw steel capacity utilization had just peaked at 88 percent (1979). At that time I concluded that:

* * * with raw steel operating at what amounts to almost full capacity, it does not appear that the solution to these problems can be found in selling more steel. Rather, the problems of all product lines and the larger industry appear to lie in the price at which the steel is sold and the costs at which it is made, not the quantity produced.⁵⁰

At present, raw steel capacity utilization has fallen to 82 percent for the first nine months of 1981.⁵¹ Furthermore, capacity utilization has been declining steadily since mid-1981 and volume has become a serious problem. French imports must be considered in this context.

In the previous cases, I made my findings "in the absence of systematic consumer surveys and comparable price data crucial to linking the alleged LTFV imports to any material injury of the domestic industry."⁵² The Commission's staff has under severe time constraints given an unusually full picture of a rather complex industry. We have better price information than before, but it has not resolved the causal questions we must answer. In preliminary cases, my determination is necessarily based as much on what information the Commission has not been able to gather (but has expectations of developing in a full scale investigation) as on the information I have before me.

Also not resolved has been the role of the alleged subsidies in the competition between French and domestic hot rolled sheet. There is no reasonable basis for denying the potential impact such subsidies could be having on the French ability to sell sheet in the U.S. market. All French sheet comes from the Solmer Facility⁵³ (established 1975) at Fos and

⁴⁸ Report at A-39.

⁴⁹ "Statement of Reasons," *Certain Carbon Steel Plate*, at 59-60.

⁵⁰ *American Metal Market*, October 7, 1981.

⁵¹ "Statement of Reasons," *Certain Carbon Steel Products*, at 41.

⁵² *Société Lorraine et Méridionale de Laminage Continu*.

the Usinor Facility⁵⁴ (established 1963) at Dunkirk. Both are modern, primarily using the continuous casting process. This may account for the high reputation exported French sheet enjoys. Solmer is jointly owned by Usinor and Sacilor.⁵⁵ All three entities receive subsidies from the government of France. Some of the subsidies date to a 1978 French rescue plan whose purpose, Commerce states, was to avert bankruptcy of the French steel industry. Only in 1977 had the Solmer facility succeeded in attaining full production. There is a reasonable indication that the mere presence—however reduced it may be—of French sheet in the U.S. market may be due to these and other subsidies.

I have concluded that there is a reasonable indication that the allegedly subsidized imports from France are a cause of material injury to the domestic hot-rolled sheet industry. Needless to say, should this case return, I would expect to base any final determination on more complete demand information, comparable pricing data, a full analysis of the extent and impact of any subsidies, and a better analysis of other factors influencing the state of the U.S. steel industry. Having discussed aspects relating to threat throughout, I close by noting that there is a reasonable indication that French imports will continue to cause material injury to the domestic industry.

Issued: January 4, 1982.

By order of the Commission.

Kenneth R. Mason,
Secretary.

[FR Doc. 82-506 Filed 1-7-82; 8:45 am]

BILLING CODE 7020-02-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.

In order for an affirmative determination to be made and a certification of eligibility to apply for adjustment assistance to be issued, each

⁵⁴ Union Siderurgique du Nord et de l'Est de la France.

⁵⁵ Acieries et Laminaires de Lorraine.

⁴⁸ Report at A-23.

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-11,628; *Astatic Corp.*,
Conneaut, OH

TA-W-11,590; *Elanjay Corp.*,
Shelbyville, IN

TA-W-12,460; *Emil Fashions, Inc.*,
Hoboken, NJ

TA-W-11,745; *D & S Auto Trim Div.*,
Port Clinton Manufacturing Co., *Alma,*
MI

TA-W-11,936; *Princess Stitching, Inc.*,
Keene, NH

TA-W-11,266; *Hoover Universal, Inc.*,
Solon, OH

TA-W-12,078; *Saco Tanning Corp.*,
Saco, ME

TA-W-11,676; *E & M Coat, Inc.*,
Paterson, NJ

TA-W-11,078; *Tyco Crystal Products,*
Inc., *Phoenix, AZ*

TA-W-11,765; *Speidel Div. of*
Textron, Inc., *East Providence, RI*

TA-W-11,766; *Speidel Div. of Textron*
Inc., *Providence, RI*

TA-W-11,767; *Speidel Div. of*
Textron, Inc., *Smithfield, RI*

TA-W-11,738; *Main Gate Ltd.*, *NY*,
NY

TA-W-11,734; *Kelly Park, Ltd.*,
Naranjito, PR

TA-W-11,735; *Kelly Park, Ltd.*,
Orocovis, PR

TA-W-11,736; *Kelly Park, Ltd.*, *Rio*
Piedras, PR

TA-W-11,705; *General Electric Co.*,
Photo Engineering Plant, Cleveland, OH

TA-W-11,710; *General Electric Co.*,
Fluorescent Engineering Plant,
Cleveland, OH

TA-W-12,150; *General Electric Co.*,
Florida Lamp Plant, Plymouth, FL

TA-W-11,193; *Eltra Corp.*, *Prestolite*
Electronics Div., *Elberton, GA*

TA-W-11,088; *Eltra Corp.*, *Prestolite*
Electronics Div., *Florence, KY*

TA-W-11,004; *Eltra Corp.*, *Prestolite*
Electronics Div., *Detroit, MI*

TA-W-10,740; *Eltra Corp.*, *Prestolite*
Electronics Div., *Syracuse, NY*

In each of the following cases the investigation revealed that criterion (3) has not been met. Increased imports did not contribute importantly to workers separations at the firm.

TA-W-12,261; *Neimor Contractors,*
Inc., *Newark, NJ*

TA-W-11,737; *Lydall, Inc.*, *Colonial*
Fiber Div., *Manchester, CT*

TA-W-12,426; *Diamond Coat,*
Hoboken, NJ

TA-W-12,749; *Ford Motor Co. Parts &*
Service Div., *Virginia Parts Distribution*
Center, *Richmond, VA*

TA-W-12,926; *Ford Motor Co.*,
Cleveland parts Distribution Center,
Cuyahoga Heights, OH

Affirmative Determinations

TA-W-10,523; *Calgon Corp.*, *Neville*
Island Carbon Plant, *Pittsburgh, PA*

A certification was issued in response to a petition received on August 25, 1980 covering all workers separated on or after October 1, 1980 and before February 1, 1981.

TA-W-11,515; *Pennsy Coats, Inc.*,
Paterson, NJ

A certification was issued in response to a petition received on October 24, 1980 covering all workers separated on or after October 17, 1980.

TA-W-11,504; *Burgher Shingle Ridge,*
Inc., *Copalis Crossing, WA*

A certification was issued in response to a petition received on October 24, 1980 covering all workers separated on or after October 10, 1979.

TA-W-11,870; *Paris Knitting Mills,*
Inc., *Carlstadt, NJ*

A certification was issued in response to a petition received on November 28, 1980 covering all workers separated on or after October 30, 1980 and before January 1, 1981.

TA-W-11,635; *Jackie Stuart, Inc.*, *NY*,
NY

A certification was issued in response to a petition received on November 3, 1980 covering all workers separated on or after October 29, 1979 and before December 31, 1980.

TA-W-12,357; *Brentwood Sportwear,*
Inc., *Philadelphia, PA*

A certification was issued in response to a petition received on February 24, 1981 covering all workers separated on or after January 22, 1981 and before July 3, 1981.

TA-W-10,944; *McLaughlin Co.*,
Potoskey, MI

A certification was issued in response

to a petition received on September 8, 1980 covering all workers separated on or after August 29, 1979 and before September 30, 1980.

TA-W-11,314; *Enro Shirt Co.*,
Louisville, KY

A certification was issued in response to a petition received on October 10, 1980 covering all workers separated on or after June 28, 1980

TA-W-11,314A; *Enro Shirt Co.*,
Woodruff, SC

A certification was issued in response to a petition received on October 10, 1980 covering all workers separated on or after June 28, 1980.

I hereby certify that the aforementioned determinations were issued during the period December 21-25, 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 business hours or will be mail to persons to write to the above address.

December 29, 1981.

Marvin M. Fooks,
Director, Office of Trade Adjustment
Assistance.

[FR Doc. 82-208 Filed 1-7-82; 8:45 am]

BILLING CODE 4510-30-M

Labor Surplus Area Classifications Under Executive Orders 12073 and 10582; Additions to Annual List of Labor Surplus Areas

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice.

SUMMARY: The purpose of this notice is to announce additions to the annual list of labor surplus areas.

FOR FURTHER INFORMATION CONTACT: James W. Higgins, Assistant Chief, Division of Labor Market Information, 601 D Street, N.W., Attn: TPPL, Washington, D.C. 20213 (202)-376-7192.

SUPPLEMENTARY INFORMATION: Executive Order 12073 requires executive agencies to emphasize procurement set-asides in labor surplus areas. The Secretary of Labor is responsible under this Order for classifying and designating areas which are labor surplus areas. Under Executive Order 10582 executive agencies may reject bids or offers of foreign materials in favor of the lowest offer by a domestic supplier, provided that the domestic supplier undertakes to produce substantially all of the materials in areas of substantial unemployment as

defined by the Secretary of Labor. The preference given to domestic suppliers under Executive Order 10582 has been modified by FPR Temporary Regulation 57 which was issued by the General Services Administration on January 15, 1981, 46 FR 3519. Executive agencies should refer to this regulation in procurements involving foreign businesses or products in order to assess its impact on the particular procurements.

The Department's regulations implementing Executive Order Nos. 12073 and 10582 are set forth at 20 CFR Part 654. Subpart A requires the Assistant Secretary of Labor to classify jurisdictions as labor surplus areas pursuant to the criteria specified in the regulations and to publish annually a list of labor surplus areas. Pursuant to these provisions the Assistant Secretary of Labor published the annual list of labor surplus areas on June 9, 1981, 46 FR 30594-30599.

Subpart B of Part 654 states that an area of substantial unemployment for purposes of Executive Order No. 10582 is any area classified as a labor surplus area under Subpart A. Thus, labor surplus areas under Executive Order No. 12073 are also areas of substantial unemployment under Executive Order No. 10582.

The areas described below have been classified by the Assistant Secretary of Labor as labor surplus areas pursuant to 20 CFR 654.5(c) and added to the annual labor surplus area listing, effective January 1, 1982. The following additions to the annual list of labor surplus areas are published for the use of all Federal agencies in directing procurement activity and locating new plants or facilities.

Signed at Washington, D.C., on December 23, 1981.

Albert Angrisani,
Assistant Secretary of Labor.

ADDITIONS TO THE ANNUAL LIST OF LABOR SURPLUS AREAS—JANUARY 1, 1982

Labor surplus area	Civil jurisdiction included
MASSACHUSETTS	
Lynn City	Lynn City in Essex County.
OHIO	
Balance of Allen County	Allen County less Lima City, Lake County.
Lake County	
OREGON	
Eugene City	Eugene City in Lane County.
PUERTO RICO	
Carolina Municipio	Carolina Municipio.
Guaynabo Municipio	Guaynabo Municipio.
San Juan Municipio	San Juan Municipio.
Toa Baja Municipio	Toa Baja Municipio.

[FR Doc. 82-537 Filed 1-7-82; 8:45 am]

BILLING CODE 4510-30-M

AM Cable TV Industries Inc., AM Electronics Div. (IBEW et al.; Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to section 221(a) of the Act and 29 CFR 90.12

The purpose of each of the investigations is to determine whether absolute or relative increases of imports

of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 601 D Street, NW., Washington, D.C. 20213.

Signed at Washington, D.C. this 28th day of December 1981.

Marvin M. Fooks,
Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner (union/workers or former workers of—)	Location	Date received	Date of petition	Petition No.	Articles produced
AM Cable TV Industries, Inc., AM Electronics Div. (IBEW)	Lebanon, Pa.	12/22/81	12/18/81	TA-W-13,159	Taps for cable TV.
Bradburn & Brooks (company)	Mt. Vernon, Washington	12/22/81	12/15/81	TA-W-13,160	Shakes for housing.
Defiance Screw Machine Products (UAW)	Defiance, Ohio	12/22/81	12/17/81	TA-W-13,161	Screw machine parts.
Franklin Brass Foundry (Molded & Allied Wkrs)	Columbus, Ohio	12/18/81	12/14/81	TA-W-13,162	Castings—aluminum, brass, bronze.
Marek, Inc. (ILGWU)	New York, New York	12/15/81	12/7/81	TA-W-13,163	Dresses, ladies.
OMC Galesburg (OPEU)	Galesburg, Ill.	12/18/81	12/15/81	TA-W-13,164	Ignition systems, outboard and lawn mower.
Prestolite Electronics, Wico Plant (company)	W. Springfield, Mass.	12/21/81	12/15/81	TA-W-13,165	Assemblies, small electronic.
Tomlino Sportswear, Incorporated (ILGWU)	Brooklyn, New York	12/21/81	12/16/81	TA-W-13,166	Blouses, ladies.
Wilco Products, Inc. (workers)	Bronx, New York	12/22/81	12/16/81	TA-W-13,167	Metal wire bars for luggage, clothes hangers, etc.

[FR Doc. 82-538 Filed 1-7-82; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-11,267]

**J.H. Apparel, Freeport, New York;
Termination of Investigation**

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on October 14, 1980 in response to a worker petition received on October 6, 1980 which was filed by the Amalgamated Clothing and Textile Workers Union on October 2, 1980 on behalf of workers and former workers producing children's slacks, shirts and sweaters at J.H. Apparel, Freeport, New York.

The firm in question apparently has gone out of business. The Department of Labor has not been able to contact officials of the firm or to gain access to the location of any records, ledgers and or documents relating to J.H. Apparel. Therefore, the investigation has been terminated.

Signed at Washington, D.C. this 21st day of December 1981.

Marvin M. Fooks,*Director, Office of Trade Adjustment Assistance.*

[FR Doc. 82-541 Filed 1-7-82; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-12,765 and 12,766]

**Norrwock Shoe Company
Norridgewock, Maine Skowhegan,
Maine; Affirmative Determination
Regarding Application for
Reconsideration**

On October 29, 1981, the Department issued negative determinations regarding eligibility to apply for worker adjustment assistance for former workers of the Norrwock Shoe Company's plants in Norridgewock and Skowhegan, Maine. The denials were published in the **Federal Register** on November 10, 1981 (46 FR 55577).

The company challenges the "contributed importantly" finding which supports the Department's denials in the instant cases. The Department's findings were based only on the survey of Norrwock's major customer.

Conclusion

After review of the application, I conclude that the claim is of sufficient weight to justify reconsideration of the Department of Labor's prior decision. The application is, therefore, granted.

Signed at Washington, D.C. this 24th day of December 1981.

Robert O. Deslongchamps,*Acting Deputy Administrator, Unemployment Insurance Service.*

[FR Doc. 82-540 Filed 1-7-82; 8:45 am]

BILLING CODE 4510-30-M

**Perry Plastics Inc., Erie, Pa., et al.;
Determinations Regarding Eligibility
To Apply for Worker Adjustment
Assistance**

In accordance with section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for adjustment assistance issued during the period.

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 worker's 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-12,304; Perry Plastics, Inc., Erie, PA

TA-W-12,007; Merit Plastics, Inc.,

Service Cable Div., Mt. Clemens, MI

TA-W-11,933; Garden City Apparel Co., Garden City, MO

TA-W-11,935; Phill Jacobs, Inc., Kansas City, MO

TA-W-11,245; Caterpillar Tractor, Milwaukee, WI

In each of the following cases the investigation revealed that criterion (3) has not been met. Increased imports did not contribute importantly to workers separations at the firm.

TA-W-12,465; Natalie Ann Fashions, Inc., Union City, NJ

TA-W-12,312; Eugene Rothmund, Inc., Somerville, MA

TA-W-12,100; Portion King, Inc, Perth Amboy, NJ

In the following case the investigation revealed that criterion (3) has not been met for the specified reason.

TA-W-12,836; M. Shower & Co., Cairo, IL

Aggregate U.S. imports of washable service apparel are negligible.

Affirmative Determinations

TA-W-12,544; American Medical Instrument Corp., Flushing, NY

A certification was issued in response to a petition received on March 24, 1981 covering all workers separated on or after March 20, 1980 and before October 1, 1980.

TA-W-12,276; Empress Sport Togs, Inc., NY, NY

A certification was issued in response to a petition received on February 10, 1981 covering all workers separated on or after February 5, 1980 and before October 1, 1980.

I hereby certify that the aforementioned determinations were issued during the period December 28-31, 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 business hours or will be mailed to persons who write to the above address.

Dated: January 5, 1982.

Marvin M. Fooks,*Director, Office of Trade Adjustment Assistance.*

[FR Doc. 82-542 Filed 1-7-82; 8:45 am]

BILLING CODE 4510-30-M

**NUCLEAR REGULATORY
COMMISSION****Draft Regulatory Guide, "Instrument
Setpoints"; Correction to Notice of
Issuance and Availability**

The Nuclear Regulatory Commission published in the **Federal Register** on December 14, 1981 (46 FR 61024), a notice of issuance and availability of a draft regulatory guide entitled "Instrument Setpoints" and identified by its task number, IC 010-5. In the notice, public comments on the draft guide were solicited, but the deadline for comments was inadvertently omitted. This deadline, as printed on the draft guide, is February 12, 1982, but comments received after that date will be considered to the extent that it is practical to do so.

(5 U.S.C.) 552(a))

Dated at Rockville, Md., this 4th day of January 1982.

For the Nuclear Regulatory Commission.
Karl R. Goller,
 Director, Division of Facility Operations,
 Office of Nuclear Regulatory Research.
 [FR Doc. 82-514 Filed 1-7-82; 8:45 am]
 BILLING CODE 7590-01-M

[Docket No. 50-461]

Illinois Power Co.; Availability of Draft Environmental Statement for Clinton Power Station, Unit 1

Notice is hereby given that a Draft Environmental Statement (NUREG-0854) has been prepared by the Commission's Office of Nuclear Reactor Regulation related to the proposed operation of the Clinton Power Station, Unit 1, by the Illinois Power Company. The plant is located in DeWitt County in Central Illinois, about six miles east of the city of Clinton.

This Draft Environmental Statement (DES) addresses the aquatic, terrestrial, radiological, social and economic costs and benefits associated with normal station operation. Also considered are station accidents, their likelihood of occurrence or their consequences. Finally, the statement presents an updated discussion of a need for the facility since the construction permit application.

This DES is available for inspection by the public in the Commission's Public Document Room at 1717 H Street, N.W., Washington, D.C. 20555 and in the Vespasian Warner Public Library, 120 West Johnson Street, Clinton, Illinois 61727. The Draft Environmental Statement is also being made available at the State Clearinghouse, Bureau of the Budget, Lincoln Tower Plaza, 524 S. Second Street, Room 315, Springfield, Illinois 62706. Requests for copies of the DES (NUREG-0854) should be addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Technical Information and Document Control.

Interested persons may submit comments on this DES for the Commission's consideration. Federal, State, and specified local agencies are being provided with copies of the DES (local agencies may obtain these documents upon request).

Comments by Federal, State, and local officials, or other members of the public received by the Commission will be made available for public inspection at the Commission's Public Document Room in Washington, D.C. and in the Vespasian Warner Public Library, 120 West Johnson Street, Clinton, Illinois 61727.

