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Presidential Documents

Title 3—

The President

Proclamation 4918 of April 2, 1982

Older Americans Month, 1982

By the President of the United States of America

A Proclamation

A nation derives its soul, strength, and character from the sum of the creative efforts of all its citizens. While we are a nation of more than 230 million individuals, we are one people—interdependent on each other for our accomplishments and our future.

We owe a special debt of gratitude to our older citizens, who have enriched, and continue to enrich, our great nation. Older Americans from all walks of life have played a major role in creating the bounties of life that bless us all.

As we have come to appreciate the reservoir of experience and depth of knowledge possessed by our older citizens, we must recognize the importance of continuing to draw on them. Older Americans have much to give, both through employment and volunteer work. In paying homage to the contributions and continued potential of older Americans, we also recognize there are those among them who require assistance from others to enhance the quality of their golden years.

As a nation, we are aging together. Opportunities and support we can provide to older Americans today will benefit all of us tomorrow. I urge all Americans to join in this call for intergenerational action that will make more meaningful the lives and potential of older Americans and our society as a whole.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby designate the month of May, 1982, as Older Americans Month.

IN WITNESS WHEREOF, I have hereunto set my hand this second day of April, in the year of our Lord nineteen hundred and eighty-two, and of the Independence of the United States of America the two hundred and sixth.

Ronald Reagan

[FR Doc. 82-9319
Filed 4-2-82; 2:51 pm]
Billing code 3195-01-M

Editorial Note: The President's remarks of Apr. 2, 1982, on signing Proclamation 4918 are printed in the *Weekly Compilation of Presidential Documents* (vol. 18, no. 13).

Presidential Documents

Proclamation 4919 of April 2, 1982

Cancer Control Month, 1982

By the President of the United States of America

A Proclamation

This year marks the tenth anniversary of our country's commitment of major resources to the control of cancer through the National Cancer Program. While progress against this dread disease has been slow, each step forward can save thousands of lives since statistics show that one out of four Americans now living will become a victim of cancer.

Research has demonstrated that lifestyle and environment play a crucial role in the development of cancer. Reports issued by the Surgeon General increasingly link cigarette smoking with cancer of the lung and other parts of the body. We have developed greater understanding of the effects of exposure to carcinogens and radiation in the workplace and have also learned the importance of diet and nutrition as factors in the development and prevention of cancer. Advances in biochemistry, microbiology, and other basic research have improved our comprehension of the cellular events that lead to cancer formation, but researchers still seek a clearer understanding of the cause of cancer as they strive to halt the progress of this disease more effectively.

Improved surgical procedures, new discoveries in recombinant DNA and hybridoma technology, and developments on the frontiers of immunotherapy hold out the possibility not only of better treatment, but also of the significant breakthrough long prayed for. With continued advances, this ancient scourge may yet pass from mankind.

In 1938, the Congress of the United States passed a joint resolution requesting the President to issue an annual proclamation declaring April to be Cancer Control Month.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim the month of April, 1982, as Cancer Control Month. I invite the Governors of the fifty states and the Commonwealth of Puerto Rico, and the appropriate officials of all other areas under the United States flag, to issue similar proclamations. I also ask the health care professions, the communications industry, and all other interested persons and groups to unite during this appointed time to reaffirm publicly our nation's continuing commitment to control cancer.

IN WITNESS WHEREOF, I have hereunto set my hand this 2nd day of April in the year of our Lord nineteen hundred and eighty-two, and of the Independence of the United States of America the two hundred and sixth.

Ronald Reagan

[FR Doc. 82-9444
Filed 4-5-82; 10:43 am]
Billing code 3195-01-M

Presidential Documents

Proclamation 4920 of April 3, 1982

National Medic Alert Week

By the President of the United States of America

A Proclamation

Emergency medical care is as effective as the support it receives from our citizens. When we contribute to the lifesaving capabilities of rescue workers and other health professionals, we help to assure our own prospects for continued good health.

About forty million Americans are afflicted with medical problems which are difficult to identify in an emergency situation. One simple but important step that people with special medical problems can take to protect themselves and to enhance the effectiveness of emergency medical care is to register with a medic alert service.

For nearly 25 years, these special identification and information services have been helping health and rescue personnel meet the unique emergency needs of people with diabetes, heart conditions, epilepsy, allergies and other hidden medical problems. The medic alert tag that the victim of a medical emergency wears and the information service with which that person is registered can spell the difference between survival and death. Each year, medical alert identification and emergency information systems save the lives of more than two thousand people who have hidden medical conditions.

To increase awareness among Americans of the benefits of these emergency services, the Congress, by House Joint Resolution 272, requested that the President issue a proclamation designating April 4 through April 10, 1982, as National Medic Alert Week.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim the week beginning April 4, 1982, as National Medic Alert Week. I urge all citizens, associations, and organizations to observe this week with activities that foster the use of emergency identification and information services. I invite the Governors of the States and local government officials to give their support to these activities. Medic alert services save lives.

IN WITNESS WHEREOF, I have hereunto set my hand this 3rd day of April, in the year of our Lord nineteen hundred and eighty-two, and of the Independence of the United States of America the two hundred and sixth.

Ronald Reagan

[FR Doc. 82-9445
Filed 4-5-82; 10:44 am]
Billing code 3195-01-M

Presidential Documents

Proclamation 4921 of April 3, 1982

National Day of Reflection

By the President of the United States of America

A Proclamation

Amid the distractions and concerns of our daily existence, it is appropriate that Americans pause to reflect upon the ancient ethical principles and moral values which are the foundation of our character as a nation.

We seek, and steadfastly pursue, the benefits of education. But education must be more than factual enlightenment—it must enrich the character as well as the mind.

One shining example for people of all faiths of what education ought to be is that provided by the Lubavitch movement, headed by Rabbi Menachem Schneerson, a worldwide spiritual leader who will celebrate his 80th birthday on April 4, 1982. The Lubavitcher Rebbe's work stands as a reminder that knowledge is an unworthy goal unless it is accompanied by moral and spiritual wisdom and understanding. He has provided a vivid example of the eternal validity of the Seven Noahide Laws, a moral code for all of us regardless of religious faith. May he go from strength to strength.

In recognition of the Lubavitcher Rebbe's 80th birthday, the Senate and the House of Representatives of the United States in Congress assembled have issued House Joint Resolution 447 to set aside April 4, 1982, as a "National Day of Reflection."

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim April 4, 1982, as National Day of Reflection.

IN WITNESS WHEREOF, I have hereunto set my hand this 3rd day of April, in the year of our Lord nineteen hundred and eighty-two, and of the Independence of the United States of America the two hundred and sixth.

Ronald Reagan

[FR Doc. 82-9446
Filed 4-5-82; 10:45 am]
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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.

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

7 CFR Part 418

Wheat Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Final rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) hereby revises and reissues the Wheat Crop Insurance Regulations (7 CFR Part 418), effective with the 1982 and succeeding crop years, to incorporate several changes designed to shorten and simplify the insurance policy, making the regulations more effective administratively.

The principal changes include different termination for indebtedness dates and cancellation dates to provide for the insuring of winter wheat crops in counties not previously approved for such insurance, replacing the present single crop application form with a multi-crop application form to eliminate excess paperwork, removing a section no longer required under the Federal Crop Insurance Act, as amended, and redesignating the Appendix B to 7 CFR Part 418, plus generally conforming the regulations to make them easier to understand and more effective administratively. This final rule is promulgated under the authority of the Federal Crop Insurance Act, as amended.

DATE: This rule is effective April 6, 1982.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250, telephone (202) 447–3325.

The Impact Statement describing the options considered in developing this rule and the impact of implementing each option is available upon request from Peter F. Cole.

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established in Secretary's Memorandum No. 1512–1 (June 11, 1981).

Melvin E. Sims, Chairman, FCIC, has determined that (1) this action is not a major rule as defined in Executive Order No. 12291 (February 17, 1981), (2) this action does not increase the Federal paperwork burden on individuals, small businesses, and other persons, and (3) this action conforms to the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), and other applicable law.

The title and number of the Federal Assistance Program to which this revision and reissuance applies are: Title—Crop Insurance; Number 10.450.

Information collection requirements contained in this regulation (7 CFR 418.7) have been approved by the Office of Management and Budget under the provisions of 44 U.S.C. Chapter 35 and have been assigned OMB Numbers 0563–0003 and 0563–0007.

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 this action constitutes a review as to the need, currency, clarity, and effectiveness of these regulations under the provisions of Secretary's Memorandum No. 1512–1 (June 11, 1981). A sunset review date established for these regulations is February 8, 1987.

On Thursday, November 19, 1981, the Federal Crop Insurance Corporation published a notice of proposed rulemaking in the **Federal Register** (46 FR 56802) to revise and reissue the Wheat Crop Insurance Regulations (7 CFR Part 418), effective with the 1982 and succeeding crop years. The public was given 30 days in which to submit written comments, data, and opinions on the proposed rule, but none were received.

The principal changes involved in this rule are as follows:

1. The cancellation and termination for indebtedness dates are changed to provide for the insuring of winter wheat crops in counties not previously approved for such insurance in Minnesota, northern Wisconsin, and a portion of South Dakota. Presently, spring wheat crop insurance only is available in these counties.

2. Replacement of the present single crop application form with a multiple-crop application form to eliminate the need for filing a separate application for each crop to be insured. This will result in filing a single form which lists all crops to be insured, causing less effort and duplication for both the applicant and FCIC.

3. The removal and reservation of 7 CFR 418.3. This subsection required FCIC to annually post in each county courthouse a listing of indemnities paid in each county. Such provisions were contained in the Federal Crop Insurance Act. The 1980 amendments to the Act (Pub. L. 96–365), September 26, 1980) deleted this provision and FCIC is no longer required to post such lists.

4. The redesignation of Appendix B and Appendix A to 7 CFR Part 418.

5. The inclusion of an Appendix A to 7 CFR Part 418 in the Table of Contents, to designate counties wherein wheat crop insurance is authorized to be offered.

6. Addition of new counties in Appendix A to 7 CFR Part 418, to list those counties approved by the Board of Directors for such insurance.

In addition to the above-listed changes, minor changes and corrections to language have been made in this rule.

List of Subjects in 7 CFR Part 418

Crop insurance, Wheat.

Final Rule

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Corp Insurance Corporation hereby revises and reissues the Wheat Crop Insurance Regulations (7 CFR Part 418) effective for the 1982 and succeeding crop years to read as follows:

PART 418—WHEAT CROP INSURANCE

Subpart—Regulations for the 1982 and Succeeding Crop Years

Sec.

418.1 Availability of wheat insurance.
418.2 Premium rates, production guarantees, coverage levels, and prices at which indemnities shall be computed.
418.3 Reserved.
418.4 Creditors.
418.5 Good faith reliance on misrepresentation.
418.6 The contract.

Sec.
418.7 The application and policy.
Appendix A: Counties Designated for Wheat Crop Insurance.