After consideration of comments submitted with respect to the DES, the Commission's staff will prepare a Final Environmental Statement, the availability of which will be published in the **Federal Register**. Comments are due by February 22, 1982.

Comments on this report from interested members of the public should be addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Md., this 28th day of December 1981.

For the Nuclear Regulatory Commission.
James R. Miller,
 Chief, Standardization and Special Projects Branch, Division of Licensing.
 [FR Doc. 82-512 Filed 1-7-82; 8:45 am]
 BILLING CODE 7590-01-M

[Docket No. 50-275]

Pacific Gas & Electric Co.; Granting of Exemption

The U.S. Nuclear Regulatory Commission (the Commission) has granted an exemption from the requirements of 10 CFR Part 20 "Standards for Protection Against Radiation," to the Pacific Gas and Electric Company (the licensee).

This exemption related to the definition of "calendar quarter" provided in 10 CFR 20.3(a)(4). The basis for this action is set forth in the Commission's Letter of Exemption and related Safety Evaluation dated December 31, 1981.

The Commission has determined that the granting of this exemption 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 licensee's request dated October 28, 1981 and (2) the Commission's Letter of Exemption and related Safety Evaluation dated December 31, 1981. Items (1) and (2) are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C., and at the California Polytechnic State University Library, Documents and Maps Department, San Luis Obispo, California 93407. A copy of item (2) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Md., this 31st day of December 1981.

For the Nuclear Regulatory Commission.
B. C. Buckley,
 Acting Chief, Licensing Branch No. 3, Division of Licensing.
 [FR Doc. 82-513 Filed 1-7-82; 8:45 am]
 BILLING CODE 7590-01-M

SMALL BUSINESS ADMINISTRATION

[License No. 04/04-5202]

Trans Florida Capital Corp.; Issuance of License To Operate as a Small Business Investment Company

On February 13, 1981, a notice was published in the **Federal Register** (FR 12366), stating that Trans Florida Capital Corporation, located at 747 Ponce de Leon Boulevard, Coral Gables, Florida 33134, had filed an application with the Small Business Administration (SBA), pursuant to 13 CFR 107.102 (1981), for a license to operate as a small business investment company under the provisions of Section 301(d) of the Small Business Investment Act of 1958, as amended.

Interested parties were given until the close of business March 2, 1981, to submit their comments to SBA. No comments were received.

Notice is hereby given that having considered the application and all other pertinent information, SBA issued License No. 04/04-5202 to Trans Florida Capital Corporation on December 17, 1981, to operate as a small business investment company, pursuant to Section 301(d) of the Act.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: December 30, 1981.

Arthur E. Armstrong,
 Acting Deputy Associate Administrator for Investment.

[FR Doc. 82-443 Filed 1-7-82; 8:45 am]
 BILLING CODE 8025-01-M

DEPARTMENT OF STATE

[Public Notice 789]

Claims Against Iran; Iran-United States Claims Tribunal

This notice concerns developments at the most recent session of the Iran-United States Claims Tribunal at The Hague. It supplements information provided in Public Notice 783 (46 FR 58631, December 2, 1981) and prior notices. For further information, contact David P. Stewart, Administrator for Iranian Claims, Office of the Legal

Adviser, Department of State, Washington, D.C. 20520. Telephone (202) 632-5040.

At its December session, the Tribunal continued its work on modifying the UNCITRAL Arbitration Rules but was not able to complete the task.

At the request of the Islamic Republic of Iran, the Tribunal formally addressed the question whether it has jurisdiction under the Claims Settlement Agreement over claims which might be filed by the Islamic Republic of Iran directly against U.S. nationals, as opposed to counterclaims brought by Iran against U.S. claimants who have filed claims against Iran with the Tribunal. The Tribunal decided that it does not have jurisdiction over such direct claims.

The Tribunal also determined that the different claims, or components of claim, of an individual claimant may be aggregated for purposes of determining whether the claim is for less than \$250,000 must therefore be filed with the Tribunal by the Claimant's government in accordance with Article III(3) of the Claims Settlement Agreement. Claims may be aggregated for this purpose even if they run against different entities or are based on different subject matters, although they may subsequently be handled separately for purposes of Tribunal efficiency. This decision is consistent with the guidance previously given claimants by the Department of State. Accordingly, U.S. nationals with claims totaling \$250,000 or more should file their claims directly with the Tribunal no later than January 19, 1982. Claimants with aggregate claims of \$250,000 or more are advised not to file separately any components of their claim which are valued at less than \$250,000. The United States Government will present to the Tribunal claims of those claimants whose aggregated claims total less than \$250,000.

Claimants are also advised to ensure that their statements of claim meet the requirements of the Tribunal's Administrative Directives (previously published in the **Federal Register**). Claimants may avoid possible technical objections by ensuring that their statements of claim are signed and properly translated and that, where applicable, the authority of the person signing (such as legal representative or corporate officer) is appropriately documented.

The Tribunal's next session will begin on January 11, 1982.

Dated: December 31, 1981.

David P. Stewart,
Administrator for Iranian Claims.

[FR Doc. 82-530 Filed 1-7-82; 8:45 am]

BILLING CODE 4710-08-M

[Public Notice 788]

Federal Republic of Germany, et al.; Applications for Permits to Fish Off the Coasts of the United States

The Fishery Conservation and Management Act of 1976 (Pub. L. 94-265) as amended (the "Act") provides that no fishing shall be conducted by foreign fishing vessels in the Fishery Conservation Zone of the United States after February 28, 1977, except in accordance with a valid and applicable permit issued pursuant to section 204 of the Act.

The Act also requires that a notice of receipt of all applications for such permits, a summary of the contents of such applications, and the names of the Regional Fishery Management Councils that receive copies of these applications, be published in the **Federal Register**.

Individual vessel applications for fishing in 1982 have been received from the Governments of the Union of Soviet

Socialist Republics, the Federal Republic of Germany, the People's Republic of Bulgaria, Japan, Norway and Korea.

If additional information regarding any applications is desired, it may be obtained from: Permits and Regulations Division (F37), National Marine Fisheries Service, Department of Commerce, Washington, D.C. 20235. (Telephone: (202) 634-7432).

Dated: December 16, 1981.

Larry L. Sneed,
Deputy Director, Office of Fisheries Affairs.

Fishery codes and designation of regional councils which review applications for individual fisheries are as follows:

Code	Fishery	Regional council
ABS.....	Atlantic Billfishes and Sharks.....	New England, Mid-Atlantic, South Atlantic, Gulf of Mexico, Caribbean, North Pacific.
BSA.....	Bering Sea and Aleutian Islands Trawl, Longline and Herring Gillnet.	North Pacific.
CRB.....	Crab (Bering Sea).....	North Pacific.
GOA.....	Gulf of Alaska.....	North Pacific.
NWA.....	Northwest Atlantic.....	New England, Mid-Atlantic, Western Pacific.
SMT.....	Seamount Groundfish (Pacific Ocean).	Western Pacific.
SNA.....	Snails (Bering Sea).....	North Pacific.
WOC.....	Washington, Oregon, California Trawl.	Pacific.
PBS.....	Pacific Billfish and Sharks.....	Western Pacific.

Activity codes specify categories of fishing operations applied for are as follows:

Activity code	Fishing operations
1.....	Catching, processing, and other support.
2.....	Processing and other support only.
3.....	Other support only.

Nation and vessel name and type	Application No.	Fishery	Activity
Federal Republic of Germany:			
<i>Friedrich Busse</i> , large stern trawler.....	GE-82-0010.....	BSA, GOA (See note 1).....	1.
<i>Regulus</i> , large stern trawler.....	GE-82-0011.....	BSA, GOA (See note 1).....	1.
Japan: <i>Hakuryu Maru No. 72</i> , medium stern trawler.....	JA-82-1178.....	BSA.....	1.
Norway: <i>F/T "Sjoeviktraal"</i> , stern trawler.....	NO-82-0002.....	BSA.....	1.
Bulgaria:			
<i>Afala</i> , freezer-trawler.....	BU-82-0007.....	WOC, NWA (See notes 2, 3, 4).....	1 and 2.
<i>Sagita</i> , freezer-trawler.....	BU-82-0020.....	WOC, NWA (See notes 2, 3, 4).....	1 and 2.
<i>Argonaut</i> , freezer-trawler.....	BU-82-0002.....	WOC, NWA (See notes 2, 3, 4).....	1 and 2.
<i>Alleus</i> , freezer-trawler.....	BU-82-0022.....	WOC, NWA (See notes 2, 3, 4).....	1 and 2.
Korea:			
<i>Gae Cheog Ho</i> , factory ship.....	KS-82-0112.....	BSA, GOA (See note 5).....	2.
<i>Gae Yang Ho</i> , large stern trawler.....	KS-82-001.....	BSA, GOA (See note 5).....	2.
<i>Seo Yang Ho</i> , large stern trawler.....	KS-82-0002.....	BSA, GOA (See note 5).....	2.
<i>Cheog Yang Ho</i> , large stern trawler.....	KS-82-0003.....	BSA, GOA (See note 5).....	2.
<i>Pung Yang Ho</i> , large stern trawler.....	KS-82-0004.....	BSA, GOA (See note 5).....	2.
<i>Heung Yang Ho</i> , large stern trawler.....	KS-82-0006.....	BSA, GOA (See note 5).....	2.
<i>Kyung Yang Ho</i> , large stern trawler.....	KS-82-0085.....	BSA, GOA (See note 5).....	2.
<i>Kum Kang San Ho</i> , stern trawler.....	KS-82-0084.....	BSA, GOA (See note 5).....	2.
<i>Hwa Rang Ho</i> , stern trawler.....	KS-82-0127.....	BSA, GOA (See note 5).....	2.
<i>Nambug</i> , large stern trawler.....	KS-82-0033.....	BSA, GOA (See note 6).....	2.
<i>Crystal Dahlia</i> , large stern trawler.....	KS-82-0034.....	BSA, GOA (See note 6).....	2.
<i>Daejin No. 52</i> , large stern trawler.....	KS-82-0037.....	BSA, GOA (See note 6).....	2.
<i>Dongsan-Ho</i> , large stern trawler.....	KS-82-0039.....	BSA, GOA (See note 6).....	2.

Nation and vessel name and type	Application No.	Fishery	Activity
Han Kil Ho, large stern trawler	KS-82-0044	BSA, GOA (See note 6)	2.
Han Jin Ho, large stern trawler	KS-82-0045	BSA, GOA (See note 6)	2.
Shin An Ho, large stern trawler	KS-82-0047	BSA, GOA (See note 6)	2.
No. 70 Dyang Ho, large stern trawler	KS-82-0048	BSA, GOA (See note 6)	2.
Dae Sung Ho, large stern trawler	KS-82-0051	BSA, GOA (See note 6)	2.
No. 303 Dai Ho, large stern trawler	KS-82-0095	BSA, GOA (See note 6)	2.
Salvia, large stern trawler	KS-82-0103	BSA, GOA (See note 6)	2.
Yuyang Ho, large stern trawler	KS-82-0104	BSA, GOA (See note 6)	2.
No. 1 Han Sung, large stern trawler	KS-82-0106	BSA, GOA (See note 6)	2.
Hanil Ho, medium stern trawler	KS-82-0107	BSA, GOA (See note 6)	2.
No. 71 Dong Bang, medium stern trawler	KS-82-0121	BSA, GOA (See note 6)	2.
Shin Yang Ho, medium stern trawler	KS-82-0122	BSA, GOA (See note 6)	2.
707 Dai Ho Ho, large stern trawler	KS-82-0123	BSA, GOA (See note 6)	2.
No. 7 Sang Won, medium stern trawler	KS-82-0041	BSA, GOA (See note 6)	2.
U.S.S.R.:			
Albatros, factory/freezer	UR-82-0743	NWA (See note 7)	2.
Sarna, factory/freezer	UR-82-0744	NWA (See note 7)	2.

NOTES:—Federal Republic of Germany: (1) In addition to directed fishing activities, both the *Friedrich Busse* and the *Regulus* have also applied for authorization to conduct Joint Venture operations. Joint Venture operations are contemplated in BSA and GOA from February to September 1982 for Cod and Pollock. U.S. partners in the Joint Venture operations are: Alvin Birch, Alaska Shrimp Trawlers Assoc., P.O. Box 991, Kodiak, Alaska; Jeff Hendrks & Associates, Commercial Ocean Fisheries, P.O. Box 190, Anacortes, Washington; Walter Kuhn, 23101 35th SW, Bothel, Washington; and Dave Stanchfield, Dutch Harbor, Alaska.

Bulgaria: (2) These vessels have applied for Joint Venture operations in NWA between December 15, 1981 and March 31, 1982. Target species (for purchase only), is butterfish. The U.S. partner is Lund's Fisheries, Inc., 997 Ocean Drive, Cape May, New Jersey.

(3) In addition to directed fishing activities, these vessels have also applied for authorization to conduct Joint Venture operations in NWA between November 1, 1981 and June 1, 1982. Target species are Atlantic mackerel, Illex and Loligo Squid. The U.S. partner is Lund's Fisheries, Inc., 997 Ocean Drive, Cape May, New Jersey.

(4) In addition to directed fishing activities, these vessels have also applied for authorization to conduct Joint Venture operations in WOC in 1982. Target species is Pacific Whiting (Hake). The U.S. partner is Joint Trawlers (North Pacific), Inc., Suite 1880, 1111 Third Avenue Building, Seattle, Washington.

Korea: (5) These vessels have applied for authorization to conduct Joint Venture operations in BSA and GOA between January 10, 1982 and April 30, 1982. Main target species is Pollock, with smaller amounts of pacific cod and other species. The U.S. partner is Fish Producers Associates, Inc., P.O. Box 273, Vancouver, Washington.

(6) These vessels have applied for authorization to conduct Joint Venture operations in BSA and GOA between January 15, 1982 and April 30, 1982. Target species is Pollock, with smaller quantities of flounders and pacific cod. The U.S. partner is J.V. Fisheries, Ltd., c/o Graham and Dunn, 3400 Ranier Bank Tower, 1301 5th Avenue, Seattle, Washington.

U.S.S.R.: (7) These vessels have applied for authorization to conduct Joint Venture operations in NWA between January 15, 1982 and July 31, 1982. Target species (for purchase) and Atlantic Mackerel, Silver Hake, and Red Hake. The U.S. partner is North Atlantic Fisheries, Ltd., 510 Seward Square, SE, Washington, D.C.

[FR Doc. 82-635 Filed 1-7-82; 8:45 am]

BILLING CODE 4710-09-M

DEPARTMENT OF THE TREASURY

Customs Service

[T.D. 82-7]

Andrade and Tecate, California, Customs Ports of Entry; Revocation of Notice of Change in Hours of Service; Solicitation of Comments

AGENCY: Customs Service, Treasury.

ACTION: Notice of revocation of change in hours of service; solicitation of comments.

SUMMARY: This notice announces a revocation of a notice of a change in the hours of service at the Customs ports of entry at Andrade and Tecate, California. Currently, the hours of operation are 6:00 a.m. to midnight at Andrade and 7:00 a.m. to midnight at Tecate. Customs recently announced that effective December 7, 1981, the hours of service at both ports would be changed to 6:00 a.m. to 10:00 p.m. daily. However, comments are now being solicited on the proposed change before any action is taken.

DATES: Comments must be received on or before March 9, 1982. Treasury Decision 81-279 is revoked as of January 8, 1982.

ADDRESS: Written comments should be addressed to the Commissioner of Customs, Attention: Regulations Control Branch, U.S. Customs Service, 1301 Constitution Avenue NW., Room 2426, Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT:

Joseph E. O'Gorman, Office of

Inspection, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202-566-8157).

SUPPLEMENTARY INFORMATION:

Background

Section 101.6, Customs Regulations (19 CFR 101.6), provides that each Customs office shall be open for the transaction of Customs business between the hours of 8:30 a.m. and 5:00 p.m. on all days of the year except Saturdays, Sundays, and national holidays. It also provides that services performed outside a Customs office generally shall be furnished between the hours of 8:00 a.m. and 5:00 p.m. Many Customs offices provide service during hours in addition to those specified in the regulations.

The Customs ports of entry at Andrade, and Tecate, California, located on the U.S.-Mexican border, in the San Diego Customs district (Region VII), are open from 6:00 a.m. to midnight and 7:00 a.m. to midnight, respectively. However, because the volume of traffic passing through each port between the hours of 10:00 p.m. and midnight (an average of 12 vehicles) did not warrant providing regular service during these hours, district and regional Customs officials recommended that the hours of service at these ports be changed so that both are open from 6:00 a.m. to 10:00 p.m. Closing both ports at 10:00 p.m. would permit better use of Customs manpower and reduce administrative expenses.

Because opening Tecate at 6:00 a.m. would provide additional service for approximately 100 local commuter vehicles it also was recommended that that port be opened one hour earlier.

Customs anticipated that Governmental savings would outweigh any public inconvenience resulting from the change. Further, both ports would remain open beyond the normal business hours set forth in the regulations and area businesses requiring port services after hours could contact local Customs officials for service which would be provided on a reimbursable basis. Accordingly, by T.D. 81-279, published in the *Federal Register* on November 6, 1981 (46 FR 55174), Customs announced that the hours of service at the two ports of entry was being changed to 6 a.m. to 10 p.m. daily. The new hours of service were to be effective December 7, 1981. However, in recent weeks Customs has become aware of considerable public interest regarding the hours of service of these ports of entry. Therefore, Customs believes it to be in the best interest of all parties to revoke the notice of change of hours of service published as T.D. 81-279 in the *Federal Register* on November 6, 1981, and provide the public with an opportunity to comment on any change.

Accordingly, effective January 8, 1982, T.D. 81-279 is revoked and comments are solicited on a proposal to change the hours of service at the Customs ports of entry at Andrade and Tecate, California, to 6:00 a.m. to 10:00 p.m. daily.

Comments must be received by March 9, 1982.

Dated: December 29, 1981.

William T. Archey,
Acting Commissioner of Customs.

[FR Doc. 82-503 Filed 1-7-82; 8:45 am]

BILLING CODE 4820-02-M

Fiscal Service

[Dept. Circ. 570 1981 Rev. Supp. No. 12]

Glacier General Assurance Company; Surety Companies Acceptable on Federal Bonds

A certificate of authority as an acceptable surety on Federal bonds is hereby issued to the following company under sections 6 to 13 of Title 6 of the United States Code. An underwriting limitation of \$1,015,000 has been established for the company.

Name of Company:

GLACIER GENERAL ASSURANCE
COMPANY

Business Address:

Post Office Box 4626
Missoula, Montana 59806

State of Incorporation:

Montana

Certificates of authority expire on June 30 each year, unless renewed prior to that date or sooner revoked. The certificates are subject to subsequent annual renewal so long as the companies remain qualified (31 CFR Part 223). A list of qualified companies is published annually as of July 1 in Department Circular 570, with details as to underwriting limitations, areas in which licensed to transact surety business and other information. Federal bond-approving officers should annotate their reference copies of the Treasury Circular 570, 1981 Revision at page 33967 to reflect this addition. Copies of the circular when issued may be obtained from the Audit Staff, Bureau of Government Financial Operations, Department of the Treasury, Washington, D.C. 20226.

Dated: January 4, 1982.

W. E. Douglas,

Commissioner Bureau of Government Financial
Operations.

[FR Doc. 82-444 Filed 1-7-82; 8:45 am]

BILLING CODE 4810-35-M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Letter to the Commissioner of Customs Adjusting Restraint Levels on Color Television Receivers From the Republic of Korea

December 30, 1981.

Pursuant to the authority delegated to the United States Trade Representative under Presidential Proclamation 4769 of June 30, 1980, the following letter was sent to the Commissioner of Customs adjusting the fourth period restraint levels for color television receivers from the Republic of Korea.

William E. Brock,
U.S. Trade Representative.

U.S. Trade Representative,

Washington,

December 30, 1981.

Hon. William Von Raab,
Commissioner, U.S. Customs Service,
Department of the Treasury,
Washington, D.C.

Dear Mr. Commissioner: The Government of the Republic of Korea has requested that the level of restraint for the period from July 1 through December 31, 1981, TSUS item 923.73, be adjusted under the carryover and carryforward provisions of the Orderly Marketing Agreement on color television receivers. This would increase the restraint level for that category by 53,022 sets reflecting maximum permissible carryover of the shortfall in the previous restraint period 33,022 sets, and including the unused carryforward of 20,000 sets allowed in the Federal Register notice of June 30, 1981.

Accordingly, pursuant to operative paragraph (6) of Proclamation 4769 of June 30, 1980 you are hereby requested to make the appropriate adjustments in TSUS item number 923.73. The revised restraint levels for the applicable period will be:

Category	Revised level (units)
TSUS 923.73	308,022

This letter will be published in the Federal Register.

Very truly yours,

William E. Brock,
U.S. Trade Representative.

[FR Doc. 82-469 Filed 1-7-82; 8:45 am]

BILLING CODE 3190-01-M

Sunshine Act Meetings

Federal Register

Vol. 47, No. 5

Friday, January 8, 1982

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

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

TIME AND DATE: 9:30 a.m. (eastern time), Tuesday, January 12, 1982.

PLACE: Commission Conference Room 5240, fifth floor, Columbia Plaza Office Building, 2401 E Street, N.W., Washington, D.C. 20506.

STATUS: Part will be open to the public and part will be closed to the public.

MATTERS TO BE CONSIDERED: Open to the public:

1. Review of Commission Actions.
2. Freedom of Information Act Appeal No. 81-09-FOIA-16-BI, concerning a request for documents from a file concerning a race discrimination charge.
3. Freedom of Information Act Appeal No. 81-10-FOIA-61-ME, concerning a request for materials pertaining to deferral referral of an ADEA open file.
4. Freedom of Information Act Appeal No. 81-09-FOIA-53-MK, concerning a request for access to all documents contained in an ADEA charge file.
5. Freedom of Information Act Appeal No. 81-10-FOIA-290, concerning a request for material contained in a charge file reflecting its deferral status.
6. Proposed Section 602 of the Compliance Manual, How to Investigate.
7. Ratification of EEOC's Final Rule Regarding Display of OMB Control Numbers for Recordkeeping Requirements.
8. Report on Commission Operations by the Acting Executive Director.

Closed to the public:

1. Review of Commission Actions.
2. Ratification of Notation Vote.
3. Withdrawal of Commissioner Charges.
4. Proposed Contract for Expert Services Needed in Connection with a Court Case.
5. Status Briefing on Litigation Matters.

6. Litigation Authorization; GC Recommendations.

Note: Any matter not discussed or concluded may be carried over to a later meeting.

CONTACT PERSON FOR MORE INFORMATION: Treva I. McCall, Executive Officer, Executive Secretariat, at (202) 634-6748.

This Notice Issued January 5, 1982.

[S-0624-82 Filed 1-6-82; 3:39 pm]

BILLING CODE 6570-06-M

2

FEDERAL HOME LOAN BANK BOARD

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 47 FR 127, Monday, January 4, 1982.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 10 a.m., Friday, January 8, 1982.

PLACE: 1700 G Street, N.W., Board Room, sixth floor, Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Marshall (202-377-6679).

CHANGES IN THE MEETING: The following item has been added to the open portion of the Bank Board meeting scheduled Friday, January 8, 1982:

Amortization of Discounts on Purchases of Long-Term, Deep Discount Securities

[No. 1, January 6, 1982]

[S-20-82 Filed 1-6-82; 10:26 am]

BILLING CODE 6720-01-M

3

INTERNATIONAL TRADE COMMISSION

[USITC ERB-82-1]

Executive Resources Board (ERB)

TIME AND DATE: 10 a.m., Wednesday, January 13, 1982.

PLACE: Room 117, 701 E Street, N.W., Washington, D.C. 20436.

STATUS: Emergency meeting—less than ten days' prior notice. Open to the public.

MATTERS TO BE CONSIDERED:

1. *Old Business:*
 - a. Executive Development Program: Individual Development Plans.

Commissioners Calhoun, Stern, and Eckes, as members of the Executive Resources Board (ERB), determined by recorded vote that Board business

requires the meeting be called with less than ten days' prior notice and directed the issuance of this notice at the earliest practicable time.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary (202) 523-0161.

[S-19-82 Filed 1-6-82; 9:11 am]

BILLING CODE 7020-02-M

4

NATIONAL MEDIATION BOARD

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 46 FR 62602.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 2 p.m., January 11, 1982.

CHANGES IN THE MEETING: Meeting rescheduled for 2 p.m., January 19, 1982.

SUPPLEMENTARY INFORMATION:

Chairman Brown and Board Member Harris have determined by recorded vote that Agency business required this change and that no earlier announcement of such change was possible.

Dated: January 5, 1982.

[S-21-82 Filed 1-6-82; 11:30 am]

BILLING CODE 7550-01-M

5

POSTAL RATE COMMISSION

TIME AND DATE: 2 p.m., Tuesday, January 5, 1982.

PLACE: Conference room 500, 2000 L Street, N.W., Washington, D.C. 20268.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Issues in Docket MC78-3 (Remand) * * * electronic mail case. (Closed pursuant to 5 U.S.C. 552b(c)(10).)

CONTACT PERSON FOR MORE

INFORMATION: D. Watson, Information Officer, Postal Rate Commission, Room 500, 2000 L Street, N.W., Washington, D.C. 20268; Telephone (202) 254-5614.

[S-022-82 Filed 1-6-82; 2:46 pm]

BILLING CODE 7715-01-M

6

SECURITIES AND EXCHANGE COMMISSION

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94-409, that the Securities and Exchange Commission will hold the following meetings during the week of January 11, 1982, in Room

825, 500 North Capitol Street, Washington, D.C.

Closed meetings will be held on Wednesday, January 13, 1982, following a 10:00 a.m. open meeting, and on Thursday, January 14, 1982, at 10:00 a.m.

The Commissioners, their legal assistants, the Secretary of the Commission, and recording secretaries will attend the closed meetings. Certain staff members who are responsible for the calendared matters may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, the items to be considered at the closed meeting may be considered pursuant to one or more of the exemptions set forth in 5 U.S.C. 552b(c)(4)(8)(9)(A) and (10) and 17 CFR 200.402(a)(4)(8)(9)(i) and (10).

Commissioners Loomis, Evans, Thomas and Longstreth voted to

consider the items listed for the closed meetings in closed session.

The subject matter of the closed meeting scheduled for Wednesday, January 13, 1982, following the 10:00 a.m. open meeting.

Opinions.
The subject matters of the closed meeting scheduled for Thursday, January 14, 1982, at 10:00 a.m., will be:

- Formal orders of investigation.
- Settlement of administrative proceedings of an enforcement nature.
- Institution of injunctive action.
- Legislative matter bearing enforcement implications.

The subject matter of the open meeting scheduled for Wednesday, January 13, 1982, at 10:00 a.m., will be:

Consideration of significant changes to the Commission's financial responsibility rules for brokers and dealers, including the uniform net capital rule (17 CFR 240.15c3-1)

and the customer protection rule (17 CFR 240.15c3-3). The Commission is considering whether to issue four separate releases which would (1) substantially alter the present uniform net capital rule; (2) propose for comment new treatment of related fails; (3) propose for comment new haircut schedules for certain debt securities; and (4) change the treatment of securities borrowing under the financial responsibility rules. For further information, please contact Michael A. Macchiaroli at (202) 272-2372.

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: Paul Siegelbaum at (202) 272-2468.

January 6, 1982.
[S-0023-82 Filed 1-6-82; 2:49 pm]

BILLING CODE 8010-01-M

federal register

Friday
January 8, 1982

Part II

Department of the Interior

Bureau of Land Management

**Outer Continental Shelf; Gulf of Mexico,
Oil and Gas Lease Sale No. 67; Notice of
Sale and Notice of Leasing Systems**

4310-84

UNITED STATES
DEPARTMENT OF THE INTERIOR
Bureau of Land Management

Notice of Sale

Outer Continental Shelf, Gulf of Mexico
Oil and Gas Lease Sale No. 67

1. Authority. This notice is published pursuant to the Outer Continental Shelf Lands Act of 1953 (43 U.S.C. 1331-1343), as amended, (92 Stat. 629), and the regulations issued thereunder (43 CFR Part 3300).
2. Filing of Bids. Sealed bids will be received by the Manager, New Orleans Outer Continental Shelf (OCS) Office, Bureau of Land Management, Hale Boggs Federal Building, 500 Camp Street, Suite 841, New Orleans, Louisiana 70130. Bids may be delivered, either by mail or in person, to the above address until 4:15 p.m., February 8, 1982, or by personal delivery to the Louisiana Superdome, Gate "C," Hyatt Ramp, Level 200, Rooms 4 and 5, 1500 Poydras St., New Orleans, Louisiana, between the hours of 8:30 a.m., c.s.t., and 9:30 a.m., c.s.t., February 9, 1982. Bids received by the Manager later than the times and dates specified above will be returned unopened to the bidders. Bids may not be modified or withdrawn unless written modification or withdrawal is received by the Manager prior to 9:30 a.m., c.s.t., February 9, 1982. All bids must be submitted and will be considered in accordance with applicable regulations, including 43 CFR Part 3300. The list of restricted joint bidders which applies to this sale was published in 46 FR 49653, October 7, 1981.
3. Method of Bidding. A separate bid in a sealed envelope, labeled "Sealed Bid for Oil and Gas Lease (insert number of tract), not to be opened until 10:00 a.m., c.s.t., February 9, 1982," must be submitted

for each tract. A suggested form appears in 43 CFR Part 3300, Appendix A, for bonus bid tracts. Bidders are advised that tract numbers are assigned solely for administrative purposes and that tract numbers are not the same as block numbers found on leasing maps or official protraction diagrams. All bids received shall be deemed submitted for a numbered tract. Bidders must submit with each bid one-fifth of the cash bonus in cash or by cashier's check, bank draft, or certified check, payable to the order of the Bureau of Land Management. No bid for less than a full tract as described in paragraph 12 will be considered. Bidders submitting joint bids must state on the bid form the proportionate interest of each participating bidder, in percent to a maximum of three decimal places after the decimal point, e.g., 50.123%, as well as submit a sworn statement that the bidder is not disqualified under 43 CFR Subpart 3316. The suggested form for this statement to be used in joint bids appears in 43 CFR Part 3300, Appendix B. Other documents may be required of bidders under 43 CFR 3316.4. Bidders are warned against violation of 18 U.S.C. 1860, prohibiting unlawful combination or intimidation of bidders.

4. Bidding Systems. All leases awarded for this sale will provide for a yearly rental payment of \$3 per acre or fraction thereof. The following systems will be utilized:

(a) Bonus Bidding with a Fixed Net Profit Share: Bids on tracts 67-133, 67-134, 67-135, 67-136, and 67-137 must be submitted on a cash bonus basis with a fixed net profit share rate of 50 percent and a capital recovery factor of 0.50. Bids on tracts 67-147, 67-148, 67-149, 67-150, 67-161, 67-162, 67-163, and 67-164 must be submitted on a cash bonus basis with a fixed net profit share rate of 40 percent and a capital recovery factor of 1.00.

- The net profit share payment shall be calculated according to regulations currently codified in 10 CFR 390 (originally promulgated by the Department of Energy, 45 FR 36784, May 30, 1980). The Department of the Interior is in the process of recodifying these regulations.
- (b) Bonus Bidding with a 16-2/3 Percent Royalty. Bids on the remaining tracts to be offered at this sale must be submitted on a cash bonus basis with a fixed royalty of 16-2/3 percent. All leases awarded under this system will provide for a minimum royalty payment of \$3 per acre or fraction thereof.
5. Equal Opportunity. Each bidder must have submitted by 9:30 a.m., c.s.t., February 9, 1982, the certification required by 41 CFR 60-1.7(b) and Executive Order No. 11246 of September 24, 1965, as amended by Executive Order No. 11375 of October 13, 1967, on the Compliance Report Certification Form, Form 1140-8 (November 1973) and the Affirmative Action Representation Form, Form 1140-7 (December 1971). See Item 14, "Information to Lessees."
6. Bid Opening. Bids will be opened on February 9, 1982, beginning at 10:00 a.m., c.s.t., at the Louisiana Superdome, at the second address stated in paragraph 2. The opening of the bids is for the sole purpose of publicly announcing bids received, and no bids will be accepted or rejected at that time. If the Department is prohibited for any reason from opening any bid before midnight, February 9, 1982, that bid will be returned unopened to the bidder, as soon thereafter as possible.
7. Deposit of Payment. Any cash, cashier's checks, certified checks, or bank drafts submitted with a bid may be deposited in a suspense account in the Treasury during the period the bids are being considered. Such a deposit does not constitute and shall not be construed as acceptance of any bid on behalf of the United States.
8. Withdrawal of Tracts. The United States reserves the right to withdraw any tract from this sale prior to issuance of a written acceptance of a bid for the tract.
9. Acceptance or Rejection of Bids. The United States reserves the right to reject any and all bids for any tract. In any case, no bid for any tract will be accepted and no lease for any tract will be awarded to any bidder unless:
- (a) the bidder has complied with all requirements of this notice and applicable regulations;
 - (b) the bid is the highest valid bid; and
 - (c) the amount of the bid has been determined to be adequate by the Secretary of the Interior.
- No bonus bid will be considered for acceptance unless it provides for a cash bonus in the amount of \$25 or more per acre or fraction thereof.
10. Successful Bidders. Each person who has submitted a bid accepted by the Secretary of the Interior will be required to execute copies of the lease specified below, pay the balance of the cash bonus together with the first year's annual rental, and satisfy the bonding requirements of 43 CFR Subpart 3318 within the time provided in 43 CFR 3316.5.
11. Leasing Maps/Official Protraction Diagrams. Tracts offered for lease may be located on the following leasing maps/official protraction diagrams which are available from the Manager, New Orleans OCS Office, at the first address stated in paragraph 2.
- (a) Outer Continental Shelf Leasing Maps - Texas Nos. 1 through 8
 8. These maps are arranged in two sets, Nos. 1 through 4 (7 maps), which sell for \$5 per set; and Nos. 5 through 8 (9 maps), which sell for \$7 per set.

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(b) Outer Continental Shelf Leasing Maps - Louisiana Nos. 1 through 12. This is a set of 27 maps which sells for \$17.

(c) Outer Continental Shelf Official Protraction Diagrams:

- NH 16-4 Mobile
- NH 16-7 Viosca Knoll
- NH 15-12 Ewing Bank
- NH 16-10 Mississippi Canyon
- NG 14-3 Corpus Christi
- NG 15-1 East Breaks
- NG 15-2 Garden Banks
- NG 15-3 Green Canyon
- NG 17-1 St. Petersburg
- NG 17-4 Charlotte Harbor

These sell for \$2 each.

12. Tract Descriptions. The tracts offered for bids are as follows:

Note: There may be gaps in the numbers of the tracts listed. Some of the blocks identified in the final environmental impact statement may not be included in this notice. Some of the blocks are included in prior environmental impact statements rather than the environmental impact statement for this sale.

OCS LEASING MAP, SOUTH PADRE ISLAND AREA, EAST ADDITION,
TEXAS MAP NO. 1A
(Approved May 6, 1965)

Tract	Block	Description	Acres
67-1	A-72	AU	5760
67-2	A-73	AU	5760
67-3	A-83	AU	5760

OCS LEASING MAP, NORTH PADRE ISLAND AREA, TEXAS MAP NO. 2
(Approved July 16, 1954)

Tract	Block	Description	Acres
67-4	919	<u>11</u>	2629.14
67-5	924	<u>11</u>	2746.20

OCS LEASING MAP, NORTH PADRE ISLAND AREA, EAST ADDITION,
TEXAS MAP NO. 2A
(Approved May 6, 1965)

Tract	Block	Description	Acres
67-6	A-12	AU	5760
67-7	A-13	AU	5760

OCS LEASING MAP, MUSTANG ISLAND AREA, EAST ADDITION, TEXAS MAP NO. 3A
(Approved January 23, 1967)

Tract	Block	Description	Acres
67-8	733	AU	\$361.50
67-9	734	AU	\$329.26
67-10	A-58	AU	\$296.87
67-11	A-59	AU	5760
67-12	A-60	AU	5760

OCS LEASING MAP, MUSTANG ISLAND AREA, EAST ADDITION, TEXAS MAP NO. 3A
(Approved January 23, 1967)
(Continued)

Tract	Block	Description	Acreage
67-13	A-151	All	5760
67-14	A-152	All	5760
67-15	A-153	All	5760
67-16	A-162	All	5760

OCS LEASING MAP, MATAGORDA ISLAND AREA, TEXAS MAP NO. 4
(Approved July 16, 1954)

Tract	Block	Description	Acreage
67-17	569	All	5760
67-18	586	All	5760
67-19	587	All	5760
67-20	588	All	5760
67-21	589	All	5760
67-22	603	All	5760
67-23	622	All	5760
67-24	636	All	5760
67-25	718	2/	4955

OCS LEASING MAP, BRAZOS AREA, TEXAS MAP NO. 5
(Approved July 16, 1954)

Tract	Block	Description	Acreage
67-26	412	All	5760

OCS LEASING MAP, BRAZOS AREA, SOUTH ADDITION, TEXAS MAP NO. 5B
(Approved September 24, 1959)

Tract	Block	Description	Acreage
67-27	A-49	All	5760
67-28	A-50	All	5760
67-29	A-68	All	5760

OCS LEASING MAP, GALVESTON AREA, TEXAS MAP NO. 6
(Approved July 16, 1954)

Tract	Block	Description	Acreage
67-30	257	All	5760

OCS LEASING MAP, HIGH ISLAND AREA, TEXAS MAP NO. 7
(Approved July 16, 1954; Revised August 1955)

Tract	Block	Description	Acreage
67-31	20	2/	3515
67-32	22	2/	1735

OCS LEASING MAP, HIGH ISLAND AREA, EAST ADDITION, TEXAS MAP NO. 7A
(Approved January 23, 1967;
Revised October 19, 1981)

Tract	Block	Description	Acreage
67-33	83	All	1485.54
67-34	120	All	2924.73
67-35	128	All	4363.93
67-36	A-244	All	2910.43
67-37	A-245	All	4349.45

OCS LEASING MAP, HIGH ISLAND AREA, SOUTH ADDITION, TEXAS MAP NO. 7B
(Approved September 24, 1959)

Tract	Block	Description	Acreage
67-38	A-565	All	5760
67-39	A-579	All	5760
67-40	A-580	All	5760

OCS LEASING MAP, WEST CAMERON AREA, LOUISIANA MAP NO. 1
(Approved June 8, 1954; Revised July 22, 1954)