Authority: Secs. 506, 516, Pub. L. 75–430, 52 Stat. 72, as amended (7 U.S.C. 1506, 1516).

Subpart—Regulations for the 1982 and Succeeding Crop Years

§ 418.1 Availability of Wheat Insurance.

Insurance shall be offered under the provisions of this subpart on wheat in counties within limits prescribed by and in accordance with the provisions of the Federal Crop Insurance Act, as amended. The counties shall be designated by the Chairman of the Corporation from those approved by the Board of Directors of the Corporation. Before insurance is offered in any county, there shall be published the names of the counties in which wheat insurance will be offered.

§ 418.2 Premium rates, production guarantees, coverage levels, and prices at which indemnities shall be computed.

(a) The Chairman of the Corporation shall establish premium rates, production guarantees, coverage levels, and prices at which indemnities shall be computed for wheat. Such premium rates, production guarantees, coverage levels, and prices at which indemnities shall be computed shall be shown on the county actuarial table on file in the office for the county and may be changed from year to year.

(b) At the time the application for insurance is made, the applicant shall elect a coverage level and price election at which indemnities shall be computed from among those levels and prices shown on the actuarial table for the crop year.

§ 418.3 [Reserved]

§ 418.4 Creditors.

An interest of a person in an insured crop existing by virtue of a lien, mortgage, garnishment, levy, execution, bankruptcy, or an involuntary transfer shall not entitle the holder of the interest to any benefit under the contract except as provided in the policy.

§ 418.5 Good faith reliance on misrepresentation.

Notwithstanding any other provision of the wheat insurance contract, whenever (a) an insured person under a contract of crop insurance entered into under these regulations, as a result of a misrepresentation or other erroneous action or advice by an agent or employee of the Corporation, (1) is indebted to the Corporation for additional premiums, or (2) has suffered a loss to a crop which is not insured, or for which the insured person is not entitled to an idemnity because of failure to comply with the terms of the insurance contract, but which the insured person believed to be insured, or believed the terms of the insurance contract to have been complied with or waived, and (b) the Board of Directors of the Corporation, or the Chairman of the Corporation in cases involving not more than $20,000, finds (1) that an agent or employee of the Corporation did in fact make such misrepresentation or take other erroneous action or give erroneous advice, (2) that said insured person relied thereon in good faith, and (3) that to require the payment of the additional premiums or to deny such insured's entitlement to the indemnity would not be fair and equitable, such insured person shall be granted relief the same as if otherwise entitled thereto.

§ 418.6 The contract.

(a) The insurance contract shall become effective upon the acceptance by the Corporation of a duly executed application for insurance on a form prescribed by the Corporation. The contract shall cover the wheat crop as provided in the policy. The contract shall consist of the application, the policy, the attached appendix, and the provisions of the county actuarial table showing the production guarantees, coverage levels, premium rates, prices for computing indemnities, insurable and uninsurable acreage, and applicable dates. Any changes made in the contract shall not affect the continuity from year to year. Copies of forms referred to in the contract are available at the office for the county.

§ 418.7 The application and policy.

(a) Application for insurance on a form prescribed by the Corporation may be made by any person to cover such person's insurable share in the wheat crop as landlord, owner-operator, or tenant. The application shall be submitted to the Corporation at the office for the county on or before the applicable closing date on file in the office for the county.

(b) The Corporation reserves the right to discontinue the acceptance of applications in any county upon its determination that the insurance risk involved is excessive, and also, for the same reason, to reject any individual application. The Chairman of the Corporation is authorized in any crop year to extend the closing date for acceptance of applications or contract changes in any county, by placing the extended date on file in the office for the county and publishing a notice in the **Federal Register** upon the Chairman's determination that no adverse selectivity will result during the period of such extension: *Provided, however,* That if adverse conditions should develop during such period, the Corporation will immediately discontinue the acceptance of applications.

(c) In accordance with the provisions governing changes in the contract contained in policies issued under FCIC regulations for the 1969 and succeeding crop years, a contract in the form provided for under this subpart will come into effect as a continuation of a wheat contract issued under such prior regulations, without the filing of a new application.

(d) The provisions of the application and Wheat Insurance Policy for the 1982 and Succeeding Crop Years, and the Appendix to the Wheat Insurance Policy are as follows:

FCI–12
Rev. (9–81)

UNITED STATES DEPARTMENT OF AGRICULTURE

FEDERAL CROP INSURANCE CORPORATION

CROP INSURANCE APPLICATION

CONTINUOUS CONTRACT

1 Name of Applicant

2 Agent, Administrator, Executor, Etc.

3 Street or Mailing Address

4 City and State

5 ZIP Code
□□–□□□
6 State and County
□□□□□
Contract Number

8 County

9 State
□□□□□□□□□
10 Idenification Number
□□
11 SSN – TAX

12 Type of Entity

13 Applicant is Over 18: Yes ——, No ——

If No. Date of Birth

A. The applicant, subject to the provisions of the regulations of the Federal Crop Insurance Corporation (herein called "Corporation"), hereby applies to the Corporation for insurance on the applicant's share in the crop(s) shown below planted on insurable acreage as shown on the county actuarial table for the above-stated county. The applicant elects from the actuarial table

the coverage level and, where applicable, a price election or plan of insurance. THE PREMIUM RATE AND APPLICABLE PRODUCTION GUARANTEE OR AMOUNT OF INSURANCE PER ACRE SHALL BE THOSE SHOWN ON THE APPLICABLE COUNTY ACTUARIAL TABLE FILED IN THE OFFICE FOR THE COUNTY FOR EACH CROP YEAR.

14	15	16	17	18
Effective crop year	Crop	Type, class plan of insurance	Price election	Level election

19	20	21
	For Agency Use Only	
☐	(A)	(P)
☐		
☐		
☐		
☐		
☐		
☐		
☐		
☐		

22 Crop(s) NOT insured the first year:

B. This application is accepted by the Corporation unless the applicant is notified of rejection within 30 days of the date hereof. Rejection shall be accomplished by depositing notification thereof in the United States Mail, postage paid, to the above address. Rejection may be for any reason which would also serve as a basis for termination under the policy, the Federal Crop Insurance Act, or the regulations issued thereunder. Outstanding and delinquent indebtedness to any United States Government Agency may be grounds for rejection. The contract shall be in effect for the crop year specified above, unless the time for submitting applications has passed at the time this application is filed, AND SHALL CONTINUE FOR EACH SUCCEEDING CROP YEAR UNTIL CANCELED OR TERMINATED as provided in the contract. This accepted application, the insurance policy(ies), the attached appendix(es), and the provisions of the county actuarial table showing the insurable and uninsurable acreage, coverage levels, premium rates, and where applicable, the production guarantees, amounts of insurance, or plan of insurance shall constitute the contract. No term or condition of the contract shall be waived or changed except in writing by the Corporation. A material failure to include complete and accurate information on this application may invalidate the automatic acceptance provision hereof.

23 ☐ Applicant has received the policy(ies) and appendix(es) shown above.
24 ☐ Previous Carrier

25 Policy Number

26 Applicant's Signature

27 Date
19——

☐☐☐☐☐
28 Code No.

29 Witness to Signature

30 Location of Farm Headquarters
Phone

31 Address of Your Service Office
Phone

See reverse side of form for statement required by Privacy Act of 1974
32 NSIOT-FUR
33 Page —— of —— pages

Wheat Crop Insurance Policy

Terms and Conditions

1. *Causes of Loss.* (a) Causes of loss insured against. The insurance provided is against unavoidable loss of production resulting from adverse weather conditions, insects, plant disease, wildlife, earthquake or fire occurring within the insurance period, subject to any exceptions, exclusions or limitations with causes of loss that are shown on the actuarial table.

(b) Causes of loss not insured against. The contract shall not cover any loss of production due to (1) the neglect or malfeasance of the insured, any member of the insured's household, the insured's tenants, or employees, (2) failure to follow recognized good farming practices, (3) damage resulting from the backing up of water by any governmental or public utilities dam or reservoir project, or (4) any cause not specified as an insured cause in this policy as limited by the actuarial table.

2. *Crop and Acreage Insured.* (a) The crop insured shall be wheat which is seeded for harvest as grain and for which the actuarial table shows a guarantee and premium rate per acre, which is grown on insured acreage.

(b) The acreage insured for each crop year shall be that acreage seeded to wheat on insurable acreage, as shown on the actuarial table and as reported by the insured or as determined by the Corporation, whichever the Corporation shall elect, in which the insured has a share: *Provided,* That insurance shall not attach or be considered to have attached as determined by the Corporation to any acreage (1) where premium rates are established by farming practices on the actuarial table, and the farming practices carried out on any acreage are not among those for which a premium rate has been established, (2) not reported for insurance as provided in section 3 if such acreage is irrigated and an irrigated practice is not provided for such acreage on the actuarial table, (3) which is destroyed and after such destruction it was practical to reseed to wheat and such acreage was not reseeded, (4) initially seeded after the date established by the Corporation and placed on file in the office for the county as being too late to initially seed and expect a normal crop to be produced, (5) of volunteer wheat, (6) seeded to a type or variety of wheat not established as adapted to the area or shown as noninsurable on the actuarial table, or (7) seeded with another crop.

(c) Insurance may attach only by written agreement with the Corporation on acreage which is seeded for the development or production of hybrid seed or for experimental purposes.

3. *Responsibility of Insured to Report Acreage and Share.* The insured shall submit to the Corporation on a form prescribed by the Corporation, a report showing all acreage of wheat seeded in the county (including a designation of any acreage to which insurance does not attach) in which the insured has a share and the insured's share therein at the time of seeding. Such report shall be submitted each year not later than a date on file in the office for the county.

4. *Production Guarantees, Coverage Levels and Prices for Computing Indemnities.* (a) For each crop year of the contract, the production guarantees, coverage levels, and prices at which indemnities shall be computed shall be those shown on the actuarial table.

(b) The production guarantee per acre shall be reduced by the lesser of 3 bushels or 20 percent for any unharvested acreage.

5. *Annual Premium.* The annual premium is earned and payable at the time of seeding and shall be determined by multiplying the insured acreage times the applicable premium per acre, times the insured's share at the time of seeding, times the premium adjustment percentage in paragraph (c) of this section.

(b) For premium adjustment purposes, only the years during which premiums were earned shall be considered.

(c) The premium shall be adjusted as shown in the following table:

PERCENT ADJUSTMENTS FOR FAVORABLE CONTINUOUS INSURANCE EXPERIENCE

Loss ratio[1] through previous crop year	Numbers of years continuous experience through previous year															
	0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15 or more
	Percentage adjustment factor for current crop year															
.00–.20	100	95	95	90	90	85	80	75	70	70	65	65	60	60	55	50
.21–.40	100	100	95	95	90	90	90	85	80	80	75	75	70	70	65	60
.41–.60	100	100	95	95	95	95	95	90	90	90	85	85	80	80	75	70
.61–.80	100	100	95	95	95	95	95	95	90	90	90	90	85	85	85	80
.81–1.09	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100

[1] Loss ratio means the ratio of indemnity(ies) paid to premium(s) earned.

PERCENT ADJUSTMENTS FOR UNFAVORABLE INSURANCE EXPERIENCE

Loss ratio[1] through previous crop year	Number of loss years through previous year[1]															
	0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
	Percentage adjustment factor for current crop year															
1.10–1.19	100	100	100	102	104	106	108	110	112	114	116	118	120	122	124	126
1.20–1.39	100	100	100	104	108	112	116	120	124	128	132	136	140	144	148	152
1.40–1.69	100	100	100	108	116	124	132	140	148	156	164	172	180	188	196	204
1.70–1.99	100	100	100	112	122	132	142	152	162	172	182	192	202	212	222	232
2.00–2.49	100	100	100	116	128	140	152	164	176	188	200	212	224	236	248	260
2.50–3.24	100	100	100	120	134	148	162	176	190	204	218	232	246	260	274	288
3.25–3.99	100	100	105	124	140	156	172	188	204	220	236	252	268	284	300	300
4.00–4.99	100	100	110	128	146	164	182	200	218	236	254	272	290	300	300	300
5.00–5.99	100	100	115	132	152	172	192	212	232	252	272	292	300	300	300	300
6.00–Up	100	100	120	136	158	180	202	224	246	268	290	300	300	300	300	300

[1] Only the most recent 15 crop years will be used to determine the number of "Loss Years." (A crop year is determined to be a "Loss Year" when the amount of indemnity for the year exceeds the premium for the year.)

(d) Any amount of premium for an insured crop which is unpaid on the day following the termination date for indebtedness for such crop shall be increased by a 9 percent service fee, which increased amount shall be the premium balance, and thereafter, at the end of each 12-month period, 9 percent simple interest shall attach to any amount of the premium balance which is unpaid: *Provided,* When notice of loss has been timely filed by the insured as provided in section 7 of this policy, the service fee will not be charged and the contract will remain in force if the premium is paid in full within 30 days after the date of approval or denial of the claim for indemnity; however, if any premium remains unpaid after such date, the contract will terminate and the amount of premium outstanding shall be increased by a 9 percent service fee, which increased amount shall be the premium balance. If such premium balance is not paid within 12 months immediately following the termination date, 9 percent simple interest shall apply from the termination date and each year thereafter to any unpaid premium balance.

(e) Any unpaid amount due the Corporation may be deducted from any indemnity payable to the insured by the Corporation or from any loan or payment to the insured under any Act of Congress or program administered by the U.S. Department of Agriculture, when not prohibited by law.

6. *Insurance Period.* Insurance on insured acreage shall attach at the time the wheat is seeded (except that for fall seeded wheat in the following states and counties insurance will attach April 15 following seeding provided that there is an adequate stand on this date to produce a normal crop as determined by the Corporation: Minnesota; North Dakota; Daniels, Roosevelt, Sheridan, and Valley Counties, Montana; Corson, Campbell, Edmunds, Spink, Beadle, Jerauld, Aurora, Douglas, and Bon Homme Counties, South Dakota, and all South Dakota counties lying north and east thereof; and Trempealeau, Jackson, Wood, Portage, Waupaca, Outagamie, Brown, Kewanee Counties, Wisconsin, and all Wisconsin counties lying north and west thereof). Insurance shall cease upon the earliest of (a) final adjustment of a loss, (b) combining, threshing, or removal of the wheat from the field, (c) October 31 of the calendar year in which wheat is normally harvested, or (d) total destruction of the insured wheat crop.

7. *Notice of Damage or Loss.* (a) Any notice of damage or loss shall be given promptly in writing by the insured to the Corporation at the office for the county.

(b) Notice shall be given promptly if, during the period before harvest, the wheat on any unit is damaged to the extent that the insured does not expect to further care for the crop or harvest any part of it, or if the insured wants the consent of the Corporation to put the acreage to another use. No insured acreage shall be put to another use until the Corporation has made an appraisal of the potential production of such acreage and consents in writing to such other use. Such consent shall not be given until it is too late or impractical to reseed to wheat. Notice shall also be given when such acreage has been put to another use.

(c) In addition to the notices required in paragraph (b) of this section, if a loss is to be claimed on any unit, the insured shall give written notice thereof to the Corporation at the office for the county not later than *30 days* after the earliest of (1) the date harvest is completed on the unit, (2) the calendar date for the end of the insurance period, or (3) the date the entire wheat crop on the unit is destroyed, as determined by the Corporation. The Corporation reserves the right to provide additional time if it determines there are extenuating circumstances.

(d) Any insured acreage which is not to be harvested shall be left intact until the Corporation makes an inspection.

(e) The Corporation may reject any claim for indemnity if any of the requirements of this section are not met.

8. *Claim for Indemnity.* (a) It shall be a condition precedent to the payment of any indemnity that the insured (1) establish the total production of wheat on the unit and that any loss of production has been directly caused by one or more of the insured causes during the insurance period for the crop year for which the indemnity is claimed and (2) furnish any other information regarding the manner and extent of loss as may be required by the Corporation.

(b) Indemnities shall be determined separately for each unit. The amount of indemnity for any shall be determined by (1) multiplying the insured acreage of wheat on the unit by the applicable production guarantee per acre, which product shall be the production guarantee for the unit, (2) subtracting therefrom the total production of wheat to be counted for the unit, (3) multiplying the remainder by the applicable price for computing indemnities, and (4) multiplying the result obtained in step (3) by the insured share: *Provided,* That if the premium computed on the insured acreage and share is more than the premium computed on the reported acreage and share, the amount of indemnity shall be computed on the insured acreage and share and then reduced proportionately.

(c) The total production to be counted for a unit shall be determined by the Corporation and shall include all harvested and appraised production.

(1) Mature production which grades No. 4 or better shall be reduced .12 percent for each .1 percentage point of moisture in excess of 13.5 percent, and if, due to insurable causes any wheat

does not grade No. 4 or better, or is graded smutty, garlicky, or ergoty, in accordance with the Official U.S. Grain Standards, the production shall be adjusted by dividing the value per bushel of the damaged wheat (as determined by the Corporation) by the price per bushel of U.S. No. 2 wheat and multiplying the result by the number of bushels of such wheat. The applicable price for No. 2 wheat shall be the local market price on the earlier of: the day the loss is adjusted or the day the damaged wheat was sold.

(2) Any harvested production from volunteer crops growing with the seeded wheat crop or small grains seeded in the growing wheat crop on acreage which the Corporation has not given consent to be put to another use shall be counted as wheat on a weight basis.

(3) Appraised production to be counted shall include: (i) the greater of the appraised production or 50 percent of the applicable guarantee for any acreage which, with the consent of the Corporation, is seeded before wheat harvest becomes general in the current crop year to any other crop insurable on such acreage (excluding any crop(s) maturing for harvest in the following calendar year), (ii) any appraisals by the Corporation for potential production on harvested acreage, for uninsured causes, and for poor farming practices, (iii) not less than the applicable guarantee for any acreage which is abandoned or put to another use without prior written consent of the Corporation or damaged solely by an uninsured cause, and (iv) only the appraisal in excess of the lesser of 3 bushels or 20 percent of the production guarantee for all other unharvested acreage.

(d) The appraised potential production for acreage for which consent has been given to be put to another use shall be counted as production in determining the amount of loss under the contract. However, if consent is given to put acreage to another use and the Corporation determines that any such acreage (1) is not put to another use before harvest of wheat becomes general in the county, (2) is harvested, or (3) is further damaged by an insured cause before the acreage is put to another use, the indemnity for the unit shall be determined without regard to such appraisal and consent.

9. *Misrepresentation and Fraud.* The Corporation may void the contract without affecting the insured's liability for premiums or waiving any right, including the right to collect any unpaid premiums if, at any time, the insured has concealed or misrepresented any material fact or committed any fraud relating to the contract, and such voidance shall be effective as of the beginning of the crop year with respect to which such act or omission occurred.

10. *Transfer of Right to an Indemnity on Insured Share.* If the insured transfers any part of the insured share during the crop year, the insured may transfer the right to an indemnity on an approved form. The insured shall be liable for the premium if such form is, or is not, executed. If such form is executed, the transferee shall have the same rights and responsibilities as the original insured for the current crop year.

11. *Records and Access to Farm.* The insured shall keep or cause to be kept for two years after the time of loss, records of the harvesting, storage, shipments, sale or other disposition of all wheat produced on each unit including separate records showing the same information for production from any uninsured acreage. Any persons designated by the Corporation shall have access to such records and the farm for purposes related to the contract.

12. *Life of Contract: Cancellation and Termination.* (a) The contract shall be in effect for the crop year specified on the application and may not be cancelled for such crop year. Thereafter, either party may cancel insurance for any crop year by giving a signed notice to the other on or before the cancellation date preceding such crop year.

(b) Except as provided in section 5(d) of this policy, the contract will terminate as to any crop year if any amount due the Corporation is not paid on or before the termination date for indebtedness preceding such crop year: *Provided,* That the date of payment for premium (1) deducted from an indemnity claim shall be the date the insured signs such claim or (2) deducted from payment under another program administered by the U.S. Department of Agriculture shall be the date such payment was approved.

(c) Following are the cancellation and termination dates:

State and county	Cancellation date	Termination date for indebtedness
Colorado, Kansas, New Mexico, Oklahoma, and Texas.	April 30	September 15.
Idaho, Montana (except Daniels, Roosevelt, Sheridan, and Valley Counties, Oregon, and Washington).	June 30	November 30.
Minnesota; North Dakota; Daniels, Roosevelt, Sheridan, and Valley Counties, Montana; Corson, Campbell, Edmunds, Spink, Beadle, Jerauld, Aurora, Douglas, and Bon Homme Counties, South Dakota, and all South Dakota counties lying north and east thereof; and Trempealeau, Jackson, Wood, Portage, Waupaca, Outagamie, Brown, and Kewaunee Counties, Wisconsin, and all Wisconsin counties lying north and west thereof.	December 31	March 31.
Nebraska and Wyoming	April 30	October 10.
All other States and counties.	June 30	October 10.

(d) In the absence of a notice from the insured to cancel, and subject to the provisions of subsections (a), (b), and (c) of this section, and section 7 of the Appendix to the Wheat Insurance Policy, the contract shall continue in force for each succeeding crop year.

Appendix to the Wheat Insurance Policy—(Additional Terms & Conditions)

1. *Meaning of Terms*

For the purposes of wheat crop insurance:

(a) "Actuarial table" means the forms and related material for the crop year approved by the Corporation which are on file for public inspection in the office for the county, and which show the production guarantees, coverage levels, premium rates, prices for computing indemnities, insurable and uninsurable acreage, and related information regarding wheat insurance in the county.

(b) "County" means the county shown on the application and any additional land located in a local producing area bordering on the county, as shown on the actuarial table.