Tract	Block	Description	Acreage
67-41	112	All	5000
67-42	114	All	5000
67-43	130	All	5000
67-44	283	All	5000
67-45	284	All	5000

OCS LEASING MAP, WEST CAMERON AREA, WEST ADDITION, LOUISIANA MAP NO. 1A
(Approved November 15, 1955; Revised January 30, 1957;
Revised October 19, 1981)

Tract	Block	Description	Acreage
67-46	379	All	5000
67-47	380	All	5000

OCS LEASING MAP, WEST CAMERON AREA, SOUTH ADDITION, LOUISIANA MAP NO. 1B
(Approved September 8, 1959;
Revised October 19, 1981)

Tract	Block	Description	Acreage
67-48	470	All	3186.36
67-49	471	All	2282.36
67-50	529	All	5000
67-51	530	All	5000

OCS LEASING MAP, EAST CAMERON AREA, LOUISIANA MAP NO. 2
(Approved June 8, 1954; Revised August 1, 1973)

Tract	Block	Description	Acreage
67-52	29	All	5000
67-53	30	All	5000
67-54	44	All	5000
67-55	86	All	5000
67-56	87	All	5000
67-57	191	All	5000
67-58	206	All	5000

OCS LEASING MAP, EAST CAMERON AREA, SOUTH ADDITION,
LOUISIANA MAP NO. 2A
(Approved September 8, 1959)

Tract	Block	Description	Acreage
67-59	260	All	5000
67-60	339	All	5000

OCS LEASING MAP, VERMILION AREA, LOUISIANA MAP NO. 3
(Approved June 8, 1954; Revised June 25, 1954; Revised July 22, 1954)

Tract	Block	Description	Acreage
67-61	17	3/4	1723.58
67-62	44	All	5000
67-63	45	All	5000
67-64	46	S 1/2	2500
67-65	47	All	5000
67-66	56	All	5000
67-67	105	All	5000
67-68	145	All	5000
67-69	158	All	5000

OCS LEASING MAP, VERMILION AREA, SOUTH ADDITION, LOUISIANA MAP NO. 3B
(Approved September 8, 1959)

Tract	Block	Description	Acreage
67-70	253	All	5000

OCS LEASING MAP, SOUTH MARSH ISLAND AREA, SOUTH ADDITION,
LOUISIANA MAP NO. 3C
(Approved September 8, 1959)

Tract	Block	Description	Acreage
67-71	77	All	5000
67-72	194	All	5000
67-73	202	All	5000
67-74	203	All	5000

OCS LEASING MAP, SHIP SHOAL AREA, SOUTH ADDITION,
LOUISIANA MAP NO. 5A
(Approved September 8, 1959)

Tract	Block	Description	Acreage
67-88	240	All	5000
67-89	259	All	5141.14
67-90	321	All	5000

OCS LEASING MAP, SOUTH PELTO AREA, LOUISIANA MAP NO. 6
(Approved June 8, 1954; Revised July 22, 1954; Revised December 9, 1954)

Tract	Block	Description	Acreage
67-91	16	All	5000
67-92	24	All	5000
67-93	25	All	5000

OCS LEASING MAP, SOUTH TIMBALIER AREA, SOUTH ADDITION,
LOUISIANA MAP NO. 6A
(Approved September 8, 1959; Revised July 22, 1968)

Tract	Block	Description	Acreage
67-94	224	All	5000
67-95	225	All	5000
67-96	314	All	5000

OCS LEASING MAP, WEST DELTA AREA, LOUISIANA MAP NO. 8
(Approved June 8, 1954)

Tract	Block	Description	Acreage
67-97	49	All	5000
67-98	50	3/	2636.93

OCS LEASING MAP, SOUTH PASS AREA, SOUTH AND EAST ADDITION,
LOUISIANA MAP NO. 9A
(Approved September 8, 1959)

Tract	Block	Description	Acreage
67-99	75	All	5000
67-100	83	All	5000

OCS LEASING MAP, SOUTH MARSH ISLAND AREA, NORTH ADDITION,
LOUISIANA MAP NO. 3D
(Approved April 16, 1971; Revised January 18, 1972)

Tract	Block	Description	Acreage
67-75	248	All	5000
67-76	259	All	5000

OCS LEASING MAP, EUGENE ISLAND AREA, LOUISIANA MAP NO. 4
(Approved June 8, 1954; Revised July 22, 1954)

Tract	Block	Description	Acreage
67-77	20	3/	3582.16
67-78	21	3/	4789.31
67-79	22	3/	4351.07
67-80	23	3/	4691.75
67-81	28	All	5000
67-82	29	All	5000
67-83	30	All	5000
67-84	31	All	5000

OCS LEASING MAP, EUGENE ISLAND AREA, SOUTH ADDITION,
LOUISIANA MAP NO. 4A
(Approved September 8, 1959)

Tract	Block	Description	Acreage
67-85	316	All	5000

OCS LEASING MAP, SHIP SHOAL AREA, LOUISIANA MAP NO. 5
(Approved June 8, 1954)

Tract	Block	Description	Acreage
67-86	37	All	5000
67-87	38	3/	2149.94

OCS LEASING MAP, MAIN PASS AREA, LOUISIANA MAP NO. 10
(Approved June 8, 1954; Revised July 22, 1954)

Tract	Block	Description	Acreage
67-101	118	All	4994.55
67-102	127	S 1/2	2497.27

OCS LEASING MAP, MAIN PASS AREA, SOUTH AND EAST ADDITION,
LOUISIANA MAP NO. 10A
(Approved September 8, 1959)

Tract	Block	Description	Acreage
67-103	221	All	4994.55
67-104	253	All	4994.55
67-105	254	All	4994.55

OCS OFFICIAL PROTRACTION DIAGRAM, MOBILE NH 16-4
(Approved October 10, 1972; Revised December 21, 1977)

Tract	Block	Description	Acreage
67-106	(778)		
	(822)	4/	5326.19
67-107	(779)		
	(823)		
	(824)	4/	5592.51
67-109	820	S 1/2	2880
67-110	821	4/	4028.15
67-111	826	4/	1429.64
67-112	827	4/	3173.95
67-113	828	4/	3089.81
67-114	861	4/	5197.79
67-115	862	4/	5618.33
67-116	864	All	5760
67-117	865	All	5760
67-118	866	All	5760

OCS OFFICIAL PROTRACTION DIAGRAM, MOBILE NH 16-4
(Approved October 10, 1972; Revised December 21, 1977)
(Continued)

Tract	Block	Description	Acreage
67-119	867	All	5760
67-120	868	4/	5687.34
67-121	869	4/	4503.26
67-122	870	4/	5618.39
67-123	905	All	5760
67-124	906	All	5760
67-125	908	All	5760
67-126	909	All	5760

OCS OFFICIAL PROTRACTION DIAGRAM, VIOSCA KNOLL NH 16-7
(Approved October 10, 1972; Revised February 15, 1973; Revised August 1, 1973; Revised December 2, 1976)

Tract	Block	Description	Acreage
67-127	565	All	5197.59
67-128	825	All	5760
67-129	826	All	5760
67-130	869	All	5760
67-131	870	All	5760
67-132	987	All	5760

OCS OFFICIAL PROTRACTION DIAGRAM, EWING BANK NH 15-12
(Approved February 15, 1973; Revised December 2, 1976)

Tract	Block	Description	Acreage
67-133	481	All	3596.36
67-134	525	All	2419.57
67-135	526	All	3516.99

OCS OFFICIAL PROTRACTION DIAGRAM, MISSISSIPPI CANYON NH 16-10
(Approved February 15, 1973; Revised December 2, 1976)

Tract	Block	Description	Acreage
67-136	441	All	5760
67-137	485	All	5760

OCS OFFICIAL PROTRACTION DIAGRAM, GREEN CANYON NG 15-3
(Approved February 15, 1973; Revised December 2, 1976)

Tract	Block	Description	Acreage
67-161	97	All	5760
67-162	98	All	5760
67-163	142	All	5760
67-164	143	All	5760
67-165	152	All	5760
67-166	153	All	5760
67-167	154	All	5760
67-168	198	All	5760
67-169	199	All	5760
67-170	427	All	5760
67-171	428	All	5760
67-172	471	All	5760
67-173	472	All	5760
67-174	515	All	5760
67-175	516	All	5760

OCS OFFICIAL PROTRACTION DIAGRAM, ST PETERSBURG NG 17-1
(Approved October 10, 1972; Revised December 2, 1976)

Tract	Block	Description	Acreage
67-176	620	All	5760
67-177	662	All	5760
67-178	663	All	5760
67-179	664	All	5760

OCS OFFICIAL PROTRACTION DIAGRAM, CHARLOTTE HARBOR NG 17-4
(Approved October 10, 1972; Revised December 2, 1976)

Tract	Block	Description	Acreage
67-180	624	All	5760
67-181	625	All	5760
67-182	626	All	5760
67-183	669	All	5760
67-184	670	All	5760
67-185	713	All	5760

OCS OFFICIAL PROTRACTION DIAGRAM, CORPUS CHRISTI NG 14-3
(Approved June 5, 1974; Revised January 27, 1976)

Tract	Block	Description	Acreage
67-138	567	All	5760
67-139	568	All	5760
67-140	569	All	5760
67-141	570	All	5760
67-142	611	All	5760

OCS OFFICIAL PROTRACTION DIAGRAM, EAST BREAKS NG 15-1
(Approved June 8, 1973; Revised January 27, 1976)

Tract	Block	Description	Acreage
67-143	244	All	5760
67-144	245	All	5760
67-145	288	All	5760
67-146	289	All	5760
67-147	292	All	5760
67-148	293	All	5760
67-149	336	All	5760
67-150	337	All	5760

OCS OFFICIAL PROTRACTION DIAGRAM, GARDEN BANKS NG 15-2
(Approved February 15, 1973; Revised December 2, 1976)

Tract	Block	Description	Acreage
67-151	105	All	5760
67-152	106	All	5760
67-153	149	All	5760
67-154	150	All	5760
67-155	158	All	5760
67-156	159	All	5760
67-157	169	All	5760
67-158	170	All	5760
67-159	213	All	5760
67-160	214	All	5760

OCS OFFICIAL PROTRACTION DIAGRAM, CHARLOTTE HARBOR NG 17-4
(Approved October 10, 1972; Revised December 2, 1976)
(Continued)

Tract	Block	Description	Acreage
67-186	714	All	5760
67-187	757	All	5760
67-188	758	All	5760
67-189	797	All	5760
67-190	798	All	5760
67-191	799	All	5760
67-192	800	All	5760
67-193	801	All	5760
67-194	802	All	5760
67-195	803	All	5760
67-196	841	All	5760
67-197	842	All	5760
67-198	843	All	5760
67-199	844	All	5760
67-200	845	All	5760
67-201	846	All	5760
67-202	847	All	5760
67-203	885	All	5760
67-204	886	All	5760
67-205	887	All	5760
67-206	888	All	5760
67-207	889	All	5760
67-208	890	All	5760
67-209	891	All	5760
67-210	929	All	5760
67-211	930	All	5760
67-212	931	All	5760
67-213	932	All	5760
67-214	933	All	5760
67-215	934	All	5760
67-216	935	All	5760
67-217	973	All	5760
67-218	974	All	5760
67-219	975	All	5760
67-220	976	All	5760
67-221	977	All	5760
67-222	978	All	5760
67-223	979	All	5760

OCS LEASING MAP, HIGH ISLAND AREA, EAST ADDITION, SOUTH EXTENSION,
TEXAS MAP NO. 7C
(Approved September 24, 1959;
Revised October 19, 1981)

Tract	Block	Description	Acreage
67-224	A-374	All	5760
67-225	A-385	All	5760

OCS LEASING MAP, WEST CAMERON AREA, WEST ADDITION,
LOUISIANA MAP NO. 1A
(Approved November 15, 1955; Revised January 30, 1957;
Revised October 19, 1981)

Tract	Block	Description	Acreage
67-226	289	All	5000

OCS LEASING MAP, WEST CAMERON AREA, SOUTH ADDITION,
LOUISIANA MAP NO. 1B
(Approved September 8, 1959;
Revised October 19, 1981)

Tract	Block	Description	Acreage
67-227	535	All	5000
67-228	623	All	5000

OCS LEASING MAP, EAST CAMERON AREA, SOUTH ADDITION,
LOUISIANA MAP NO. 2A
(Approved September 8, 1959)

Tract	Block	Description	Acreage
67-229	328	All	5000

OCS LEASING MAP, SOUTH MARSH ISLAND AREA, SOUTH ADDITION,
LOUISIANA MAP NO. 3C
(Approved September 8, 1959)

Tract	Block	Description	Acreage
67-230	176	All	5000

OCS LEASING MAP, WEST DELTA AREA, LOUISIANA MAP NO. 8
(Approved June 8, 1954)

Tract	Block	Description	Acreage
67-231	78	All	5000

OCS LEASING MAP, SHIP SHOAL AREA, SOUTH ADDITION, LOUISIANA MAP NO. 5A
(Approved September 8, 1959)

Tract	Block	Description	Acreage
67-232	268	All	5000
67-233	277	All	5000

OCS LEASING MAP, SOUTH TIMBALIER AREA, LOUISIANA MAP NO. 6
(Approved June 8, 1954; Revised July 22, 1954; Revised December 9, 1954)

Tract	Block	Description	Acreage
67-234	69	All	3772.18

OCS LEASING MAP, MAIN PASS AREA, LOUISIANA MAP NO. 10
(Approved June 8, 1954; Revised July 22, 1954)

Tract	Block	Description	Acreage
67-235	63	All	4994.55
67-236	138	All	4994.55

1/ That portion of the lease block seaward of the Three Marine League Line measured from the historic shoreline described in the United States vs. Louisiana, No. 9 Original (394 U.S. 836).

2/ That portion of the lease block seaward of the Three Marine League Line.

3/ That portion of the lease block which is more than three geographical miles seaward from the line described in the supplemental decree of the U.S. Supreme Court, June 16, 1975 (United States vs. Louisiana, 422 U.S. 13).

4/ That portion of the lease block which is more than three geographical miles seaward from the low water line off the coast of Mississippi and/or Alabama.

13. Lease Terms and Stipulations. Leases resulting from this sale for tracts 67-170 through 67-175 will be for an initial term of 10 years. All other leases issued as a result of this sale will be for an initial term of 5 years. Leases issued as a result of this sale will be on Form 3300-1 (September 1978), available from the Manager, New Orleans OCS Office, at the first address stated in paragraph 2.

(a) For leases resulting from this sale for tracts offered on a cash bonus basis with a fixed net profit share, listed in paragraph 4 (a), Form 3300-1 will be amended as follows:

Sec. 4 Rentals. The phrase "which commences prior to a discovery in paying quantities of oil or gas on the leased area" is hereby deleted and replaced by "which commences prior to the date the first net profit share payment becomes due."

Sec. 5 Minimum Royalty. Hereby deleted.

Sec. 6 Royalty on Production. Hereby replaced by Net Profit Share. The lessee agrees to pay a net profit share rate of ___ percent with a ___ capital recovery factor, calculated pursuant to 10 CFR 390.

(b) Except as otherwise noted, the following stipulations will be included in each lease resulting from this sale. In the following stipulations the term DCM refers to the Deputy Conservation Manager for Field Operations, Gulf of Mexico OCS Region, U.S. Geological Survey, and the term Manager refers to the Manager of the New Orleans OCS Office, Bureau of Land Management.

Stipulation 1

If the DCM, having reason to believe that a site, structure, or object of historical or archaeological significance hereinafter referred to as "cultural resource," may exist in the lease area, gives the lessee written notice that the lessor is invoking the provisions of this stipulation, the lessee shall upon receipt of such notice comply with the following requirements:

Prior to any drilling activity or the construction or placement of any structure for exploration or development on the lease, including, but not limited to, well drilling and pipeline and platform placement, hereinafter in this stipulation referred to as "operation," the lessee shall conduct remote sensing surveys to determine the potential existence of any cultural resource that may be affected by such operations. All data produced by such remote sensing surveys as well as other pertinent natural and cultural environmental data shall be examined by a qualified marine survey archaeologist to determine if indicators are present suggesting the existence of a cultural resource that may be adversely affected by any lease operation. A report of this survey and assessment prepared by the marine survey archaeologist shall be submitted by the lessee to the DCM and to the Manager for review.

If such cultural resource indicators are present the lessee shall: (a) locate the site of such operation so as not to affect adversely the identified location; or (b) establish, to the satisfaction of the DCM, on the basis of further archaeological investigation conducted by a qualified marine survey archaeologist or underwater archaeologist using such survey equipment and techniques as deemed necessary by the DCM, either that such operation will not adversely affect the location identified or that the potential cultural resource suggested by the occurrence of the indicators does not exist.

A report of this investigation prepared by the marine survey archaeologist or underwater archaeologist shall be submitted to the DCM and to the Manager for review. Should the DCM determine that the existence of a cultural resource which may be adversely affected by such operation is sufficiently established to warrant protection, the lessee shall take no action that may result in an adverse effect on such cultural resource until the DCM has given directions as to its preservation.

The lessee agrees that if any site, structure, or object of historical or archaeological significance should be discovered during the conduct of any operations on the leased area, he shall report immediately such findings to the DCM and make every reasonable effort to preserve and protect the cultural resource from damage until the DCM has given directions as to its preservation.

Stipulation 2

(To be included only in the lease resulting from this sale for tract 67-230.)

Operations within the area of Alderdice Bank shown as "3 Mile Zone" in Figure 1 (attached to and made a part of this lease) shall be restricted as specified in either (a) or (b) below at the option of the lessee.

- (a) All drill cuttings and drilling fluids must be disposed of by shunting the material to the bottom through a downpipe that terminates an appropriate distance, but no more than ten meters, from the bottom.
- (b) The operator (lessee) shall submit a monitoring plan. The monitoring plan will be designed to assess the effects of oil and gas exploration and development operations on the biotic communities of the nearby banks.

The monitoring program shall indicate that the monitoring investigations will be conducted by qualified, independent scientific personnel and that these personnel and all required equipment will be available at the time of operations. The monitoring team will submit its findings to the DCM on a schedule established by the DCM, or immediately in case of imminent danger to the biota of the bank resulting directly from drilling or other operations. If it is decided that surface disposal of drilling fluids or cuttings presents no danger to the bank, no further monitoring of that particular well or platform will be required. If, however, the monitoring program indicates that the biota of the bank are being harmed, or if there is a great likelihood that operation of that particular well or platform may cause harm to the biota of the bank, the DCM shall require shunting as specified in (a) above or other appropriate operational restrictions.

Stipulation 3

(To be included only in the lease resulting from this sale for tract 67-96.)

- (a) Operations within the area of Diaphus Bank shown as "1 Mile Zone" in Figure 2 (attached to and made a part of this lease) shall be restricted by shunting all drill cuttings and drilling fluids to the bottom through a downpipe that terminates an appropriate distance, but no more than ten meters, from the bottom.
- (b) Operations within the area of Diaphus Bank shown as "3 Mile Zone" in Figure 2 shall be restricted as specified in either (1) or (2) below at the option of the lessee.
- (1) All drill cuttings and drilling fluids must be disposed of by shunting the material to the bottom through a downpipe that terminates an appropriate distance, but no more than ten meters, from the bottom.