(c) "Crop year" means the period within which the wheat crop is normally grown and shall be designated by the calendar year in which the wheat crop is normally harvested.

(d) "Harvest" means the severance of mature wheat from the land for combining or threshing.

(e) "Insurable acreage" means the land classified as insurable by the Corporation and shown as such on the county actuarial table.

(f) "Insured" means the person who submitted the application accepted by the Corporation.

(g) "Office for the county" means the Corporation's office serving the county shown on the application for insurance or such office as may be designated by the Corporation.

(h) "Person" means an individual, partnership, association, corporation, estate, trust, or other business enterprise or legal entity, and wherever applicable, a State, a political subdivision of a State, or any agency thereof.

(i) "Share" means the interest of the insured as landlord, owner-operator, or tenant in the insured wheat crop at the time of seeding as reported by the insured or as determined by the Corportion, whichever the Corporation shall elect, and no other share shall be deemed to be insured: *Provided,* That for the purpose of determining the amount of indemnity, the insured share shall not exceed the insured's share at the earliest of (1) the date of beginning of harvest on the unit, (2) the calendar date for the end of the insurance period, or (3) the date the entire crop on the unit is destroyed, as determined by the Corporation.

(j) "Tenant" means a person who rents land from another person for a share of the wheat crop or proceeds therefrom.

(k) "Unit" means all insurable acreage of wheat in the county on the date of seeding for the crop year (1) in which the insured has a 100 percent share, or (2) which is owned by one entity and operated by another entity on a share basis. Land rented for cash, a fixed commodity payment, or any consideration other than a share in the wheat crop on such land shall be considered as owned by the lessee. Land which would otherwise be one unit may be divided according to applicable guidelines on file in the office for the county or by written agreement between the Corporation and the insured. The Corporation shall determine units as herein defined when adjusting a loss, notwithstanding what is shown on the acreage report, and has the right to consider any acreage and share reported by or for the insured's spouse or child or any member of the insured's household to be the bona fide share of the insured or any other person having the bona fide share.

2. *Acreage Insured*

(a) The Corporation reserves the right to limit the insured acreage of wheat to any acreage limitations established under any Act of Congress, provided the insured is so notified in writing prior to the seeding of wheat.

(b) If the insured does not submit an acreage report on or before the date on file in the office for the county, the Corporation may elect to determine by units the insured acreage and share or declare the insured acreage on any unit(s) to be "zero". If the insured does not have a share in any insured acreage in the county for any year, the insured shall submit a report so indicating. Any acreage report submitted by the insured may be revised only upon approval of the Corporation.

3. *Irrigated Acreage*

(a) Where the actuarial table provides for insurance on an irrigated practice, the insured shall report as irrigated only the acreage for which the insured has adequate facilities and water to carry out a good irrigation practice at the time of seeding.

(b) Where irrigated acreage is insurable, any loss of production caused by failure to carry out a good irrigation practice, except failure of the water supply from an unavoidable cause occurring after the beginning of seeding, shall be considered as due to an uninsured cause. The failure or breakdown of irrigation equipment or facilities shall not be considered as a failure of the water supply from an unavoidable cause.

4. *Annual Premium*

(a) If there is no break in the continuity of participation, any premium adjustment applicable under section 5 of the policy shall be transferred to (1) the contract of the insured's estate or surviving spouse in case of death of the insured, (2) the contract of the person who succeeds the insured if such person had previously participated in the farming operation, or (3) the contract of the same insured who stops farming in one county and starts farming in another county.

(b) If there is a break in the continuity of participation, any reduction in premium earned under section 5 of the policy shall not thereafter apply; however, any previous unfavorable insurance experience shall be considered in premium computation following a break in continuity.

5. *Claim for and Payment of Indemnity*

(a) Any claim for indemnity on a unit shall be submitted to the Corporation on a form prescribed by the Corporation.

(b) In determining the total production to be counted for each unit, production from units on which the production has been commingled will be allocated to such units in proportion to the liability on each unit.

(c) There shall be no abandonment to the Corporation of any insured wheat acreage.

(d) In the event that any claim for indemnity under the provisions of the contract is denied by the Corporation, an action on such claim may be brought against the Corporation under the provisions of 7 U.S.C. 1508(c) as amended: *Provided,* That the same is brought within one year after the date notice of denial of the claim is mailed to and received by the insured.

(e) Any indemnity will be payable within 30 days after a claim for indemnity is approved by the Corporation. However, in no event shall the Corporation be liable for interest or damages in connection with any claim for indemnity whether such claim be approved or disapproved by the Corporation.

(f) If the insured is an individual who dies, disappears, or is judicially declared incompetent, or the insured is an entity other than an individual and such entity is dissolved after the wheat is seeded for any crop year, any indemnity will be paid to the person(s) the Corporation determines to be beneficially entitled thereto.

(g) The Corporation reserves the right to reject any claim for indemnity if any of the requirements of this section are not met and the Corporation determines that the amount of loss cannot be satisfactorily determined.

6. *Subrogation*

The insured (including any assignee or transferee) assigns to the Corporation all rights of recovery against any person for loss or damage to the extent that payment hereunder is made by the Corporation. The insured thereafter shall execute all papers required and take appropriate action as may be necessary to secure such rights.

7. *Termination of the Contract*

(a) The contract shall terminate if no premium is earned for five consecutive years.

(b) If the insured is an individual who dies or is judicially declared incompetent, or the insured entity is other than an individual and such entity is dissolved, the contract shall terminate as of the date of death, judicial declaration, or dissolution; however, if such event occurs after insurance attaches for any crop year, the contract shall continue in force through such crop year and terminate at the end thereof. Death of a partner in a partnership shall dissolve the partnership unless the partnership agreement provides otherwise. If two or more persons having a joint interest are insured jointly, death of one of the persons shall dissolve the joint entity.

8. *Coverage Level and Price Election*

(a) If the insured has not elected on the application a coverage level and price election at which indemnities shall be computed from among those shown on the actuarial table, the coverage level

and price election which shall be applicable under the contract, and which the insured shall be deemed to have elected, shall be as provided on the actuarial table for such purposes.

(b) The insured may, with the consent of the Corporation, change the coverage level and/or price election for any crop year on or before the closing date for submitting applications for that crop year.

9. *Assignment of Indemnity*

Upon approval of a form prescribed by the Corporation, the insured may assign to another party the right to an indemnity for the crop year and such assignee shall have the right to submit the loss notices and forms as required by the contract.

10. *Contract Changes*

The Corporation reserves the right to change any terms and provisions of the contract from year to year. Any changes shall be mailed to the insured or placed on file and made available for public inspection in the office for the county at least 15 days prior to the cancellation date preceding the crop year for which the changes are to become effective, and such mailing or filing shall constitute notice to the insured. Acceptance of any changes will be conclusively presumed in the absence of any notice from the insured to cancel the contract as provided in section 12 of the policy.

Appendix A—Counties Designated for Wheat Crop Insurance—7 CFR Part 418

In accordance with the provisions of 7 CFR 418.1, the following counties are designated for wheat crop insurance:

Alabama

(All counties)

Arizona

Cochise
Graham
Greenlee
Maricopa
Mohave
Navajo
Pima
Pinal
Yavapai
Yuma

Arkansas

(All counties)

California

Alameda
Amador
Butte
Colusa
Contra Costa
Fresno
Glenn
Imperial
Kern
Kings
Lake
Lassen
Los Angeles
Madera
Merced
Modoc
Monterey
Napa
Placer
Riverside
Sacramento
San Benito
San Bernardino
San Diego
San Joaquin
San Luis Obispo
San Mateo
Santa Barbara
Santa Clara
Shasta
Sierra
Siskiyou
Solano
Sonoma
Stanislaus
Sutter
Tehama
Tulare
Ventura
Yolo
Yuba

Colorado

Adams
Alamosa
Arapahoe
Archuleta
Baca
Bent
Boulder
Cheyenne
Conejos
Costilla
Crowley
Custer
Delta
Dolores
Douglas
Eagle
Elbert
El Paso
Fremont
Garfield
Grand
Huerfano
Jefferson
Kiowa
Kit Carson
La Plata
Larimer
Las Animas
Lincoln
Logan
Mesa
Moffatt
Montezuma
Montrose
Morgan
Otero
Ouray
Park
Phillips
Pitkin
Prowers
Pueblo
Rio Blanco
Rio Grande
Routt
Saguache
San Miguel
Sedgwick
Washington
Weld
Yuma

Connecticut

(All counties)

Delaware

(All counties)

Florida

Alachua
Calhoun
Columbia
Dixie
Escambia
Gadsden
Gilchrist
Gulf
Hamilton
Hernando
Holmes
Jackson
Jefferson
Lafayette
Liberty
Madison
Okaloosa
Pasco
Santa Rosa
Suwannee
Walton
Washington

Georgia

(All counties except the following)

Camden
Charlton
Chattahoochee
Cobb
De Kalb
Douglas
McIntosh
Muscogee
Towns

Idaho

(All counties except Shoshone)

Illinois

(All counties)

Indiana

(All counties)

Iowa

(All counties)

Kansas

(All counties)

Kentucky

(All counties except the following)

Bell
Elliott
Harlan
Lawrence
Leslie
Letcher
Martin
Perry
Pike

Louisiana

(All parishes)

Maine

Aroostook
Kennebec
Penobscot
York

Maryland

(All counties)

Massachusetts

Berkshire
Franklin
Hampden
Hampshire

Michigan

(All counties)

Minnesota

(All counties)

Mississippi

(All counties)

Missouri

(All counties)

Montana

(All counties)

Nebraska

(All counties except the following)

Arthur
Grant
Hooker
Thomas

Nevada

(All counties)

New Jersey

Atlanta
Burlington
Camden
Cape May
Cumberland
Gloucester
Hunterdon
Mercer
Middlesex
Monmouth
Morris
Ocean
Salem
Somerset
Sussex
Warren

New Mexico

(All counties except Lincoln)

New York

Albany
Allegany
Broome
Cattaraugus
Cayuga
Chautauqua
Chemung
Chenango
Columbia
Cortland
Dutchess
Erie
Essex
Genesee
Greene
Herkimer
Jefferson
Lewis
Livingston
Madison
Monroe
Montgomery
Niagara
Oneida
Onondaga
Ontario
Orange
Orleans
Oswego
Otsego
Rensselaer
St. Lawrence
Saratoga
Schenectady
Schoharie
Schuyler
Seneca
Steuben
Suffolk
Sullivan
Tioga
Tompkins
Ulster
Washington
Wayne
Wyoming
Yates

North Carolina

Alamance
Alexander
Alleghany
Anson
Beaufort
Bertie
Bladen
Brunswick
Buncombe
Burke
Cabarrus
Caldwell

Camden
Carteret
Caswell
Catawba
Chatham
Chowan
Cleveland
Columbus
Craven
Cumberland
Currituck
Davidson
Davie
Duplin
Durham
Edgecombe
Forsyth
Franklin
Gaston
Gates
Granville
Greene
Guilford
Halifax
Harnett
Henderson
Hertford
Hoke
Hyde
Iredell
Johnston
Jones
Lee
Lenoir
Lincoln
McDowell
Madison
Martin
Mecklenburg
Montgomery
Moore
Nash
New Hanover
Northampton
Onslow
Orange
Pamlico
Pasquotank
Pender
Perquimans
Person
Pitt
Polk
Randolph
Richmond
Robeson
Rockingham
Rowan
Rutherford
Sampson
Scotland
Stanly
Stokes
Surry
Tyrrell
Union
Vance
Wake
Warren
Washington
Wayne
Wilkes
Wilson
Yadkin

North Dakota

(All counties)

Ohio

(All counties)

Oklahoma

(All counties)

Oregon

(All counties except the following)

Clatsop
Coos
Curry
Hood River
Lincoln
Tillamook

Pennsylvania

(All counties except Philadelphia and Wayne)

Rhode Island

Newport
Washington

South Carolina

(All counties)

South Dakota

(All counties except the following)

Armstrong
Washabaugh
Washington

Tennessee

(All counties)

Texas

Anderson
Andrews
Archer
Armstrong
Atascosa
Austin
Bailey
Bandera
Bastrop
Baylor
Bee
Bell
Bexar
Blanco
Borden
Bosque
Bowie
Brazoria
Brazos
Briscoe
Brown
Burleson
Burnet
Caldwell
Calhoun
Callahan
Carson
Castro
Chambers
Cherokee
Childress
Clay
Cochran
Coke
Coleman
Collin
Collingsworth
Colorado
Comal
Comanche
Concho
Cooke
Coryell
Cottle
Crockett
Crosby
Culberson
Dallam
Dallas
Dawson
Deaf Smith
Delta
Denton
De Witt
Dickens
Dimmit
Donley
Duval
Eastland
Ector
Edwards
Ellis
El Paso
Erath
Falls
Fannin
Fayette
Fisher
Floyd
Foard
Fort Bend
Franklin
Freestone
Frio
Gaines
Galveston
Garza
Gillespie
Glasscock
Goliad
Gonzales
Gray
Grayson
Grimes
Guadalupe
Hale
Hall
Hamilton
Hansford
Hardeman
Harris
Harrison
Hartley
Haskell
Hays
Hemphill
Henderson
Hidalgo
Hill
Hockley
Hood
Hopkins
Houston
Howard
Hudspeth
Hunt
Hutchinson
Irion
Jack
Jackson
Jeff Davis
Jim Wells
Johnson
Jones
Karnes
Kaufman
Kendall
Kent
Kerr
Kimble
King
Kinney
Kleberg
Knox
Lamar
Lamb
Lampasas
La Salle
Lavaca
Lee
Leon
Liberty
Limestone
Lipscomb
Live Oak
Llano
Lubbock
Lynn
McCulloch
McLennan
McMullen
Madison
Marion
Martin
Mason
Matagorda
Maverick
Medina
Menard
Midland
Milam
Mills
Mitchell
Montague
Moore
Morris
Motley
Nacogdoches
Navarro
Nolan
Ochiltree
Oldham
Palo Pinto
Panola
Parker
Parmer
Pecos
Potter
Rains
Randall
Reagan
Real
Red River
Reeves
Refugio
Roberts
Robertson
Rockwall
Runnels
Rusk
San Patricio
San Saba
Schleicher
Scurry
Shackelford
Shelby
Sherman
Smith
Somervell
Starr
Stephens
Sterling
Stonewall
Sutton
Swisher
Tarrant
Taylor
Terry
Throckmorton
Titus
Tom Green
Travis
Upton
Uvalde
Van Zandt
Victoria
Waller
Washington
Wharton
Wheeler
Wichita
Wilbarger
Williamson
Wilson
Wise
Wood
Yoakum
Young
Zavala

Utah

(All counties except Daggett)

Vermont

(All counties)

Virginia

(All counties except Arlington)

Washington

(All counties except the following)

Jefferson
King
Pacific
Wahiakum

West Virginia

Barbour
Berkeley
Brooke
Cabell
Fayette
Grant
Greenbrier
Hampshire
Hancock
Hardy
Harrison
Jackson
Jefferson
Marshall
Mason
Mineral
Monroe
Morgan
Nicholas
Ohio
Pendleton
Pleasants
Pocahontas
Preston
Putnam
Randolph
Ritchie
Summers
Tucker
Wood

Wisconsin

(All counties)

Wyoming

Big Horn	Lincoln
Campbell	Natrona
Carbon	Niobrara
Converse	Park
Crook	Platte
Fremont	Sheridan
Goshen	Uinta
Hot Springs	Washakie
Johnson	Weston
Laramie	

Done in Washington, D.C., on February 2, 1982.

Peter F. Cole,

Secretary, Federal Crop Insurance Corporation.

Approved by:

Melvin E. Sims,

Chairman.

Dated: March 30, 1982.

[FR Doc. 81-9264 Filed 4-5-82; 8:45 am]

BILLING CODE 3410-08-M

Soil Conservation Service

7 CFR Part 600

Organization and Functions

AGENCY: Soil Conservation Service, USDA.

ACTION: Final rule.

SUMMARY: The Soil Conservation Service revises the information on organization and functions to reflect the current structure of the agency.

EFFECTIVE DATE: February 3, 1982.

FOR FURTHER INFORMATION CONTACT: Robert G. Halstead, Deputy Chief for Administration, Soil Conservation Service, U.S. Department of Agriculture, P.O. Box 2890, Washington, D.C. 20013, (202) 447-6297.

SUPPLEMENTARY INFORMATION: This final action has been reviewed under USDA procedures established in Secretary's Memorandum 1521-1 to implement Executive Order 12291, and has been determined to be exempt from those requirements. Robert G. Halstead, Deputy Chief for Administration, made this determination because this action involves only agency management and administrative organization.

Notice of the Soil Conservation Service (SCS) organization and a description of administrative responsibilities and functions was published in the **Federal Register** on May 7, 1980, at 45 FR 30061, and presently appears at 7 CFR Part 600.

The organization of the Soil Conservation Service has been restructured. This rule is being published to reflect the changes in responsibilities. Since this rule affects solely agency administrative organization and management, SCS has determined that publication of this rule for public comment is inappropriate. The organization and functions expressed by this rule are, therefore, effective on February 3, 1982.

List of Subjects in 7 CFR Part 600

Organization and functions (government agencies).

Accordingly, 7 CFR Part 600 is revised to read as follows

PART 600—ORGANIZATION

Sec.

600.1 General.
600.2 National Headquarters.
600.3 National technical centers.
600.4 State offices.
600.5 Area offices.
600.6 Field offices.
600.7 Other field offices.
600.8 Plant materials centers.

Authority: 5 U.S.C. 552.

§ 600.1 General.

(a) The Soil Conservation Service (SCS) was established by the Soil Conservation Act of 1935 (Pub. L. 74-46, 49 Stat. 163 (16 U.S.C. 590 (a-f))) to provide for the protection of land resources against soil erosion and for other related purposes. Subsequent legislation has increased and broadened the SCS mission. The SCS organization consists of a National Headquarters located in Washington, D.C., 4 national technical centers, 50 state offices and an equivalent office in the Caribbean Area, approximately 3300 area and field offices, approximately 285 specialized other offices, and 20 plant materials centers. Area and field offices provide assistance to soil and water and other types of conservation districts. Most counties in the states, the Commonwealth of Puerto Rico, and the U.S. Virgin Islands are served by a soil and water or other type of conservation district. Other specialized offices serve local public sponsored projects and certain SCS soil survey operations.

(b) SCS is responsible for developing and carrying out a national program of conservation of soil, water, and related resources. Programs administered by SCS include basic soil and water conservation, watershed protection, flood prevention, cooperative river basin surveys and investigations, Great Plains conservation, resource conservation and development, and others as assigned by the Secretary of Agriculture.

§ 600.2 National headquarters.

(a) *Chief.* The Chief, with the assistance of the Associate Chief, is responsible for the development of rules, policies, and procedures and the general direction and supervision of the programs assigned to SCS.

(b) *Deputy Chiefs.* Six deputy chiefs assist the Chief as follows:

(1) *Deputy Chief for Administration.* The Deputy Chief for Administration, with the assistance of an Associate Deputy Chief, is responsible for activities in administrative services, personnel, financial management, management services, equal employment opportunity, and civil rights.

(2) *Deputy Chief for State and Local Operations.* The Deputy Chief for State and Local Operations, with the assistance of an Associate Deputy Chief, is responsible for activities in conservation planning and application, land treatment programs, rural development, and land use.

(3) *Deputy Chief for Natural Resource Projects.* The Deputy Chief for Natural Resource Projects, with the assistance of an Associate Deputy Chief, is responsible for activities in basin and area planning, project development and maintenance, and water quality project implementation.

(4) *Deputy Chief for Technology Development and Application.* The Deputy Chief for Technology Development and Application, with the assistance of an Associate Deputy Chief, is responsible for activities in ecological sciences, economics, engineering, social sciences, international activities, and environmental quality.

(5) *Deputy Chief for Natural Resource Assessments.* The Deputy Chief for Natural Resource Assessments, with the assistance of an Associate Deputy Chief, is responsible for activities in soils, inventory and monitoring, integrated resource information systems, and cartography and remote sensing.

(6) *Deputy Chief for Planning and Evaluation.* The Deputy Chief for Planning and Evaluation, with the assistance of an Associate Deputy Chief, is responsible for activities in appraisal and program development, evaluation and analysis, budget formulation, and program integration.

(c) *Assistant Chiefs.* Each assistant chief represents the Chief in designated areas of the United States in coordinating and integrating all phases of SCS programs and activities. They provide leadership and guidance to state conservationists and national technical center directors.

(d) *Administrative Support Staff.* The administrative support staff provides for a coordinated administrative management program for National Headquarters activities.

(e) *Legislative Affairs Staff.* The legislative affairs staff provides

coordination and staff assistance to the Chief in the conduct of legislative affairs.

(f) *Public Information Staff.* The public information staff directs a program of information support and public affairs activities.

(g) *Public Participation Coordinator.* The public participation coordinator provides coordination and assistance to the Chief regarding participation by the public in decisionmaking as it affects all agency programs and activities.

§ 600.3 National Technical Centers.

National technical centers are located at Broomall, Pennsylvania; Fort Worth, Texas; Lincoln, Nebraska; and Portland, Oregon. Each national technical center provides specialized technical assistance and services to an assigned group of states.

§ 600.4 State offices

Each office is under the direction and supervision of a state conservationist. Each state conservationist is responsible to the Chief for SCS programs in a state. The Caribbean Area Office, under the direction and supervision of a director, serves the Commonwealth of Puerto Rico and the U.S. Virgin Islands. The Director of the Caribbean Area has the same responsibility and authority as a state conservationist. All references to state conservationists in this chapter include the Director of the Caribbean Area.