- (2) The operator (lessee) shall submit a monitoring plan. The monitoring plan will be designed to assess the effects of oil and gas exploration and development operations on the biotic communities of the nearby banks.

The monitoring program shall indicate that the monitoring investigations will be conducted by qualified, independent scientific personnel and these personnel and all required equipment will be available at the time of operations. The monitoring team will submit its findings to the DCM on a schedule established by the DCM, or immediately in case of imminent danger to the biota of the bank resulting directly from drilling or other operations. If it is decided that surface disposal of drilling fluids or cuttings presents no danger to the bank, no further monitoring of that particular well or platform will be required. If, however, the monitoring program indicates that the biota of the bank are being harmed, or if there is a great likelihood that operation of that particular well or platform may cause harm to the biota of the bank, the DCM shall require shunting as specified in (1) above or other appropriate operational restrictions.

Stipulation 4

(To be included only in leases resulting from this sale for tracts 67-13 and 67-14.)

- (a) Operations within the area of Southern Bank shown as "1 Mile Zone" in Figure 3 (attached to and made a part of this lease) shall be restricted by shunting all drill cuttings and drilling fluids to the bottom through a downpipe that terminates an appropriate distance, but no more than six meters, from the bottom.
- (b) All production and development operations within the areas shown as "3 Mile Zone" in Figure 3 shall be restricted by shunting all drill cuttings and drilling fluids to the bottom through a downpipe that terminates an appropriate distance, but no more than six meters, from the bottom.

Stipulation 5

(To be included only in leases resulting from this sale for tracts 67-39 and 67-40.)

Operations within the area of Applebaum Bank shown as "3 Mile Zone" in Figure 4 (attached to and made a part of this lease) shall be restricted as specified in either (a) or (b) below at the option of the lessee.

- (a) All drill cuttings and drilling fluids must be disposed of by shunting the material to the bottom through a downpipe that terminates an appropriate distance, but no more than ten meters, from the bottom.
- (b) The operator (lessee) shall submit a monitoring plan. The monitoring plan will be designed to assess the effects of oil and gas exploration and development operations on the biotic communities of the nearby banks.

The monitoring program shall indicate that the monitoring investigations will be conducted by qualified, independent scientific personnel and that these personnel and all required equipment will be available at the time of operations. The monitoring team will submit its findings to the DCM on a schedule established by the DCM, or immediately in case of imminent danger to the biota of the bank resulting directly from drilling or other operations. If it is decided that surface disposal of drilling fluids or cuttings presents no danger to the bank, no further monitoring of that particular well or platform will be required. If, however, the monitoring program indicates that the biota of the bank are being harmed, or if there is a great likelihood that operation of that particular well or platform may cause harm to the biota of the bank, the DCM shall require shunting as specified in (a) above or other appropriate operational restrictions.

Stipulation 6

(To be included only in leases resulting from this sale for tracts 67-72, 67-73, and 67-74.)

- (a) No structures, drilling rigs, or pipelines will be allowed within the 85 m isobath of Parker Banks as shown in Figure 5 (attached to and made a part of this lease).
- (b) Operations within the area of Parker Banks shown as "1 Mile Zone" in Figure 5 shall be restricted by shunting all drill cuttings and drilling fluids to the bottom through a downpipe that terminates an appropriate distance, but no more than ten meters, from the bottom.
- (c) Operations within the area shown as "3 Mile Zone" in Figure 5 shall be restricted as specified in either (1) or (2) below at the option of the lessee.
- (1) All drill cuttings and drilling fluids must be disposed of by shunting the material to the bottom through a downpipe that terminates an appropriate distance, but no more than ten meters, from the bottom.
- (2) The operator (lessee) shall submit a monitoring plan. The monitoring plan will be designed to assess the effects of oil and gas exploration and development operations on the biotic communities of the nearby banks.

The monitoring program shall indicate that the monitoring investigations will be conducted by qualified, independent scientific personnel and that these personnel and all required equipment will be available at the time of operations. The monitoring team will submit its findings to the DCM on a schedule established by the DCM, or immediately in case of imminent danger to the biota of the bank resulting directly from drilling or other operations. If it is decided that surface disposal of drilling fluids or cuttings presents no danger to the bank, no further monitoring of that particular well or platform will be required. If, however, the monitoring program indicates that the biota of the bank are being harmed, or if there is a great likelihood that operation of that particular well or platform may cause harm to the biota of the bank, the DCM shall require shunting as specified in

(1) above or other appropriate operational restrictions.

Stipulation 7

(To be included only in leases resulting from this sale for tracts 67-151, 67-152, 67-153, and 67-154.)

- (a) No structures, drilling rigs, or pipelines will be allowed within the 85 m isobath of Geyer Bank as shown in Figure 6 (attached to and made a part of this lease).
- (b) Operations within the area of Geyer Bank shown as "1 Mile Zone" in Figure 6 shall be restricted by shunting all drill cuttings and drilling fluids to the bottom through a downpipe that terminates an appropriate distance, but no more than ten meters, from the bottom.
- (c) Operations within the area shown as "3 Mile Zone" in Figure 6 shall be restricted as specified in either (1) or (2) below at the option of the lessee.
- (1) All drill cuttings and drilling fluids must be disposed of by shunting the material to the bottom through a downpipe that terminates an appropriate distance, but no more than ten meters, from the bottom.
- (2) The operator (lessee) shall submit a monitoring plan. The monitoring plan will be designed to assess the effects of oil and gas exploration and development operations on the biotic communities of the nearby banks.

The monitoring program shall indicate that the monitoring investigations will be conducted by qualified, independent scientific personnel and that these personnel and all required equipment will be available at the time of operations. The monitoring team will submit its findings to the DCM on a schedule established by the DCM, or immediately in case of imminent danger to the biota of the bank resulting directly from drilling or other operations. If it is decided that surface disposal of drilling fluids or cuttings presents no danger to the bank, no further monitoring of that particular well or platform will be required. If, however, the monitoring program indicates that the biota of the bank are being harmed, or if there is a great likelihood that operation of that particular well or platform may cause harm to the biota of the bank, the DCM shall require shunting as specified in (1) above or other appropriate operational restrictions.

Stipulation 8

(To be included only in the lease resulting from this sale for tract 67-224.)

(a) No structures, drilling rigs, or pipelines will be allowed within the aliquots established for the East Flower Garden Bank as follows:

High Island Area, East Addition, South Extension, Block A-374:
W₁N₁W₁; SE₁SW₁W₁; SW₁NE₁SW₁; W₁SW₁; W₁SE₁SW₁; SE₁SE₁SW₁.

(b) Exploration, development, and production operations are permitted within the aliquots described below with the following restrictions:

All drill cuttings and drilling fluids must be disposed of by shunting the material to the bottom through a downpipe that terminates an appropriate distance, but no more than ten meters, from the bottom; however, if the shunting method is not adequate, as determined by the monitoring program proceedings outlined in this stipulation, to protect the unique character of the subject area, then the material must be transported a minimum of ten miles from any 50 m isobath surrounding live reef-building coral before disposal.

No garbage, untreated sewage, or other solid waste shall be disposed of from vessels (workboats, crew-boats, supply boats, pipelaying vessels) during exploration and development operations.

No drilling permits shall be issued by the DCM until he has found that the lessee's exploration, development, and production operations in the leased area will have no significant adverse effect on the biotic communities associated with the high value reef sites on the Flower Garden Banks.

The operator (lessee) shall submit a reef monitoring program. The monitoring program will be designed to assess the effects of oil and gas exploration, development, and production operations on the viability of the coral reefs and associated communities. The monitoring plan shall indicate that the monitoring investigations will be conducted by qualified, independent scientific personnel and that program personnel and equipment will be available at the time of operations. The monitoring team will submit its findings to the DCM on a regular schedule established by the DCM, or immediately in case of imminent danger to the biota of the bank resulting directly from drilling or other operations.

The affected aliquots are as follows:

High Island Area, East Addition, South Extension, Block A-374:
SW₁SW₁NE₁; E₁NW₁W₁; NE₁SW₁NW₁; N₁NE₁SW₁; SE₁NE₁SW₁; NE₁SE₁SW₁;
W₁NW₁SE₁; SE₁NW₁SE₁; SW₁SE₁; SW₁SE₁SE₁.

(c) Exploration, development, and production operations are permitted within the aliquots described below with the following restrictions:

All drill cuttings and drilling fluids must be disposed of by shunting the material to the bottom through a downpipe that terminates an appropriate distance, but no more than ten meters, from the bottom.

No garbage, untreated sewage, or other solid waste shall be disposed of from vessels (workboats, crew-boats, supply boats, pipelaying vessels) during exploration, development, and production operations.

No drilling permits shall be issued by the DCM until he has found that the lessee's exploration, development, and production operations in the leased area will have no significant adverse effect on the biotic communities associated with the high value reef sites on the Flower Garden Banks.

The affected aliquots are as follows:

High Island Area, East Addition, South Extension, Block A-374:
N₁NE₁; N₁SE₁NE₁; SE₁SW₁NE₁; S₁SE₁NE₁; NE₁SE₁; NE₁NW₁SE₁; N₁SE₁SE₁;
SE₁SE₁SE₁.

Stipulation 9

(To be included only in the lease resulting from this sale for tract 67-225.)

(a) No structures, drilling rigs, or pipelines will be allowed within the aliquots established for the West Flower Garden Bank as follows:

High Island Area, East Addition, South Extension, Block A-385:
SW $\frac{1}{4}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$; NW $\frac{1}{4}$ SW $\frac{1}{4}$; NW $\frac{1}{4}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$.

(b) Exploration, development, and production operations are permitted within the aliquots described below with the following restrictions:

All drill cuttings and drilling fluids must be disposed of by shunting the material to the bottom through a downpipe that terminates an appropriate distance, but no more than ten meters, from the bottom; however, if the shunting method is not adequate, as determined by the monitoring program proceedings outlined in this stipulation, to protect the unique character of the subject area, then the material must be transported a minimum of ten miles from any 50 m isobath surrounding live reef-building coral before disposal.

No garbage, untreated sewage, or other solid waste shall be disposed of from vessels (workboats, crew-boats, supply boats, pipelaying vessels) during exploration and development operations.

No drilling permits shall be issued by the DCM until he has found that the lessee's exploration, development, and production operations in the lease area will have no significant adverse effect on the biotic communities associated with the high value reef sites on the Flower Garden Banks.

The operator (lessee) shall submit a reef monitoring program. The monitoring program will be designed to assess the effects of oil and gas exploration, development, and production operations on the viability of the coral reefs and associated communities. The monitoring plan shall indicate that the monitoring investigations will be conducted by qualified, independent scientific personnel and that program personnel and equipment will be available at the time of operations.

The monitoring team will submit its findings to the DCM on a regular schedule established by the DCM, or immediately in case of imminent danger to the biota of the bank resulting directly from drilling or other operations.

The affected aliquots are as follows:

High Island Area, East Addition, South Extension, Block A-385:
SW $\frac{1}{4}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$; SW $\frac{1}{4}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$; NW $\frac{1}{4}$ NW $\frac{1}{4}$; NW $\frac{1}{4}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$; SE $\frac{1}{4}$ NW $\frac{1}{4}$; E $\frac{1}{2}$ SW $\frac{1}{4}$; E $\frac{1}{2}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$; SW $\frac{1}{4}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$; W $\frac{1}{2}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$; NW $\frac{1}{4}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$.

(c) Exploration, development, and production operations are permitted within the aliquots described below with the following restrictions:

All drill cuttings and drilling fluids must be disposed of by shunting the material to the bottom through a downpipe that terminates an appropriate distance, but no more than ten meters, from the bottom.

No garbage, untreated sewage, or other solid waste shall be disposed of from vessels (workboats, crew-boats, supply boats, pipelaying vessels) during exploration, development, and production operations.

No drilling permits shall be issued by the DCM until he has found that the lessee's exploration, development, and production operations in the leased area will have no significant adverse effect on the biotic communities associated with the high value reef sites on the Flower Garden Banks.

The affected aliquots are as follows:

High Island Area, East Addition, South Extension, Block A-385:
E $\frac{1}{2}$ E $\frac{1}{2}$; E $\frac{1}{2}$ W $\frac{1}{2}$ E $\frac{1}{2}$; W $\frac{1}{2}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$; NW $\frac{1}{4}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$; NW $\frac{1}{4}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$; SE $\frac{1}{4}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$; SW $\frac{1}{4}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$.

Stipulation 10

(To be included only in leases resulting from this sale for tracts 67-106 through 67-126 and 67-176 through 67-223.)

Prior to any drilling activity or the construction or placement of any structure for exploration or development on this lease, including but not limited to well drilling and pipeline and platform placement, the lessee will submit to the DCM a bathymetry map, prepared utilizing remote sensing and/or other survey techniques. This map will include interpretations for the presence of live bottom areas within a minimum of 1,820 m radius of a proposed exploration or production activity site.

For the purpose of this stipulation, "live bottom areas" are defined as those areas which contain biological assemblages consisting of such sessile invertebrates as sea fans, sea whips, hydroids, anemones, ascidians, sponges, bryozoans, or corals living upon and attached to naturally occurring hard or rocky formations with rough, broken, or smooth topography; or whose lithotope favors the accumulation of turtles, fishes, and other fauna.

If it is determined that the remote sensing data indicate the presence of hard or live bottom areas, the lessee will also submit to the DCM photo-documentation of the sea bottom near proposed exploratory drilling sites or proposed platform locations.

If it is determined that live bottom areas might be adversely impacted by the proposed activities, then the DCM will require the lessee to undertake any measure deemed economically, environmentally, and technically feasible to protect live bottom areas. These measures may include, but are not limited to, the following:

- (a) the relocation of operations to avoid live bottom areas;
- (b) the shunting of all drilling fluids and cuttings in such a manner as to avoid live bottom areas;
- (c) the transportation of drilling fluids and cuttings to approved disposal sites;
- (d) the monitoring of live bottom areas to assess the adequacy of any mitigation measures taken and the impact of lessee initiated activities.

Stipulation 11

(To be included only in leases resulting from this sale for tracts 67-99, 67-100, 67-128 through 67-131, 67-133 through 67-147, 67-149, 67-150, and 67-155 through 67-175.)

All or portions of this lease may be subject to mass movement of sediments, unstable slopes, active faulting, or gaseous sediments. Exploratory drilling operations, emplacement of structures (platforms) or seafloor wellheads for production or storage of oil or gas, and the emplacement of pipelines will not be allowed within the potentially unstable portions of this lease unless or until the lessee has demonstrated to the DCM's satisfaction that mass movement of sediments is unlikely or that exploratory drilling operations, structures (platforms), casing, wellheads, and pipelines can be safely designed to protect the environment in case such mass movement occurs at the proposed location. This may necessitate that all exploration for and development of oil or gas be performed from locations outside of the area of unstable sediments, either within or outside of this lease.

If exploratory drilling operations are allowed, site-specific surveys shall be conducted to determine the potential for slumping and mass movement of sediments. If emplacement of structures (platforms) or seafloor wellheads for production or storage of oil or gas is allowed, all slump blocks or mass movement of sediments in the lease must be mapped. The DCM may also require soil testing before exploration and production operations are allowed.

Stipulation 12

(To be included only in leases resulting from this sale for tracts 67-176 through 67-223.)

Pipelines will be required: (a) if pipeline rights-of-way can be determined and obtained; (b) if laying such pipelines is technically feasible and environmentally preferable; and (c) if, in the opinion of the lessor, pipelines can be laid without net social loss, taking into account any incremental costs of pipelines over alternative methods of transportation and any incremental benefits in the form of increased environmental protection or reduced multiple-use conflicts. The lessor specifically reserves the right to require that any pipeline used for transporting production to shore be placed in certain designated management areas. The lessor's decision regarding the selected means of transportation will be made within the context of an intergovernmental planning process for assessment and management of transportation of Outer Continental Shelf oil and gas with participation of federal, state, and local government and the industry. Where feasible, all pipelines, including both flow lines and gathering lines for oil and gas, shall be buried to a depth suitable for adequate protection from water currents, sand waves, storm scouring, fisheries trawling gear, and other uses as determined on a case-by-case basis.

Following the development of sufficient pipeline capacity, no crude oil production will be transported by surface vessel from offshore production sites, except in the case of emergency. Determinations as to emergency conditions and appropriate responses to these conditions will be made by the DCM. Where the three criteria set forth in the first sentence of this stipulation are not met and surface transportation must be employed, all vessels used for carrying hydrocarbons to shore from the leased area will conform with all standards established for such vessels, pursuant to the Ports and Waterways Safety Act of 1972 (46 U.S.C. 391a), as amended.

Stipulation 13

(To be included only in leases resulting from this sale for tracts 67-1 through 67-16, 67-25, and 67-138 through 67-142.)

Whether or not compensation for such damage or injury might be due under a theory of strict or absolute liability or otherwise, the lessee assumes all risks of damage or injury to persons or property, which occur in, on, or above the Outer Continental Shelf, to any persons or to any property of any person or persons who are agents, employees, or invitees of the lessee, its agents, independent contractors, or subcontractors doing business with the lessee in connection with any activities being performed by lessee in, on, or above the Outer Continental Shelf if such injury or damage to such person or property occurs by reason of the activities of any agency of the U.S. government, its contractors or subcontractors, or any of their officers, agents or employees, being conducted as a part of, or in connection with the programs and activities of the Naval Air Training Command, Naval Air Station, Corpus Christi, Texas.

Notwithstanding any limitation of the lessee's liability in Sec. 14 of the lease form, the lessee assumes this risk whether such injury or damage is caused in whole or in part by any act or omission, regardless of negligence or fault, of the United States, its contractors or subcontractors, or any of their officers, agents, or employees. The lessee further agrees to indemnify and save harmless the United States against all claims for loss, damage, or injury sustained by the lessee, and to indemnify and save harmless the United States against all claims for loss, damage, or injury sustained by the agents, employees, or invitees of the lessee, its agents, or any independent contractors or subcontractors doing business with the lessee in connection with the programs and activities of the aforementioned military installation whether the same be caused in whole or in part by the negligence or fault of the United States, its contractors, subcontractors, or any of their officers, agents, or employees and whether such claims might be sustained under a theory of strict or absolute liability.

The lessee agrees to control his own electromagnetic emissions and those of his agents, employees, invitees, independent contractors, or subcontractors emanating from individual designated defense warning areas in accordance with requirements specified by the commander of the Naval Air Training Command, Naval Air Station, Corpus Christi, Texas, to the degree necessary to prevent damage to, or unacceptable interference with, Department of Defense flight, testing, or operational activities, conducted within designated warning areas.

Necessary monitoring control, and coordination with the lessee, its agents, employees, invitees, independent contractors, or subcontractors, will be effected by the commander of the appropriate onshore military installation conducting operations in the particular warning area, provided, however, that control of such electromagnetic emissions shall in no instance prohibit all manner of electromagnetic communication during any period of time between a lessee, its agents, employees, invitees, independent contractors, or subcontractors and onshore facilities.

Stipulation 14

(To be included only in leases resulting from this sale for tracts 67-96 and 67-165 through 67-175.)

The lessee when operating or causing to be operated on its behalf boat or aircraft traffic into the individual designated warning areas shall enter into an agreement with the commander of the Naval Air Training Command, Naval Air Station, Corpus Christi, Texas, on utilizing an individual designated warning area prior to commencing such traffic. Such agreement will provide for positive control of boats and aircraft operating in the warning areas at all times.