§ 600.5 Area offices.

Except for some states and the Caribbean Area, states have area offices which serve as a supervisory level between the state and field offices. Each area office is under the direction and supervision of an area conservationist who is responsible for SCS activities in the area.

§ 600.6 Field offices.

Each field office is under the direction and supervision of a district conservationist who is responsible for SCS activities in the geographical area served by the field office. Usually, the geographical area of a field office includes one or more conservation districts and one or more counties.

§ 600.7 Other field offices.

Other field offices serve specialized activities, such as watershed protection and flood prevention projects, resource conservation and development areas, and SCS soil survey activities. Direction and supervision of these offices are designated by the state conservationist.

§ 600.8 Plant materials centers.

Plant materials centers assemble and test plant species for conservation uses. Usually, a center serves two or more states, and is under the jurisdiction of the state conservationist of the state in which located. Centers are directed and supervised by a manager who is responsible to an area or the state office as designated by the state conservationist.

Norman A. Berg,

Chief.

March 31, 1982.

[FR Doc. 82-9252 Filed 4-5-82; 8:45 am]

BILLING CODE 3410-16-M

FEDERAL RESERVE SYSTEM

12 CFR Parts 208 and 225

[Regulations H and Y; Docket No. R-0390]

Membership of State Banking Institutions in the Federal Reserve System; Bank Holding Companies and Change in Bank Control; Amendment to Requirements for Amending Transfer Agent Registration Information

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: The Board of Governors of the Federal Reserve System has adopted a revised Form TA–1 registration statement for transfer agents that would substantially reduce the information required to be filed. The Board has simultaneously amended its Regulations H (12 CFR Part 208, Membership of State banking institutions in the Federal Reserve System) and Y (12 CFR Part 225, Bank holding companies and change in bank control) to require transfer agents to amend within sixty calendar days information contained in the revised Form TA–1 which has become inaccurate, misleading or incomplete for any reason. Previously, amendments were required within twenty-one calendar days if information contained in Items 1–6 of the present Form TA–1 became inaccurate, misleading or incomplete. These regulatory amendments complete the process begun by the Board, the Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation and the Securities and Exchange Commission to substantially revise Form TA–1 and reduce the information required by that Form.

EFFECTIVE DATE: April 5, 1982.

FOR FURTHER INFORMATION CONTACT:

Donald R. Vinnedge, Manager, Trust Activities Program (202) 452–2717, or Larry A. Clark, Senior Trust Analyst (202) 452–2501, Division of Banking Supervision and Regulation, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

SUPPLEMENTARY INFORMATION: The Board has adopted a revised Form TA–1, which substantially reduces the amount of information presently required of transfer agents, and is simultaneously amending Regulation H (12 CFR 208.8(f)(2)) and Regulation Y (12 CFR 225.5(c)(2)). The revised Form TA–1 contains only such information as the federal bank regulatory agencies and the Securities and Exchange Commission believe must be kept current. While the amended regulations continue to require amendment of Form TA–1 in the event that any information contained therein becomes inaccurate, misleading or incomplete, the information requested by the revised Form TA–1 is less than that required by Items 1–6 of the present Form. In addition, the period within which any amendment must be filed has been extended from twenty-one to sixty days.

Printed copies of the revised Form TA–1 will be made available in the near future. In the meantime, the attached copy may be photocopied and utilized for purposes of registration, and amendment to registration, by transfer agents subject to the Board's jurisdiction.

Because this action facilitates the reduction of a reporting burden, the Board for good cause finds that the notice and public procedure provisions of 5 U.S.C. 553 are unnecessary and that immediate implementation is in the public interest.

Pursuant to section 17A of the Securities Exchange Act of 1934 (15 U.S.C. 78q–1) and sections 9 and 11 of the Federal Reserve Act (12 U.S.C. 321, 248) the Board hereby adopts the following amendments to Regulation H (12 CFR Part 208) and Regulation Y (12 CFR Part 225).

PART 208—MEMBERSHIP OF STATE BANKING INSTITUTIONS IN THE FEDERAL RESERVE SYSTEM

1. 12 CFR 208.8(f)(2) is revised to read:

§ 208.8 [Amended]

* * * * *

(f) * * *

(2) If the information contained in Form TA–1 becomes inaccurate, misleading or incomplete for any reason, the bank or its subsidiary shall, within sixty calendar days thereafter, file an

amendment to Form TA–1 correcting the inaccurate, misleading or incomplete information.

* * * * *

PART 225—BANK HOLDING COMPANIES AND CHANGE IN BANK CONTROL

2. 12 CFR 225.5(c)(2) is revised to read:

§ 225.5 [Amended]

* * * * *

(c) * * *

(2) If the information contained in Form TA–1 becomes inaccurate, misleading or incomplete for any reason, the bank holding company or its nonbank subsidiary shall, within sixty calendar days thereafter, file an amendment to Form TA–1 correcting the inaccurate, misleading or incomplete information.

* * * * *

By order of the Board of Governors, effective March 26, 1982.

William W. Wiles,

Secretary of the Board.

BILLING CODE 6210-01-M

Approval Expires 11/84

FORM TA-1

UNIFORM FORM FOR REGISTRATION AS A TRANSFER AGENT AND FOR AMENDMENT TO REGISTRATION PURSUANT TO SECTION 17A OF THE SECURITIES EXCHANGE ACT OF 1934

Official Use
File
Reg/Number
[ ]

GENERAL: Form TA-1 is to be used to register or amend registration as a transfer agent with the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation or the Securities and Exchange Commission pursuant to Section 17A of the Securities Exchange Act of 1934. Read all instructions before completing the Form. Please print or type all responses.

1. Appropriate regulatory agency (check one box only) (See General Instruction D.):

Comptroller of the Currency [ ]
Board of Governors of the Federal Reserve System [ ]
Federal Deposit Insurance Corporation [ ]
Securities and Exchange Commission [ ]

2. Filing status of this Form (check one box only):

Registration [ ] Amendment to Registration [ ]

3. a. Full name of registrant:

[ ]
(Name)

[ ]
(Name, Continued)

[ ]
(Previous name, if being amended)

[ ]
(Previous Name, Continued)

b. Financial Industry Number Standard (FINS) number (See Special Instruction A.1.): [ ]

c. Address of principal office where transfer agent activities are, or will be, performed (See Special Instruction A.2.):

[ ]
(Number and Street)

[ ] [ ] [ ]
(City) (State) (Zip Code)

d. Telephone Number: [ ] [ ]
(Area Code) (Number)

e. Mailing address; if different from response to Question 3.b.:

[_____]
(Number and Street)

[_____] [__] [_____]
(City) (State) (Zip Code)

4. Does registrant conduct, or will it conduct, transfer agent activities at any location other than that given in Question 3.c. above? yes[_] no[_]

If "yes," provide address(es):

[_____] [_] Delete
(Number and Street)

[_____] [__] [_____]
(City) (State) (Zip Code)

[_____] [_] Delete
(Number and Street

[_____] [__] [_____]
(City) (State) (Zip Code)

5. Does registrant act, or will it act, as a transfer agent solely for its own securities and/or securities of an affiliate(s)? (See Special Instruction A.5.) yes [_] no[_]

6. Has registrant, as a named transfer agent, engaged, or will it engage, a service company to perform any transfer agent functions? (See Special Instruction A.6) yes [_] no[_]

If "yes," provide the names and addresses of all service companies engaged, or that will be engaged, by the registrant to perform its transfer functions:

[_____]
(Name)

[_____]
(Number and Street) [_] Delete

[_____] [__] [_____]
(City) (State) (Zip Code)

[_____]
(Name)

[_____] [_] Delete
(Number and Street)

[_____] [__] [_____]
(City) (State) (Zip Code)

7. Has registrant been engaged, or will it be engaged, as a service company by a named transfer agent to perform transfer agent functions? (See Special Instruction A.6.)
yes [_] no [_]

If "yes," provide the name(s) and the FINS number(s) of the named transfer agent(s) for which the registrant has been engaged, or will be engaged, as a service company to perform transfer agent functions:

		Delete
[_____] (Name)	[_____] (FINS no.)	[_]
[_____] (Name)	[_____] (FINS no.)	[_]

		Delete
[_____] (Name)	[_____] (FINS no.)	[_]
[_____] (Name)	[_____] (FINS no.)	[_]
[_____] (Name)	[_____] (FINS no.)	[_]

8. EXECUTION: The registrant submitting this Form, and the person executing it hereby represent that all the information contained herein is true, correct and complete.

ATTENTION: INTENTIONAL MISSTATEMENTS OR OMISSIONS OF FACT CONSTITUTE FEDERAL CRIMINAL VIOLATIONS. See 18 U.S.C. 1001 and 15 U.S.C. 78ff(a)

Official responsible for Form:

_____ _____
(Manual signature) MO Day YR

_____
(First name, middle name, last name)

_____
Title

BILLING CODE 6210-01-C

INSTRUCTIONS FOR USE OF FORM TA–1

UNIFORM FORM FOR REGISTRATION AND AMENDMENT TO REGISTRATION AS A TRANSFER AGENT PURSUANT TO SECTION 17A OF THE SECURITIES EXCHANGE ACT OF 1934

ATTENTION: Certain statutes applicable to transfer agents are referenced or summarized below. Transfer agents are urged to review all applicable provisions of the Federal securities laws.

I. *General Instructions for Filing and Amending Form TA–1.*

A. *Terms and Abbreviations.* The following terms and abbreviations are used throughout these instructions:

1. "Act" refers to the Securities Exchange Act of 1934.

2. "ARA" refers to the appropriate regulatory agency, as defined in Section 3(a)(34)(B) of the Act. *See* General Instruction D. below.

3. "Federal Bank Regulators" or "FBRs" refers to the Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, and the Federal Deposit Insurance Corporation.

4. "Form TA–1" includes the Form and any attachments to that Form, whether filed as a registration or an amendment to registration.

5. "Registrant" refers to the entity on whose behalf Form TA–1 is filed.

6. "SEC" refers to the Securities and Exchange Commission.

7. "Transfer agent" is defined in Section 3(a)(25) of the Act as any person who engages on behalf of an issuer of securities or on behalf of itself as an issuer in at least one of the functions enumerated therein.

B. *Who Must File.* Under Section 17A(c)(1) of the Act, it is unlawful for any transfer agent to perform any transfer agent function with respect to any qualifying security unless that transfer agent is registered with its ARA. A "qualifying security" is any security registered under Section 12 of the Act. Thus, qualifying securities include securities registered on a national securities exchange pursuant to Section 12(b) of the Act as well as equity securities registered pursuant to Section 12(g)(1) of the Act for issuers that have total assets exceeding $1,000,000 and a class of equity securities (other than exempted securities) held of record by 500 or more persons.