Whether or not compensation for such damage or injury might be due under a theory of strict or absolute liability or otherwise, the lessee assumes all risks of damage or injury to persons or property, which occur in, on, or above the Outer Continental Shelf, to any persons or to any property of any person or persons who are agents, employees or invitees of the lessee, its agents, independent contractors, or subcontractors doing business with the lessee in connection with any activities being performed by lessee in, on, or above the Outer Continental Shelf if such injury or damage to such person or property occurs by reason of the activities of any agency of the U.S. government, its contractors or subcontractors, or any of their officers, agents or employees, being conducted as a part of, or in connection with the programs and activities of the Naval Air Station, New Orleans, Louisiana 70146.

Notwithstanding any limitation of the lessee's liability in Sec. 14 of the lease form, the lessee assumes this risk whether such injury or damage is caused in whole or in part by any act or omission, regardless of negligence or fault, of the United States, its contractors or subcontractors, or any of their officers, agents, or employees. The lessee further agrees to indemnify and save harmless the United States against all claims for loss, damage, or injury sustained by the lessee, and to indemnify and save harmless the United States against all claims for loss, damage, or injury sustained by the agents, employees, or invitees of the lessee, its agents, or any independent contractors or subcontractors doing business with the lessee in connection with the programs and activities of the aforementioned military installation whether the same be caused in whole or in part by the negligence or fault of the United States, its contractors, subcontractors, or any of their officers, agents, or employees and whether such claims might be sustained under a theory of strict or absolute liability or otherwise.

The lessee agrees to control his own electromagnetic emissions and those of his agents, employees, invitees, independent contractors or subcontractors emanating from individual designated defense warning areas in accordance with requirements specified by the commander of the Naval Air Station, New Orleans, Louisiana 70146, to the degree necessary to prevent damage to, or unacceptable interference with, Department of Defense flight, testing or operational activities, conducted within designated warning areas.

Necessary monitoring control, and coordination with the lessee, its agents, employees, invitees, independent contractors or subcontractors, will be effected by the commander of the appropriate onshore military installation conducting operations in the particular warning area, provided, however, that control of such electromagnetic emissions shall in no instance prohibit all manner of electromagnetic communication during any period of time between a lessee, its agents, employees, invitees, independent contractors or subcontractors and onshore facilities.

Stipulation 15

(To be included only in leases resulting from this sale for tracts 67-38, 67-39, 67-40, and 67-143 through 67-150.)

The lessee when operating or causing to be operated on its behalf boat or aircraft traffic into the individual designated warning areas shall enter into an agreement with the commander of the Naval Air Station, New Orleans, Louisiana 70146, on utilizing an individual designated warning area prior to commencing such traffic. Such agreement will provide for positive control of boats and aircraft operating in the warning areas at all times.

Whether or not compensation for such damage or injury might be due under a theory of strict or absolute liability or otherwise, the lessee assumes all risks of damage or injury to persons or property, which occur in, on, or above the Outer Continental Shelf, to any persons or to any property of any person or persons who are agents, employees, or invitees of the lessee, its agents, independent contractors, or subcontractors doing business with the lessee in connection with any activities being performed by lessee in, on, or above the Outer Continental Shelf if such injury or damage to such person or property occurs by reason of the activities of any agency of the U.S. government, its contractors or subcontractors, or any of their officers, agents or employees, being conducted as a part of, or in connection with the programs and activities of the Armament Division, Barksdale Air Force Base, Shreveport, Louisiana.

Notwithstanding any limitation of the lessee's liability in Sec. 14 of the lease form, the lessee assumes this risk whether such injury or damage is caused in whole or in part by any act or omission, regardless of negligence or fault, of the United States, its contractors or subcontractors, or any of their officers, agents, or employees. The lessee further agrees to indemnify and save harmless the United States against all claims for loss, damage, or injury sustained by the lessee, and to indemnify and save harmless the United States against all claims for loss, damage, or injury sustained by the agents, employees, or invitees of the lessee, its agents, or any independent contractors or subcontractors doing business with the lessee in connection with the programs and activities of the aforementioned military installation whether the same be caused in whole or in part by the negligence or fault of the United States, its contractors, subcontractors, or any of their officers, agents, or employees and whether such claims might be sustained under a theory of strict or absolute liability, or otherwise.

The lessee agrees to control his own electromagnetic emissions and those of his agents, employees, invitees, independent contractors, or subcontractors emanating from individual designated defense warning areas in accordance with requirements specified by the commander of the Armament Division, Barksdale Air Force Base, Shreveport, Louisiana, to the degree necessary to prevent damage to, or unacceptable interference with, Department of Defense flight, testing, or operational activities, conducted within designated warning areas.

Necessary monitoring control, and coordination with the lessee, its agents, employees, invitees, independent contractors, or subcontractors, will be effected by the commander of the appropriate onshore military installation conducting operations in the particular warning area, provided, however, that control of such electromagnetic emissions shall in no instance prohibit all manner of electromagnetic communication during any period of time between a lessee, its agents, employees, invitees, independent contractors, or subcontractors and onshore facilities.

Stipulation 16

(To be included only in leases resulting from this sale for tracts 67-111, 67-112, 67-113, and 67-122.)

Whether or not compensation for such damage or injury might be due under a theory of strict or absolute liability or otherwise, the lessee assumes all risks of damage or injury to persons or property, which occur in, on, or above the Outer Continental Shelf, to any persons or to any property of any person or persons who are agents, employees or invitees of the lessee, its agents, independent contractors, or subcontractors doing business with the lessee in connection with any activities being performed by lessee in, on, or above the Outer Continental Shelf if such injury or damage to such person or property occurs by reason of the activities of any agency of the U.S. government, its contractors or subcontractors, or any of their officers, agents or employees, being conducted as a part of, or in connection with the programs and activities of the Training Wing Six, Naval Air Station, Pensacola, Florida 32508.

Notwithstanding any limitation of the lessee's liability in Sec. 14 of the lease form, the lessee assumes this risk whether such injury or damage is caused in whole or in part by any act or omission, regardless of negligence or fault, of the United States, its contractors or subcontractors, or any of their officers, agents, or employees. The lessee further agrees to indemnify and save harmless the United States against all claims for loss, damage, or injury sustained by the lessee, and to indemnify and save harmless the United States against all claims for loss, damage, or injury sustained by the agents, employees, or invitees of the lessee, its agents, or any independent contractors or subcontractors doing business with the lessee in connection with the programs and activities of the aforementioned military installation whether the same be caused in whole or in part by the negligence or fault of the United States, its contractors, subcontractors, or any of their officers, agents, or employees and whether such claims might be sustained under a theory of strict or absolute liability or otherwise.

The lessee agrees to control his own electromagnetic emissions and those of his agents, employees, invitees, independent contractors or subcontractors emanating from individual designated defense warning areas in accordance with requirements specified by the commander of the Training Wing Six, Naval Air Station, Pensacola, Florida 32508, to the degree necessary to prevent damage to, or unacceptable interference with, Department of Defense flight, testing or operational activities, conducted within designated warning areas.

Necessary monitoring control, and coordination with the lessee, its agents, employees, invitees, independent contractors or subcontractors, will be effected by the commander of the appropriate onshore military installation conducting operations in the particular warning area, provided, however, that control of such electromagnetic emissions shall in no instance prohibit all manner of electromagnetic communication during any period of time between a lessee, its agents, employees, invitees, independent contractors or subcontractors and onshore facilities.

The lessee when operating or causing to be operated on its behalf boat or aircraft traffic into the individual designated warning areas shall enter into an agreement with the commander of the Armament Division, Barksdale Air Force Base, Shreveport, Louisiana, on utilizing an individual designated warning area prior to commencing such traffic. Such agreement will provide for positive control of boats and aircraft operating in the warning areas at all times.

Stipulation 17

(To be included only in leases resulting from this sale for tracts 67-106 through 67-110, 67-114 through 67-121, 67-123 through 67-126, and 67-176 through 67-188.)

Whether or not compensation for such damage or injury might be due under a theory of strict or absolute liability or otherwise, the lessee assumes all risks of damage or injury to persons or property, which occur in, on, or above the Outer Continental Shelf, to any persons or to any property of any person or persons who are agents, employees, or invitees of the lessee, its agents, independent contractors, or subcontractors doing business with the lessee in connection with any activities being performed by lessee in, on, or above the Outer Continental Shelf if such injury or damage to such person or property occurs by reason of the activities of any agency of the U.S. Government, its contractors or subcontractors, or any of their officers, agents or employees, being conducted as a part of, or in connection with the programs and activities of the Armament Division, Eglin Air Force Base, Florida.

Notwithstanding any limitation of the lessee's liability in Sec. 14 of the lease form, the lessee assumes this risk whether such injury or damage is caused in whole or in part by any act or omission, regardless of negligence or fault, of the United States, its contractors or subcontractors, or any of their officers, agents, or employees. The lessee further agrees to indemnify and save harmless the United States against all claims for loss, damage, or injury sustained by the lessee, and to indemnify and save harmless the United States against all claims for loss, damage, or injury sustained by the agents, employees, or invitees of the lessee, its agents, or any independent contractors or subcontractors doing business with the lessee in connection with the programs and activities of the aforementioned military installation whether the same be caused in whole or in part by the negligence or fault of the United States, its contractors, subcontractors, or any of their officers, agents, or employees and whether such claims might be sustained under a theory of strict or absolute liability, or otherwise.

The lessee agrees to control his own electromagnetic emissions and those of his agents, employees, invitees, independent contractors, or subcontractors emanating from individual designated defense warning areas in accordance with requirements specified by the commander of the Armament Division, Eglin Air Force Base, Florida, to the degree necessary to prevent damage to, or unacceptable interference with, Department of Defense flight, testing, or operational activities, conducted within designated warning areas.

Necessary monitoring control, and coordination with the lessee, its agents, employees, invitees, independent contractors, or subcontractors, will be effected by the commander of the appropriate onshore military installation conducting operations in the particular warning area, provided, however, that control of such electromagnetic emissions shall in no instance prohibit all manner of electromagnetic communication during any period of time between a lessee, its agents, employees, invitees, independent contractors, or subcontractors and onshore facilities.

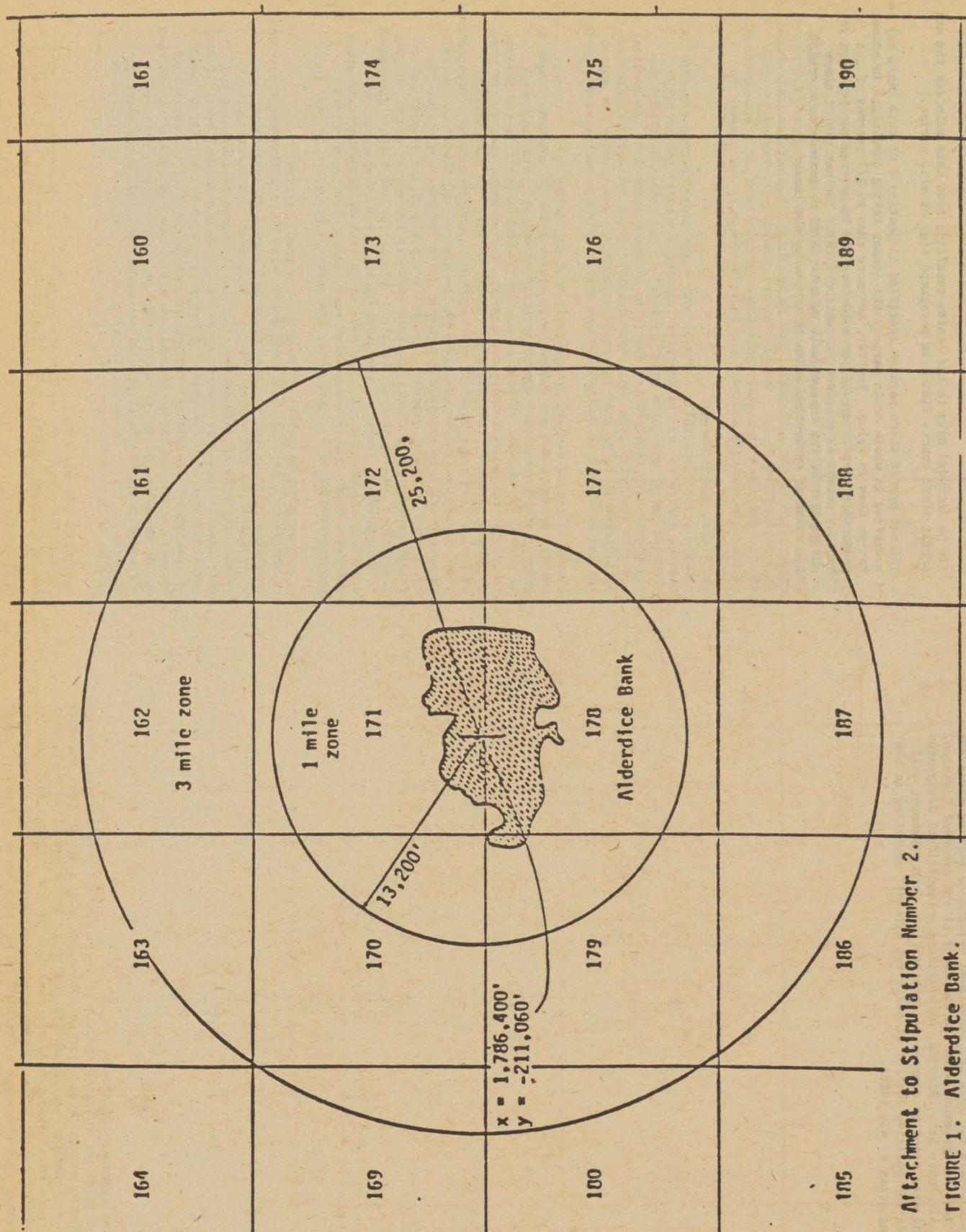
The lessee when operating or causing to be operated on its behalf boat or aircraft traffic into the individual designated warning areas shall enter into an agreement with the commander of the Training Wing Six, Naval Air Station, Pensacola, Florida 32508, on utilizing an individual designated warning area prior to commencing such traffic. Such agreement will provide for positive control of boats and aircraft operating in the warning areas at all times.

Stipulation 18

(To be included only in the leases resulting from this sale for the net profit share tracts listed in paragraph 4(a) of this notice.)

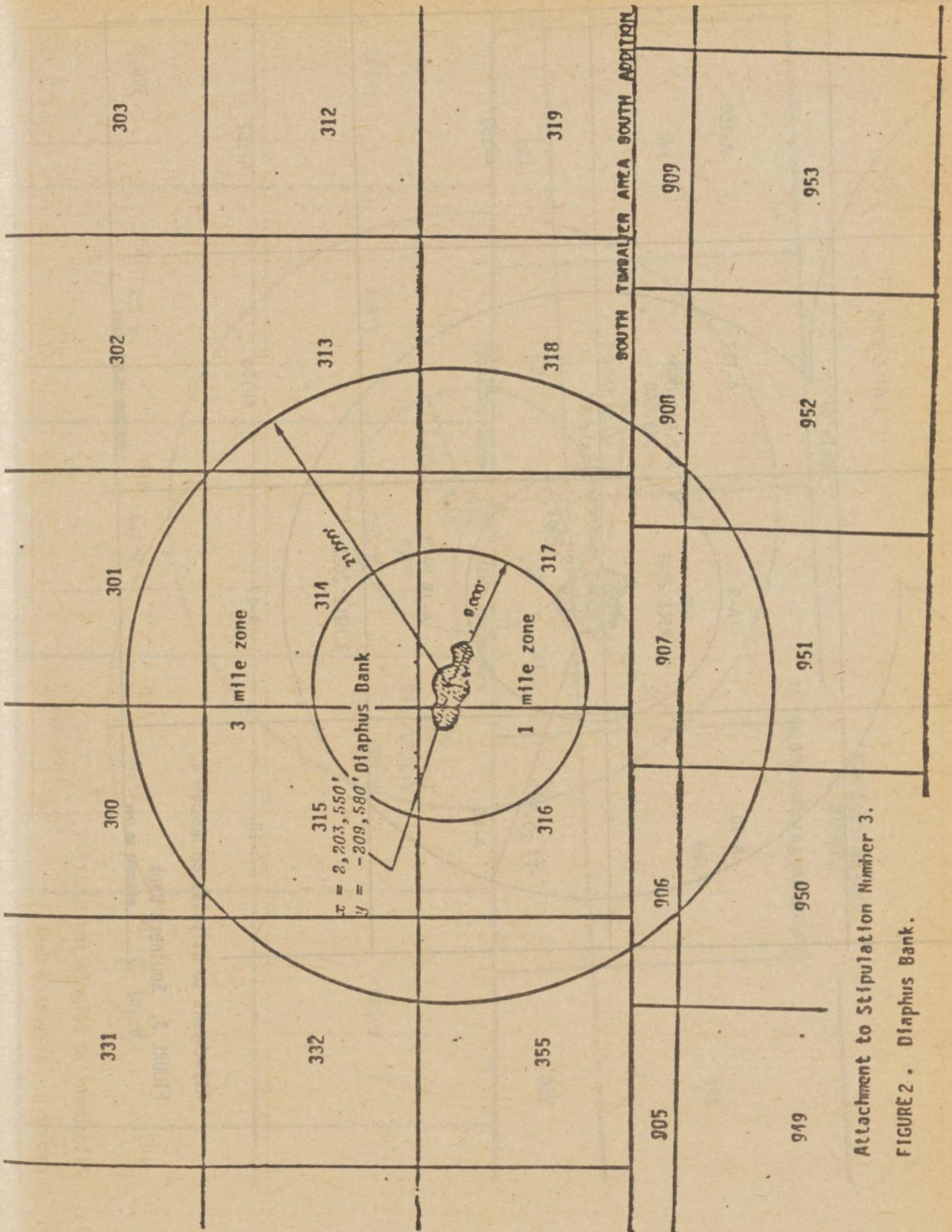
The net profit share payment specified in Section 6 of this lease may be satisfied in whole or in part by the lessor taking production in amount rather than in value. However, not more than 16 2/3 percent of the production saved, removed, or sold from the lease area may be taken in amount, except as provided in Section 15(d). The net profit share obligations of the lessee shall be calculated to include as a credit, the value of production taken in amount by the lessor.

The lessee when operating or causing to be operated on its behalf boat or aircraft traffic into the individual designated warning areas shall enter into an agreement with the commander of the Armament Division, Eglin Air Force Base, Florida, on utilizing an individual designated warning area prior to commencing such traffic. Such agreement will provide for positive control of boats and aircraft operating in the warning areas at all times.