In addition, qualifying securities include equity securities of registered investment companies and certain insurance companies that would be required to be registered under Section 12(g) except for the exemptions provided by subsections (g)(2)(B) and (g)(2)(G), respectively, of Section 12, *i.e.*, when the asset and shareholder criteria of Section 12(g)(1)(B) are met.

C. *When to File.* Before a transfer agent may perform any transfer agent function for a qualifying security, it must apply for registration on Form TA–1 with its ARA and its registration must become effective. Instructions for amending Form TA–1 appear at General Instruction F., below.

D. *How and Where to File; Number of Copies.* Each registrant must file Form TA–1 with its ARA and if a registrant's ARA is a FBR, a copy of the registration or any amendment also must be filed with the SEC. However, the FBRs will send the submitted filings to the SEC on behalf of their registrants to satisfy that requirement. A registrant may determine the name and address of its ARA from the following:

1. A national bank or a bank operating under the Code of Law for the District of Columbia, or a subsidiary of any such bank registers with the *Comptroller of the Currency,* at:

Office of the Comptroller of the Currency
Administrator of National Banks
Trust Examinations Division
Washington, D.C. 20219

2. A state member bank of the Federal Reserve System, a subsidiary thereof, a bank holding company, or a subsidiary of a bank holding company which is a bank other than a bank specified in clause (1) or (3) of this section registers with the *Board of Governors of the Federal Reserve System,* at:

Board of Governors of the Federal Reserve System
Trust Activities Program
Washington, D.C. 20551

3. A bank insured by the Federal Deposit Insurance Corporation (other than a bank which is a member of the Federal Reserve System) or a subsidiary thereof registers with the *Federal Deposit Insurance Corporation,* at:

Federal Deposit Insurance Corporation
Trust Section
Washington, D.C. 20429

4. All other transfer agents register with the *Securities and Exchange Commission,* at:

Securities and Exchange Commission
Division of Market Regulation
Washington, D.C. 20549

If the registrant's ARA is a FBR, the registrant must file the original and four copies of any registration or amendment with the appropriate FBR and need not file directly with the SEC. If the registrant's ARA is the SEC, the registrant must file with the SEC the original and three copies of any registration or amendment. The original copy of Form TA–1 must be manually signed and any additional copies may be photocopies of the signed original copy. All copies must be legible, on good quality 8½ x 11 inch white paper. The registrant must keep an exact copy of any filing for its records.

E. *Effective Dates.* Registration of a transfer agent becomes effective thirty days after receipt by the ARA of the application for registration, unless the filing does not comply with applicable requirements or the ARA takes affirmative action to accelerate, deny or postpone registration in accordance with the provisions of Section 17A(c) of the Act.

F. *Amending Registration.* Each registrant must amend Form TA–1 within sixty calendar days following the date on which information reported therein becomes inaccurate, incomplete or misleading.

II. *Special Instructions for Filing and Amending Form TA–1.*

A. *Registration.* Respond in full to all Questions. If the appropriate response to a Question is "none," or if any Question is "not applicable," respond with "none" or "N/A" respectively.

1. In answering Questions 3.b. and 7, the term "Financial Industry Number Standard" ("FINS" number) means a six digit number assigned by The Depository Trust Company ("DTC") to persons engaged in securities transactions. Registrants that do not have a FINS number may obtain one free of charge by writing to DTC at 20 Exchange Place, 45th Floor, New York, N.Y. 10004, stating its name, address, and type of business (such as "bank" or "non-bank transfer agent").

2. State in Question 3.c. the full address of the registrant's principal office where transfer agent activities are, or will be, performed; a post office box number is not acceptable. State in response to Question 3.e. the registrant's mailing address if different from the response to Question 3.c. You may provide only a post office box in response to Question 3.e.

3. If additional space is needed to answer Questions 4, 6, and 7, photocopy the appropriate page(s) of a blank Form TA–1, and continue such answers thereon.

4. In answering Questions 4, 6, and 7 do not check any of the boxes marked "Delete." These boxes are to be used only when amending Form TA–1.

5. In answering Question 5, for purposes of this form, a transfer agent is an "affiliate" of, or "affiliated" with, a person, if the transfer agent directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, that person.

6. In answering Questions 6 and 7, a "named transfer agent" is a transfer agent engaged by the issuer to perform transfer agent functions for an issue of securities. There may be more than one named transfer agent for a given security issue (*e.g.*, principal transfer agent, co-transfer agents or outside registrars).

A "service company" is an entity that is engaged by a named transfer agent to perform transfer agent functions for that named transfer agent and is sometimes referred to as a service bureau, private label service, transfer processing service, service agent, outside service center or security holder recordkeeping service.

B. *Amending Registration.* When amending Form TA–1, the registrant must identify itself and the filing by answering Questions 1 through 3. Otherwise, only answer Questions that require amendment. When adding new information, enter that information into the appropriate spaces. When deleting information from a prior filing, repeat the information exactly as it appeared in the prior filing and check the corresponding box marked "Delete."

C. *Execution of Form TA–1 and Amendments Thereto.* A duly authorized official or principal of the registrant must execute Form TA–1 and any amendments thereto at Question 8 on behalf of that registrant. For a corporate registrant, the term "official" includes chairman or vice-chairman of the board of directors, chairman of the executive committee or any officer of the corporation who is authorized by the corporation to sign Form TA–1 on its behalf. For a non-corporate registrant, duly authorized principal means a principal of the registrant who is authorized to sign Form TA–1 on its behalf.

The name of the individual signing Form TA–1 shall be stated in full (*i.e.*, first name, middle name and last name). Initials are not acceptable, unless they are part of the individual's legal name.

By executing Form TA–1, the registrant agrees and consents that notice of any proceeding under the Act by the FBRs or the SEC involving the registrant may be given by sending such notice by registered or certified mail or confirmed telegram to the registrant, "Attention Officer in Charge of Transfer Agent Activities," at its principal office for transfer agent activities as given in response to Question 3.c. of Form TA–1.

III. *Notice.*

Under Sections 17, 17A(c), and 23 (a) of the Act and the rules and regulations thereunder, the ARAs are authorized to solicit from applicants for registration as a transfer agent and from registered transfer agents the information required to be supplied by Form TA–1. Disclosure to the ARA of the information requested in Form TA–1 is a prerequisite to the processing purpose of determining whether the ARA should allow an application for registration to become effective or should deny, accelerate or postpone registration to an applicant. Information supplied on this Form will be included routinely in the public files of the ARA and will be available for inspection by any interested person.

[FR Doc. 82–8996 Filed 4–5–82; 8:45 am]
BILLING CODE 6210–01–M

DEPOSITORY INSTITUTIONS DEREGULATION COMMITTEE

12 CFR Part 1204

[Docket No. D–0023]

91-Day Time Deposits of Less Than $100,000

AGENCY: Depository Institutions Deregulation Committee.

ACTION: Final rule.

SUMMARY: The Depository Institutions Deregulation Committee ("Committee") has established a new category of time deposit that will enable depository institutions to compete more effectively with short-term market instruments. The new deposit category has the following principal characteristics: (1) A minimum denomination of $7,500; (2) a maturity of exactly 91 days; (3) a fixed ceiling rate of interest based on the most recent rate established and announced for U.S. Treasury bills with maturities of 91 days (auction average on a discount basis); and (4) compounding of interest is not permitted. The Committee also established a temporary 25 basis point differential in favor of thrift institutions for one year and a separate minimum early withdrawal penalty for this deposit category. The temporary differential will also not apply when the Treasury bill rate is 9 per cent or less for four consecutive auctions.

EFFECTIVE DATE: May 1, 1982.

FOR FURTHER INFORMATION CONTACT: Rebecca Laird, Senior Associate General Counsel, Federal Home Loan Bank Board (202/377–6446), Mark Leemon, Attorney, Office of the Comptroller of the Currency (202/447–1880), F. Douglas Birdzell, Counsel, or Joseph A. DiNuzzo, Attorney, Federal Deposit Insurance Corporation (202/389–4147), Daniel L. Rhoads, Attorney, Board of Governors of the Federal Reserve System (202/452–3711), or Elaine Boutilier, Attorney-Advisor, Department of the Treasury (202/566–8737).

SUPPLEMENTARY INFORMATION: The Depository Institutions Deregulation Act of 1980 (Title II of Pub. L. 96–221; 12 U.S.C. 3501 *et seq.*) ("Act") was enacted to provide for the orderly phaseout and ultimate elimination of the limitations on the maximum rates of interest and dividends that may be paid on deposit accounts by depository institutions as rapidly as economic conditions warrant and with due regard for the safety and soundness of depository institutions. Under the Act, the Committee is authorized to phase out interest rate ceilings by any one of a number of methods, including the creation of new account categories either not subject to interest rate limitations or with interest rate ceilings set at market rates of interest.

At its June 25, 1981 meeting, the Committee considered the issue of short-term time deposit instruments and decided to request public comment on the desirability of authorizing a new deposit instrument having characteristics similar to money market mutual funds (MMFs). 46 FR 36712 (July 15, 1981). The Committee did not put forth a specific proposal at that time. Over 400 comments were received by the Committee on this issue. (An analysis of the comments is contained in the DIDC staff paper "Proposals to Change the Method of Calculating the Ceiling Rate of MMCs and Consideration of Creation of a New Short-Term Deposit Instrument", September 16, 1981, which is available upon request from the Executive Secretary of the Committee.) Approximately half of the respondents favored creation of a new short-term instrument and about half were opposed. Those opposing the authorization of a new short-term instrument, generally thrift institutions, argued that the higher costs associated with a new deposit instrument and the potential shifts from savings accounts would add to their current earnings problems.

At its September 22, 1981 meeting, the Committee decided to solicit additional public comment (46 FR 50804, October 15, 1981) on several specific deposit proposals as well as the general features of short-term instruments. The three

specific proposals were: (1) A ceilingless $5,000 minimum denomination account with a transactions feature; (2) a time deposit with an initial maturity of 91 days, and a 14-day notice period thereafter, with a ceiling rate tied to the 13-week Treasury bill rate; and (3) a ceilingless $25,000 minimum denomination 1-day notice account. Comment was requested on several specific account characteristics as well.

The Committee received 844 responses on the three proposals published for comment and considered these comments at its March 22, 1982, meeting. The comments are summarized in the memorandum to the Committee dated December 10, 1981, entitled "Short-Term Investment Proposals." About 58 per cent of all respondents commenting favored a more competitive short-term instrument. The proposal was favored by a majority of commercial banks and was opposed by a majority of the thrift institutions commenting. Many of the respondents, including thrift institutions opposed to any new short-term instrument, stated that competition for short-term funds is no longer limited to competition among depository institutions but now also includes competition with MMFs. Some respondents argued that regulation of MMFs would be preferable to authorizing a new short-term instrument.