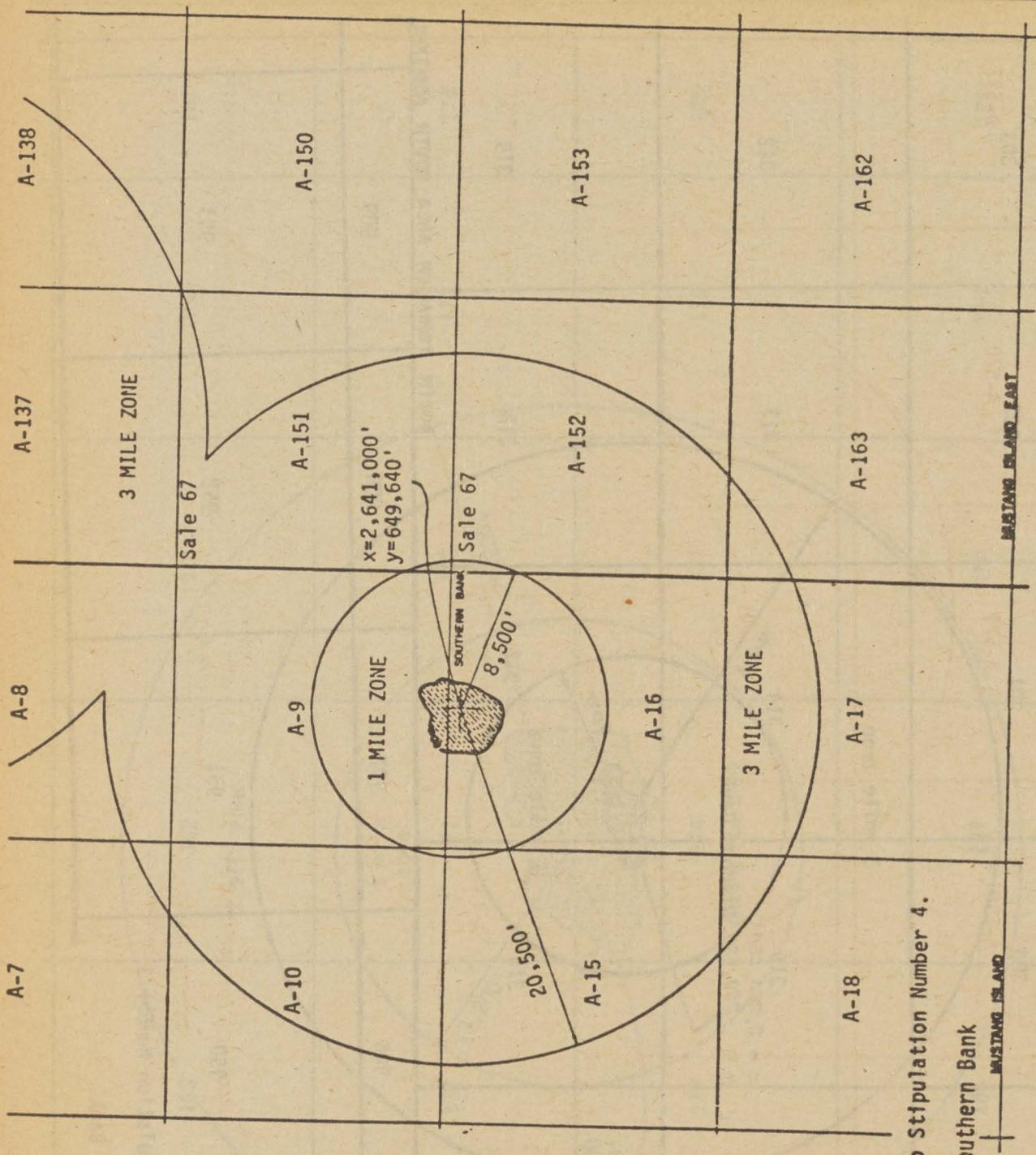
Attachment to Stipulation Number 2.

FIGURE 1. Alderdice Bank.



Attachment to Stipulation Number 3.

FIGURE 2. Diaphus Bank.

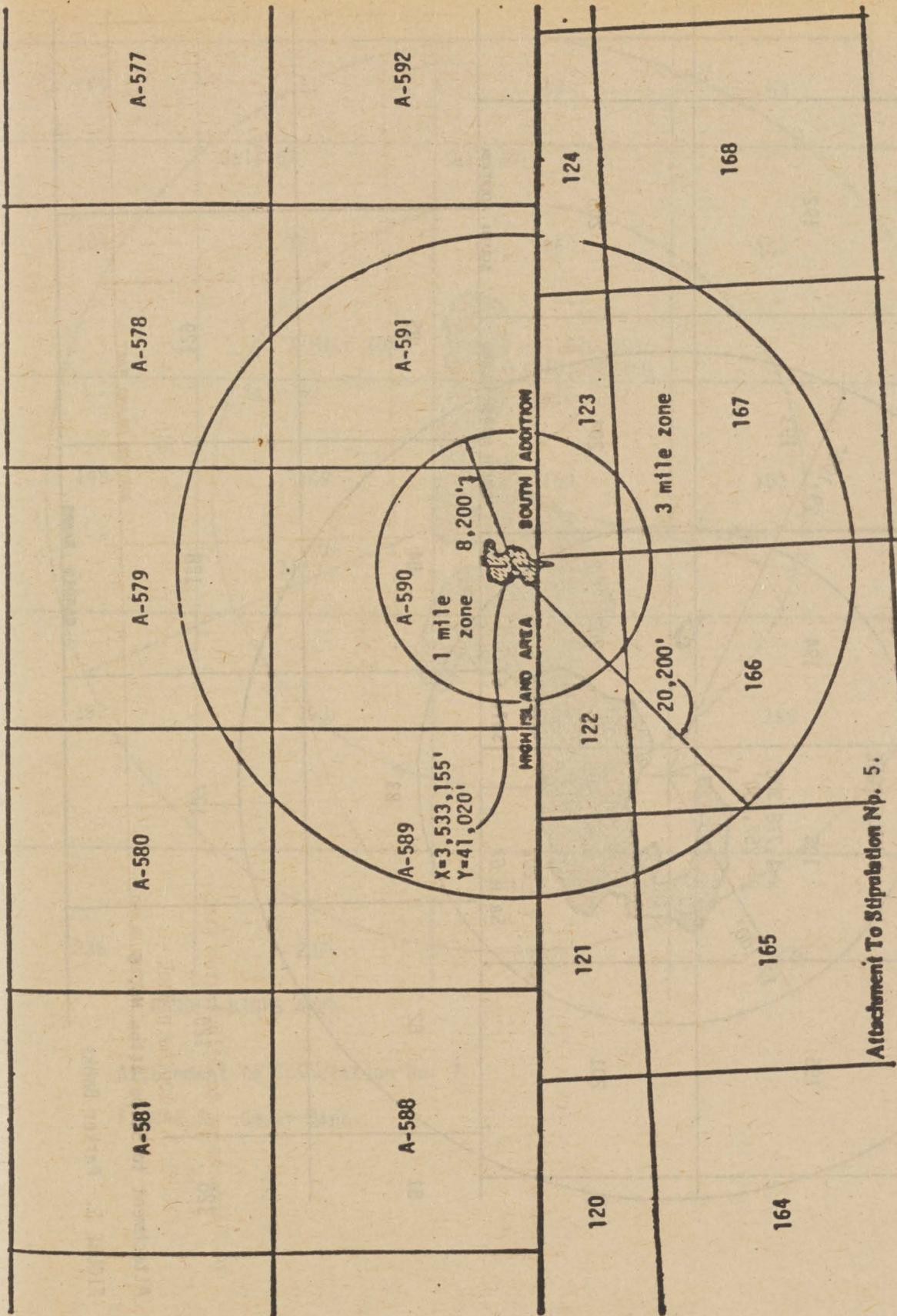


Attachment to Stipulation Number 4.

FIGURE 3. Southern Bank

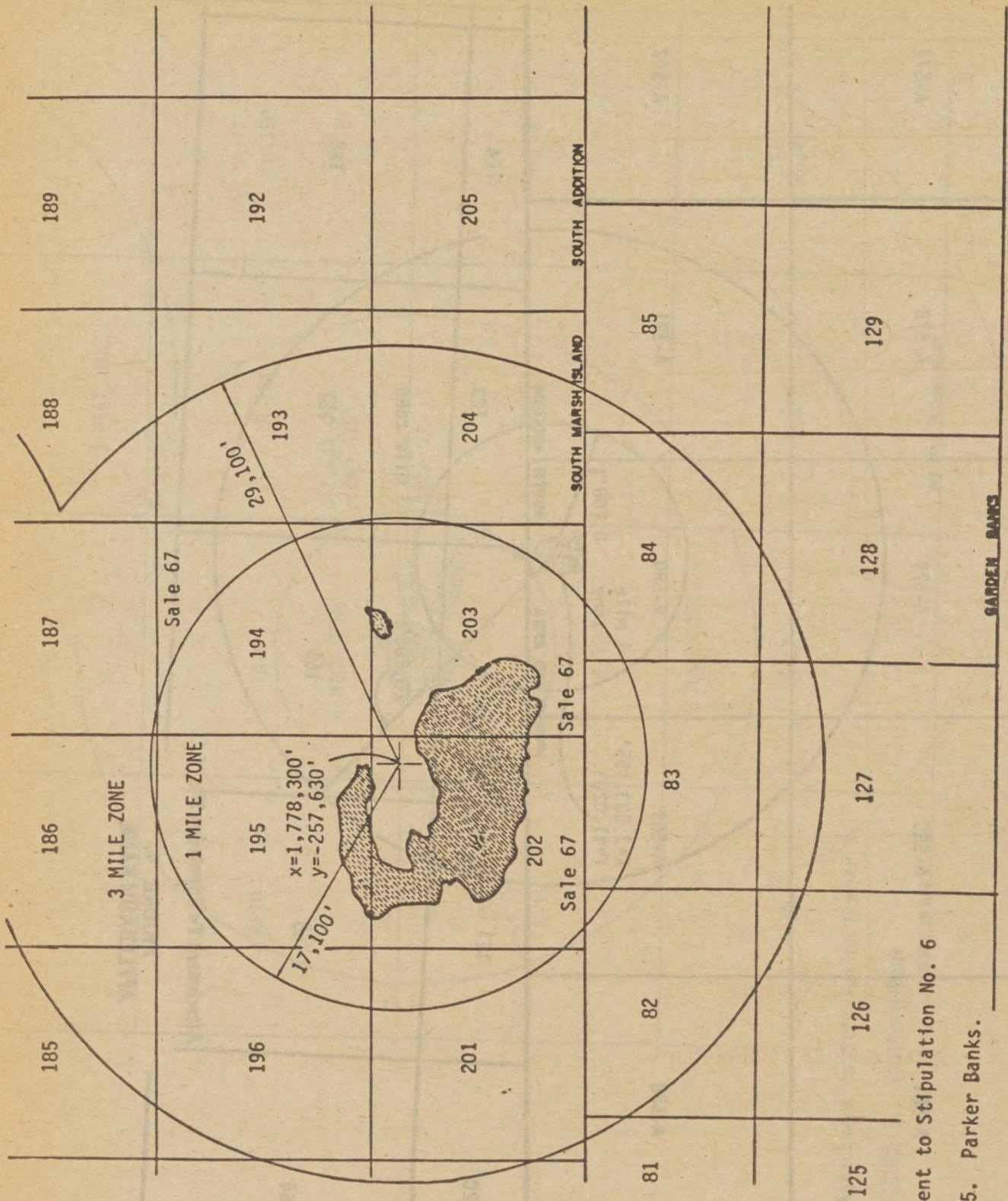
MUSTANG ISLAND

MUSTANG ISLAND EAST



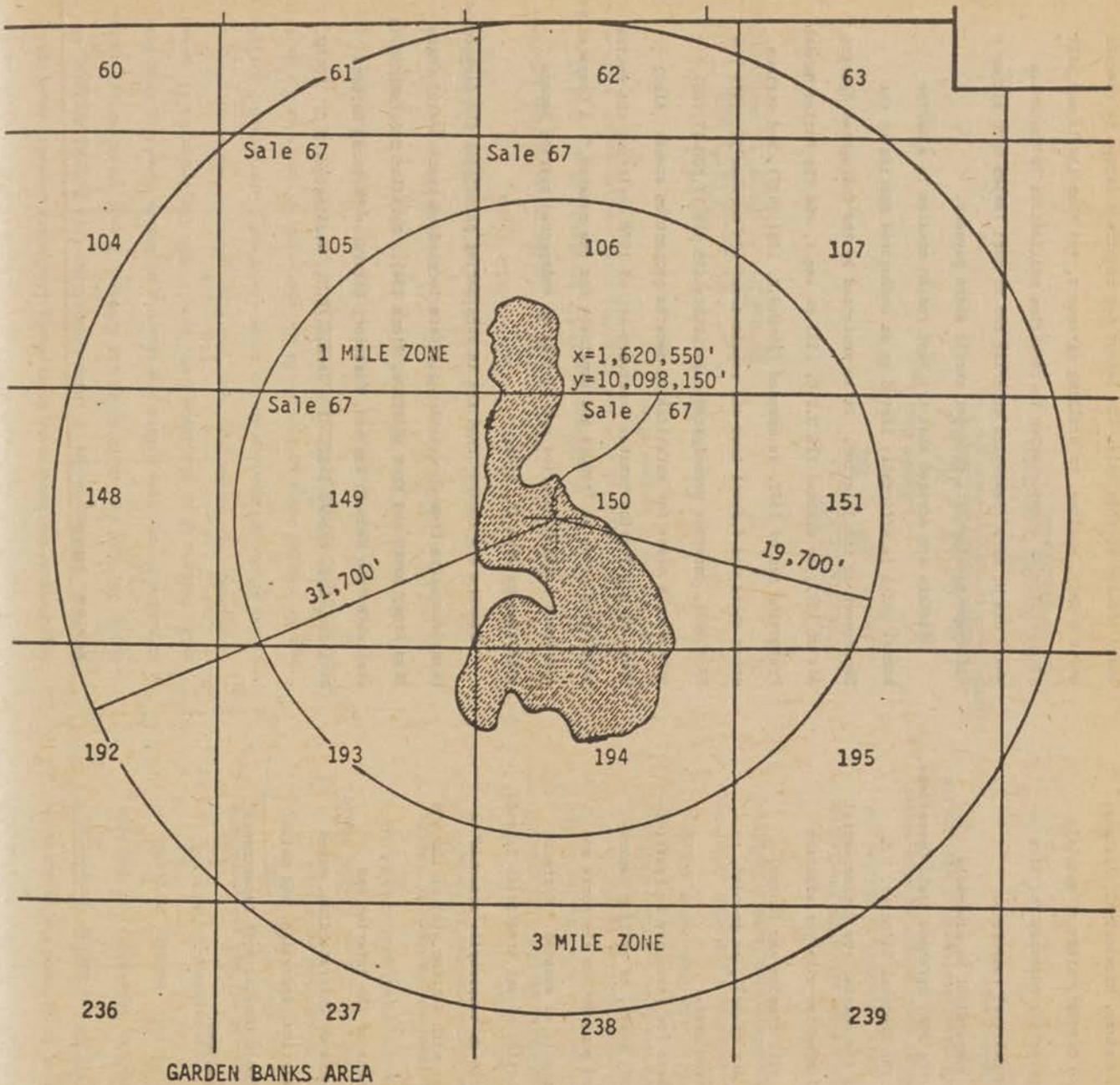
Attachment To Stipulation No. 5.

FIGURE 4.
APPLEBAUM BANK



Attachment to Stipulation No. 6

FIGURE 5. Parker Banks.



Attachment to Stipulation No. 7.

FIGURE 6. Geyer Bank.

14. Information to Lessees. The Department of the Interior will seek the advice of the states of Texas, Louisiana, Mississippi, Alabama, and Florida, and other federal agencies, to identify areas of special concern which might require appropriate protective measures for live bottom areas and areas which might contain cultural resources.

If it is determined that live bottom areas might be adversely affected by the proposed activities, then the DCM, Offshore Field Operations, USGS, after appropriate consultation with the Regional Director, U.S. Fish & Wildlife Service; the Manager, BLM; the states; the Environmental Protection Agency (EPA); and other federal agencies with jurisdiction and expertise to protect the environment, will require the lessee, pursuant to Section 5(a) of the OCS Lands Act of 1953, as amended, to undertake any measures to protect live bottom areas.

Operations on some of the tracts offered for lease may be restricted by designation of fairways, precautionary zones, or traffic separation schemes established by the Coast Guard pursuant to the Ports and Waterways Safety Act (33 U.S.C. 1221 et. seq.), as amended. Corps of Engineers permits are required for construction of any artificial islands, installations, and other devices permanently or temporarily attached to the seabed located on the OCS in accordance with Section 4(e) of the OCS Lands Act, as amended.

Bidders are advised that the Departments of the Interior and Transportation have entered into a Memorandum of Understanding, dated May 6, 1976, concerning the design, installation, operation, and maintenance of offshore pipelines. Bidders should consult both Departments for regulations applicable to offshore pipelines.

Bidders are advised that in accordance with Section 16 of each lease offered at this sale, the lessor may require a lessee to operate under a unit, pooling, or drilling agreement, and that the lessor will give particular consideration to requiring unitization in instances where one or more reservoirs underlie two or more leases with either a different royalty rate or a net profit share payment.

Bidders are advised that the West Indian manatee is a marine mammal which is officially listed as an endangered species by the Department of the Interior. It is protected by the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 et seq.), and the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361-1407), and various other state and federal laws and regulations. On October 22, 1979 (44 FR 60963), Interior promulgated regulations (50 CFR 17.100-17.108) providing a means for establishing manatee protection areas. Also, there is the Florida Manatee Sanctuary Act of 1978 declaring the entire state of Florida as "refuge and sanctuary for the manatee." A Cooperative Agreement between Interior and Florida on endangered species became effective on June 23, 1976.

Bidders are advised that EPA is considering permitting the disposal of hazardous waste from an existing platform located on tract 67-105 (Main Pass Area, South and East Addition, Block 254). Detailed information is available from Kenneth Biglane, Director, Hazardous Response Support Division, U.S. EPA-WH 548A, 41 M Street, S.W., Washington, D.C. 20460.

Bidders are also advised that the National Oceanic and Atmospheric Administration (NOAA) is considering whether to propose the designation of a marine sanctuary, pursuant to Title III of the Marine Protection, Research and Sanctuaries Act of 1972 (16 U.S.C. 1431-1434), in the area of the Flower Garden Banks in the Gulf of Mexico. Revised proposed regulations describing the boundaries of the possible sanctuary and possible restrictions which NOAA might impose on oil and gas operations within the sanctuary were published on June 26, 1980 (45 FR 43205). Tracts offered in this sale that are within the boundaries of the marine sanctuary under consideration are tracts 67-224 and 67-225. While a final decision has not been made by NOAA concerning restrictions in the sanctuary, the restrictions under consideration by NOAA for tracts within the sanctuary may be more stringent than those restrictions included by lease stipulation in this Notice of Sale.

Bidders on tracts 67-224 and 67-225 are also advised that EPA has expressed its intention to require lessees within the boundaries of the Flower Garden Banks Marine Sanctuary under consideration by NOAA to obtain National Pollution Discharge Elimination System (NPDES) permits, pursuant to its authority under Section 402 of the Clean Water Act (P.L. No. 95-217), containing ocean discharge restrictions and other conditions which may be more stringent than those imposed through lease stipulation or Interior regulation.

For those tracts listed in paragraph 13 above providing for leases with an initial period of more than five years, bidders are advised that pursuant to 30 CFR 250.34-1(a)(3), the lessee shall submit to USGS either an exploration plan, where required, or a general statement of exploration intention prior to the end of the tenth lease year.

Revisions of Department of Labor regulations on Affirmative Action requirements for Government Contractors (including lessees) have been deferred, pending review of those regulations (see Federal Register of August 25, 1981, at 46 FR 42865 and 42968). Should those changes become effective at any time before the issuance of leases resulting from this sale, Section 18 of the lease form, Form 3300-1 (September 1978), would be deleted from leases resulting from this sale. In addition, existing stocks of the Affirmative Action Forms described in paragraph 5 of this notice contain language that would be superseded by the revised regulations at 41 CFR 60-1.5(a)(1) and 60-1.7(a)(1).

Pending the issuance of revised versions of Forms 1140-7 and 1140-8 by the Bureau of Land Management, submission of Form 1140-7 (December 1971) and Form 1140-8 (November 1973) will not invalidate an otherwise acceptable bid, and the revised regulations' requirements will be deemed to be part of the existing Affirmative Action Forms.

15. OCS Orders. Operations on all leases resulting from this sale will be conducted in accordance with the provisions of all Gulf of Mexico OCS Orders, as of their effective dates, and any other applicable OCS Order as it becomes effective.

James M. Baker
Acting Director, Bureau of Land Management

Date: DEC 20 1981

Approved JAN 5 1982

Donald Paul Hodel

Donald Paul Hodel
Secretary of the Interior

[FR Doc. 82-454 Filed 1-7-82; 8:45 am]

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4310-84

UNITED STATES
DEPARTMENT OF THE INTERIOR
Bureau of Land Management

Outer Continental Shelf, Gulf of Mexico

Notice of Leasing Systems, Sale No. 67

Sec. 8(a)(8) (43 U.S.C. 1337 (a)(8)) of the Outer Continental Shelf (OCS) Lands Act, as amended, requires that, at least 30 days before any lease sale, a notice be submitted to the Congress and published in the Federal Register:

- (A) identifying the bidding systems to be used and the reasons for such use; and
- (B) designating the tracts to be offered under each bidding system and the reasons for such designation.

This notice is published pursuant to these requirements.

A. Bidding systems to be used. In OCS Sale No. 67, tracts will be offered under the following two bidding systems as authorized by Sec. 8(a)(1) (43 U.S.C. 1337 (a)(1)): (1) bonus bidding with fixed net profit share on 13 tracts, and (2) bonus bidding with a fixed 16-2/3 percent royalty on 222 tracts.

(1) Bonus Bidding with a Fixed Net Profit Share. This system is authorized by Sec. 8(a)(1)(D) of the OCS Lands Act, as amended. This system was established by Department of Energy (DOE) regulations effective May 14, 1980 (45 Fed. Reg. 36784 May 30, 1980). This system has been used in nine previous OCS sales. The profit share system designed for this sale may increase competition by generating greater contingency payments to the Government and thereby reducing the initial cash bonus. It may also increase the volume of production because certain allowable capital costs can be deducted prior to any liability for profit share payments. In addition, the profit share system may foster the development of marginal fields when compared to a royalty system since the Government shares more of the risk and the lessees' incremental costs are lower in the presence of a capital recovery.

A profit share system which uses cash bonus as the bid variable avoids percentage bids at high levels which would make future development either economically inefficient or simply uneconomic. In addition, it is easier to administer and unitize adjacent tracts with similar profit share rates.

Furthermore, a fixed profit share better assures that firms who can produce at lower costs are more likely to obtain leases than would be the case if it were possible for less efficient firms to simply bid away higher percentages of lower profits.

For five tracts, firms will be permitted a capital recovery factor of 0.50 over their actual allowable costs before any profit share payments are due. The profit share rate for these tracts is 50 percent. Eight tracts will have a capital recovery factor of 1.00 and a profit share rate of 40 percent. These parameters were selected on the basis of DOE and DOI studies regarding the effect on bonuses, profit-share payments, Government receipts, gross production, minimal economic tract sizes, and particularly on the incentive to alter the production profile.

(2) Bonus Bidding with a 16-2/3 Percent Royalty. This system is authorized by Sec. (8)(a)(1)(A) of the OCS Lands Act, as amended. This system has been used extensively since the passage of the OCS Lands Act in 1953 and imposes greater risks on the lessee than systems with higher contingency payments, but may yield more rewards if a commercial field is discovered. The relatively high front-end payments required may encourage rapid exploration.

B. Designation of Tracts. The selection of tracts to be offered under the two systems was based on the following factors:

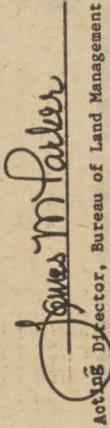
- (1) Lease terms on adjacent tracts were considered in order to reduce administrative costs and barriers to unitization, and to enhance orderly development of each field.

(2) The number of tracts must be consistent with the requirements of Sec. 8(a)(5)(B) of the OCS Lands Act, as amended.

The specific tracts to be offered under each system are as follows:

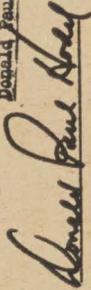
- (a) Bonus Bidding with a Fixed Net Profit Share--Tracts 67-133, 67-134, 67-135, 67-136, 67-137, 67-147, 67-148, 67-149, 67-150, 67-161, 67-162, 67-163, and 67-164.
- (b) Bonus Bidding with a 16-2/3 Percent Royalty--All remaining tracts.

DEC 7 1981


 Acting Director, Bureau of Land Management

Approved: JULY 5 1982

Donald Paul Hodel


 Secretary of the Interior

[FR Doc. 82-455 Filed 1-7-82; 8:45 am]
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federal register

Friday
January 8, 1982

Part III

Department of Agriculture

Agricultural Marketing Service

**Egg Research and Promotion Order;
Hearing on Proposed Amendments**

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1250

Egg Research and Promotion Order;
Hearing on Proposed Amendments

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice of hearing on proposed rule.

SUMMARY: The hearing is being held to consider proposed amendments to the Egg Research and Promotion Order submitted by an Egg Industry Promotion Study Task Force. The changes would implement the amendments to the Egg Research and Consumer Information Act. The two principal changes to be considered are the addition of two consumers to the American Egg Board and an increase in the rate of assessment. The text of the proposals to be considered at the hearing is set forth below.

DATES: The hearing is scheduled as follows:

1. March 1, 1982—Washington, D.C.
2. March 4, 1982—St. Louis, Missouri
3. March 23, 1982—San Diego, California

Each session will begin at 9 a.m. local time. Any of the sessions may be continued beyond 1 day if necessary.

ADDRESSES: The hearing will be held at the following locations:

1. March 1-2, 1982—Washington, D.C. 20250, Room 1072 (Thomas Jefferson Auditorium) U.S. Department of Agriculture, South Building, 14th and Independence Avenue, S.W.
2. March 4-5, 1982—St. Louis, MO 63134, Washington A & B Room, Ramada Inn (Airport), 9636, Natural Bridge Road.
3. March 23-24, 1982—San Diego, CA 92138, Forum Room, Town and Country Hotel, 500 Hotel Circle North.

FOR FURTHER INFORMATION CONTACT: Janice L. Lockard, Poultry Division, AMS, USDA, Washington, D.C. 20250, Phone 202-447-2068.

SUPPLEMENTARY INFORMATION: This action is exempt from the requirements set forth in E.O. 12291 and has been classified as nonmajor in accordance with USDA guidelines implementing such order.

On June 17, 1980, the Egg Research and Consumer Information Act was amended (Pub. L. 96-276, Secs. 2-6, 94 Stat. 541). Section 8 (a) and (b) provide for the appointment of two consumers or representatives of consumers and their alternates to the American Egg Board. For purposes of this action, consumer

means an individual who is representative of the consuming public and is unassociated with the egg industry.

Section 8(e) of the amended Act provides for an increase in the rate of assessment from 5 cents per 30-dozen case of commercial eggs to not more than 7½ cents. The legislation allows subsequent yearly increases thereafter of three-quarters of a cent until a 10-cent maximum rate is reached. The proposed amended sections of the Egg Research and Promotion Order would implement the amendments in the legislation cited above.

An Egg Industry Promotion Study Task Force representing 18 egg and poultry associations listed below submitted the proposed amendments with a request for a public hearing thereon.

Georgia Egg Commission
Georgia Poultry Federation
Illinois Poultry Industry Council
Iowa Poultry Association
Michigan Allied Poultry Industries
Midwest Egg Producers
National Egg Company
North Carolina Poultry Federation
Northeast Egg Marketing Association
Ohio Egg Processors Association
Ohio Poultry Association
Pacific Egg and Poultry Association
Poultry and Egg Institute of America
South Dakota Poultry Industries Association
Southeastern Poultry and Egg Association
Texas Poultry Federation
United Egg Producers
Virginia Egg Council

The hearing is called pursuant to the provisions of the Egg Research and Consumer Information Act (7 U.S.C. 2701 et seq.) as amended, and in accordance with the applicable rules of practice and procedure governing proceedings to formulate such an order (7 CFR 1250.1-1250.19, as amended, 45 FR 75165, November 14, 1980).

The hearing is for the purpose of:

1. Receiving evidence with respect to the economic and marketing conditions which relate to the proposed amendments set forth herein; and
2. Determining the extent of need for the amendments to carry out an effective and continuous coordinated program of research, consumer and producer education, and promotion for eggs, egg products, and spent fowl.

The Regulatory Flexibility Act (Pub. L. 96-354), effective January 1, 1981, seeks to ensure that, within the statutory authority of a program, the regulatory and information requirements are tailored to the size and nature of small

businesses. For the purpose of this action, a small business will be considered as one which is independently owned and operated and which is not dominant in its field of operation. Under the provisions of the Egg Research and Consumer Information Act, egg producers with 3,000 or fewer laying hens, are exempt from paying assessments. Also exempt are producers whose flocks of breeding hens are producing eggs primarily utilized for the hatching of baby chicks. Approximately 2,800 firms currently in these categories are registered with the American Egg Board. Nonexempt egg producers, regardless of size, are subject to the same regulatory, recordkeeping, and reporting requirements of the law. In addition, all such nonexempt producers may receive a refund of their assessment upon demand to the American Egg Board. Interested parties are invited to present evidence at the hearing on the probable regulatory and informational impact of the proposals on small businesses.

PART 1250—EGG RESEARCH AND PROMOTION

The proposed amendments, set forth below, have not received the approval of the Secretary of Agriculture.

Proposed by Egg Industry Promotion Study Task Force

1. Section 1250.317 is added as follows:

§ 1250.317 Consumer or consumer representative.

"Consumer" or "consumer representative" means an individual who is representative of the consuming public and is not associated with the egg industry; such person may be a member of a bona fide consumer organization but such membership is not required.

2. Section 1250.326 is revised to read as follows:

§ 1250.326 Establishment and membership.

There is hereby established an Egg Board, hereinafter called the "Board," composed of 18 producers or representatives of producers, 2 consumers or representatives of consumers, and 20 specific alternates. The Board members and alternates shall be appointed by the Secretary from nominations submitted by eligible organizations, associations, or cooperatives, or by other producers pursuant to § 1250.328 and § 1250.329. If the Secretary determines that the nominees to the Board as consumers or consumer representatives are not

members of a bona fide consumer organization or do not represent consumers, the Secretary may appoint such consumers or representatives of consumers as deemed necessary to properly represent the interest of consumers.

3. The section heading for § 1250.328 is revised to read as follows:

§ 1250.328 Nominations of producers.

4. Section § 1250.328 is amended by inserting the words "of producers and representatives of producers" after the second word in the first sentence of such section.

5. Add the following new § 1250.329. Subsequent sections through § 1250.336 would be renumbered accordingly, and changes in references to other sections would be made as necessary.

§ 1250.329 Nominations of consumer representatives.

Eligible organizations certified by the Secretary pursuant to § 1250.356 within each geographic area designated pursuant to § 1250.328 of this Order may caucus for the purpose of jointly nominating consumer representatives to the Board for each consumer member and alternate to be appointed. If joint agreement is not reached with respect to the nominations or no caucus is held, each eligible organization may submit names. Such nominations shall be submitted to the Secretary within 60 days of the approval of this amendment to the Order in referendum. After the appointment of the initial consumer representatives and alternates to the Board, the nominations for subsequent consumer representatives to the Board and alternates shall be submitted to the Secretary not less than 60 days prior to

the expiration of the terms of the members and alternates previously appointed.

6. Section 1250.347 is amended to read as follows:

§ 1250.347 Assessments.

(a) Each handler designated in § 1250.348 and pursuant to regulations issued by the Board shall collect an assessment from each producer and shall pay that assessment to the Board at such times and in such manner as prescribed by the regulations issued by the Board; *Provided*, That the following shall be exempt from the provisions of this section: (1) Any egg producer whose aggregate number of laying hens at any time during a 3-consecutive-month period immediately prior to the date assessments are due and payable has not exceeded 3,000 laying hens, and (2) any flock of breeding hens whose production of eggs is primarily utilized for the hatching of baby chicks.

(b) The Egg Board with the approval of the Secretary shall set the amount of assessment, not to exceed 10 cents per 30 dozen case of eggs, or the equivalent thereof, as provided in paragraph (c) of this section to cover such expenses and expenditures, including provisions for a reasonable reserve and those administrative costs incurred by the Department of Agriculture as the Secretary finds are reasonable and likely to be incurred by the Board and the Secretary under this Subpart, except that no more than one such assessment shall be made on any case of eggs.

(c) The rate of assessment for the first 12 months following issuance of regulations by the Board shall not exceed 7½ cents per case and shall not be increased by more than three-

quarters of 1 cent per case during each fiscal year thereafter.

Proposed by the Poultry Division, Agricultural Marketing Service

Make such changes as may be necessary to make the entire Order conform with amendments thereto that may result from the hearing.

Copies of this notice of hearing and the Order may be received by requesting them from Janice L. Lockard, Poultry Division, AMS, USDA, Room 2606 South Building, United States Department of Agriculture, Washington, D.C. 20250, or from the Hearing Clerk, Room 1077, at the same location or may be inspected at that location.

From the time this hearing notice is issued and until the issuance of a final decision in a proceeding, Department employees involved in the decisional process are prohibited from discussing the merits of the hearing issues on an ex parte basis with any person having an interest in the proceeding. For this particular proceeding, the prohibition applies to employees in the following organizational units:

Office of the Secretary of Agriculture
Office of the Administrator, Agricultural Marketing Service
Office of the General Counsel
Poultry Division, Agricultural Marketing Service.

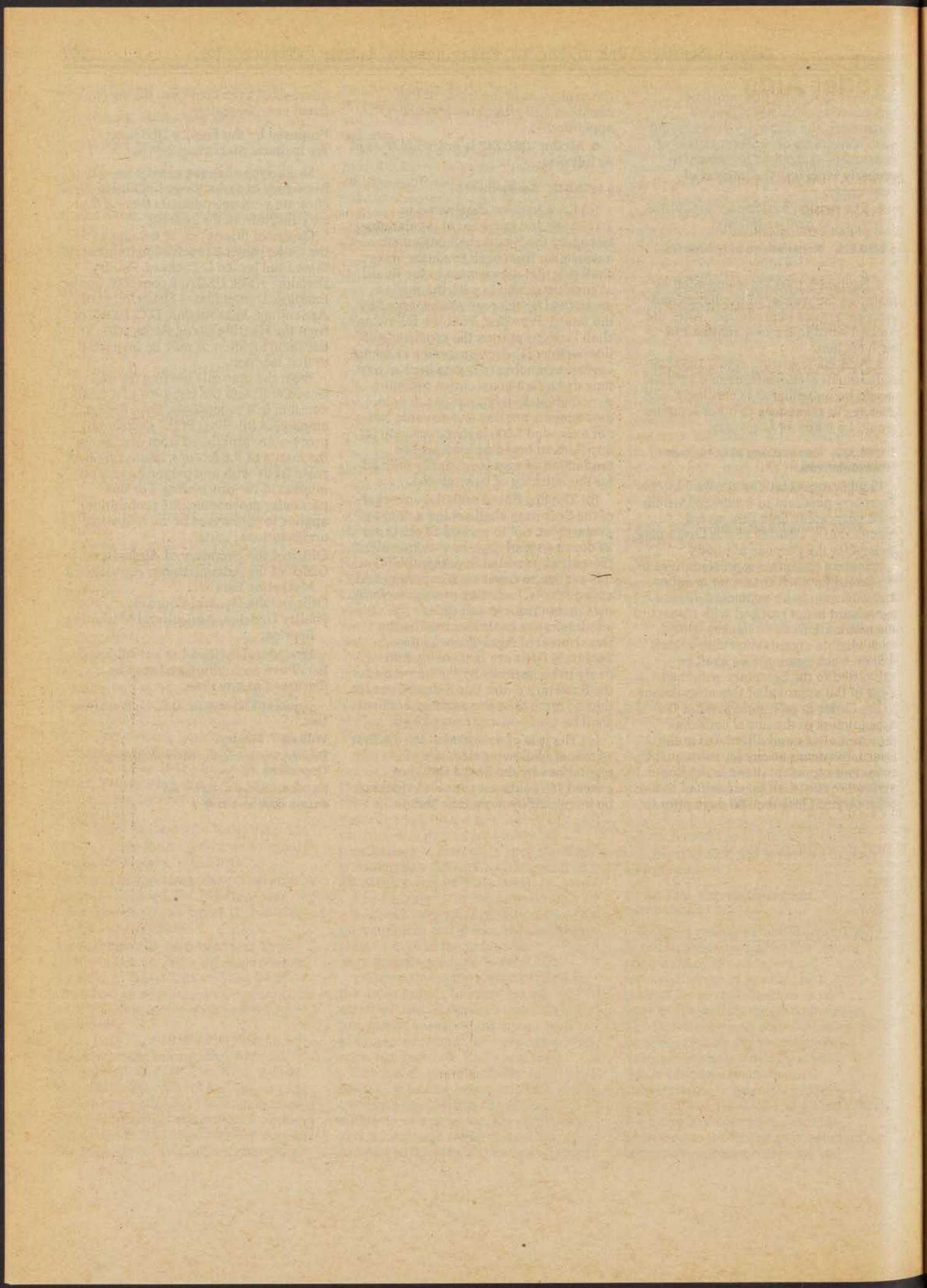
Procedural matters are not subject to the above prohibition and may be discussed at any time.

Signed at Washington, D.C., on January 5, 1982.

William T. Manley,
Deputy Administrator, Marketing Program Operations.

[FR Doc. 82-533 Filed 1-7-82; 8:45 am]

BILLING CODE 3410-02-M



Reader Aids

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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
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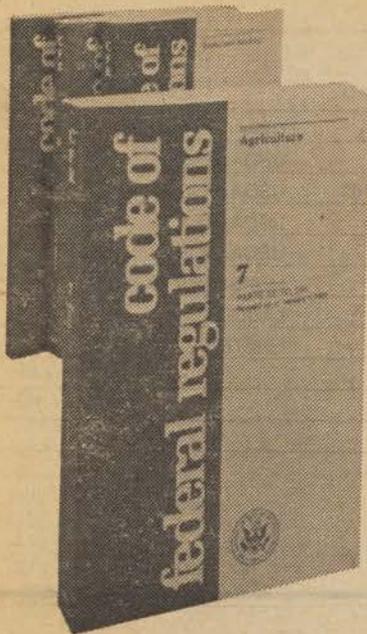
Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

REMINDERS**List of Public Laws**

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's List of Public Laws.

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