While the respondents opposing a new short-term instrument generally declined to comment on the specific proposals, those respondents who did comment preferred a ceilingless $5,000 minimum denomination deposit with a transaction feature. This proposal was perceived as being the most effective of those proposed for meeting MMF competion. Those opposing the proposal argued that it would cause an increase in the cost of funds, primarily in shifts from passbook and NOW accounts into the new instrument. Commercial banks opposed the establishment of a differential in favor of thrift institutions while thrift institutions were in favor of such a differential.

The second proposal, the $10,000 minimum denomination time deposit with a minimum initial maturity of 91 days and a 14-day notice period thereafter, was the least popular among those favoring a new instrument. About 50 comments favored the adoption of this proposal. The comments were divided on the 14-day notice feature, and proponents were generally satisfied with its other characteristics. Opponents criticized its similarity to 26-week money market certificates and its likely inability to attract new funds, particularly funds held by MMFs.

The third proposal, a ceilingless $25,000 minimum denomination account with a 1-day notice requirement and no transaction feature, was the second-most popular of the three proposals. Proponents stated that the category would allow them to compete for deposits of corporations and individuals, while opponents felt that it would only benefit larger, highly liquid institutions.

One of the more popular of several alternative short-term instruments suggested in response to the Committee's proposal was a 91-day or 30-day instrument with a minimum denomination of $5,000, no transactions feature, and a rate tied to a comparable Treasury bill yield. About 100 respondents favored this suggested category.

At its December 16, 1981, meeting, the Committee postponed consideration of its proposals until its March 22, 1982 meeting. Since the December 16, 1981 meeting, the Committee has received over 2,500 letters (over 90 percent of which were from commercial banks) urging active pursuit of deregulation.

The impetus behind the Committee's consideration of a short-term instrument has been the continued strong growth of MMFs while growth of small time and savings deposits at commercial banks and at thrift institutions has been weak. MMFs, though uninsured, offer an investment which includes the characteristics of a market return, liquidity, a transaction feature, no early withdrawal penalty, and can be obtained in denominations as low as $1,000. Short-term Treasury and U.S. agency securities also provide competition to depository institutions in that they offer a market return, tax advantages, liquidity, safety, and can be obtained in minimum denominations of $5,000 to $10,000.

In order to assist depository institutions in competing with non-depository institutions that offer alternative short-term instruments, the Committee has determined to authorize a new deposit instrument that will enable depository institutions to attract new funds, will help stem deposit outflows and will enhance the ability of institutions to retain valuable customer relationships.

After consideration of the comments received, the Committee has determined to authorize, effective May 1, 1982, a new category of short-term time deposit as follows:

—Minimum denomination of $7,500,

—91-day maturity,

—A fixed ceiling rate for savings and loan associations and mutual savings banks equal to the 91-day Treasury bill rate (auction average on a discount basis) at the most recent auction. The ceiling rate for commercial banks will be 25 basis points less than the thrift ceiling rate. The rate will become effective the day following the auction,

—No compounding of interest is permitted,

—May be offered in either negotiable or nonegotiable form,

—The 25 basis points differential in favor of thrift institutions is authorized until May 1, 1983. In addition, the differential will not apply whenever the 13-week Treasury bill rate is at or below 9 per cent for the four most recent consecutive auctions. When the differential is not in effect, commercial banks may pay the thrift ceiling rate,

—A separate minimum early withdrawal penalty of forfeiture only of all interest earned, and

—The account is available to all depositors.

United States Treasury bills maturing in 91 days are auctioned weekly by the Treasury Department, normally on Monday. The 91-day United States Treasury bill rate will be announced by Treasury and is published widely in many newspapers throughout the country. The ceiling rate payable for new deposits, as determined by the most recent auction, will be effective on the day following the auction.

The rate payable on these deposits may not exceed the ceiling rate in effect on the date of deposit. If such deposits are renewed, automatically or otherwise, the maximum rate that may be paid may not exceed the 91-day Treasury bill rate in effect at the time of renewal of the deposits. Unlike the money market certificate, averaging of the four most recent auction rates will not be permitted. Premiums, however, will be permitted in accordance with the Committee's rules.

The temporary 25 basis point ceiling rate differential in favor of thrift institutions will expire on May 1, 1983. In addition, the temporary differential will not apply if the 91-day Treasury bill discount rate (auction average) is at or below 9 percent for the four most recent auctions of 91-day Treasury bills held immediately prior to the date of deposit. When the differential is not in effect, commercial banks will be permitted to pay the ceiling rate authorized for thrift institutions.

The Committee recognizes that the new deposit category will not be fully competitive with instruments offered by non-depository institutions. Therefore, the Committee has also directed its staff to consider additional short-term

deposit categories to enable depository institutions to compete more effectively with non-depository institutions. The staff was requested to present its recommendations to the Committee within 30 days.

The Committee considered the potential effect on small entities of this new category when it established the instrument, as required by the Regulatory Flexibility Act (5 U.S.C. 603 *et seq.*). In this regard, the Committee's action would not impose any new reporting or recordkeeping requirements. Small entities which are depositors generally should benefit from the Committee's proposal, since the new instrument would provide them a market rate of return. If low-yielding deposits shift into the new account, small entities which are depository institutions might have increased costs as a result of this action. However, their competitive position *vis-a-vis* nondepository competitors should be enhanced by their ability to offer a competitive short-term instrument at market rates. The new funds attracted by the new instrument (or the retention of deposits that might otherwise have left the institution) could be invested at a positive spread and would therefore at least partially offset the higher costs associated with the shifting of low-yielding accounts.

List of Subjects in 12 CFR Part 1204

Banks, banking.

PART 1204—INTEREST ON DEPOSITS

Pursuant to its authority under Title II of Pub. L. 96–221, 94 Stat. 142 (12 U.S.C. 3501 *et seq.*), to prescribe rules governing the payment of interest and dividends on deposits of federally insured commerical banks, savings and loan associations, and mutual savings banks, effective May 1, 1982, the Committee amends Part 1204 (Interest on Deposits) by adding § 1204.120 as follows:

§ 1204.120 91-day time deposits of less than $100,000.

(a) Commercial banks, mutual savings banks, and savings and loan associations may pay interest on any negotiable or nonnegotiable time deposit of $7,500 or more, with a maturity of 91 days, at a rate not to exceed the ceiling rates set forth below. Rounding any rate upward is not permitted, and interest may not be compounded during the term of this deposit.

(b)(1) The ceiling rate of interest payable by mutual savings banks and savings and loan associations shall be the rate established and announced (auction average on a discount basis) for U.S. Treasury bills with maturities of 91 days at the auction held immediately prior to the date of deposit ("Bill Rate"). Except as provided in paragraphs (b) (2) and (3) of this section, the ceiling rate of interest payable by commercial banks shall be the Bill Rate minus one-quarter of one percentage point (25 basis points).

(2) If the Bill Rate is 9 percent or below at the four most recent auctions of U.S. Treasury bills with maturities of 91 days held immediately prior to the date of deposit, the ceiling rate of interest payable by commercial banks shall be the Bill Rate.

(3) Effective May 1, 1983, the ceiling rate of interest payable by commerical banks on this category of deposit for deposits issued or renewed on or after that date shall be the Bill Rate.

(c) Section 1204.103 of this Chapter shall not apply to time deposits issued under this section. Where all or any part of a time deposit issued under this section is paid before maturity, a depositor shall forfeit an amount equal to at least all interest earned on the amount withdrawn.

By order to the Committee, April 1, 1982.

Steven L. Skancke,

Executive Secretary.

[FR Doc. 82–9250 Filed 4–5–82; 8:45 am]

BILLING CODE 4810–25–M

DEPARTMENT OF COMMERCE

International Trade Administration

15 CFR Part 359

Effect of Imported Articles on the National Security

AGENCY: Office of Industrial Resource Administration (formerly Office of Industrial Mobilization), Commerce.

ACTION: Final rule.

SUMMARY: On August 21, 1980, an interim rule and request for comments was published in the **Federal Register** (45 FR 55711) setting forth a regulation to establish procedures for the implementation of section 232 of the Trade Expansion Act of 1962, as amended (19 U.S.C. 1862), concerning the effect of imported articles on the national security. This rule establishes a final regulation. All comments received are addressed, certain non-substantive and editorial changes are made, and typographical errors are corrected.

EFFECTIVE DATE: April 6, 1982.

FOR FURTHER INFORMATION CONTACT: Leslie J. Barr (Director, Resource Assessment Division), (202) 377–3984, or Richard V. Meyers (Compliance Officer), (202) 377–3634.

SUPPLEMENTARY INFORMATION:

Background

On August 21, 1980, an interim rule and request for comments was published in the **Federal Register** (45 FR 55711) setting forth a regulation to establish procedures for conducting and reporting on an investigation pursuant to section 232 of the Trade Expansion Act of 1962, as amended (19 U.S.C. 1862) (the Act).

Section 232 of the Act requires the Department of Commerce, upon request, to conduct an investigation to determine whether an article is being imported in such quantities and under such circumstances as to threaten to impair the national security. The findings of an investigation are to be reported to the President for his consideration.

Interested parties were given the opportunity to submit comments on the regulation not later than October 20, 1980. One submission was received.

The purpose of an investigation under this rule is to safeguard the security of the Nation, not the economic welfare of any company or industry, except as that welfare may affect the national security.

Analysis of Comments

Several changes were suggested to § 359.3, *Commencing an investigation*, and to § 359.4, *Criteria for determining effect of imports on the national security.*

(1) The Commentor suggested that § 359.3 should provide for a "continuing responsibility on the part of the Secretary (of Commerce) * * * to assess the impact of imports on the national security both generally and individually."

Once a determination is made by the Secretary that an imported article threatens to impair the national security, the President may take such action for such time as he deems necessary to adjust the imports of the article. The Secretary then has the discretionary authority to reinvestigate an article if circumstances so dictate, either upon his own motion, or upon an application (by an interested party) or request (by another government agency) which sets forth the changed circumstances.

(2) The Commentor suggests that the language on "human resources" in paragraph 3 of § 359.4(a) should be "broadened to provide requirements for retaining and improving necessary skills and technology in the domestic economy."

The term "human resources" may be given a sufficiently broad interpretation

to include, if relevant, a consideration of retaining and improving necessary skills and technology. This consideration may also be relevant to the other items listed in the paragraph.

(3) The Commenter suggests that paragraph 2 of § 359.4(b) (concerning the displacement of any domestic products) should provide for "displacement of parts of products * * *, * * * the need for revitalizing the industrial base * * * and * * * the contingency of mobilization."

Consideration of displacement of any domestic products may also include, if relevant, consideration of the displacement of component parts of the product. Likewise, consideration of the growth requirements of domestic industries to meet national defense requirements pursuant to § 359.4(a)(4), may also include, if relevant, consideration of the need for revitalizing the industrial base. The contingency of mobilization will be an important factor in the consideration of all the criteria listed in § 359.4(a).

It should be noted that the regulation provides the flexibility to consider "any other relevant factors" during a particular investigation (see §§ 359.4(a)(5) and 359.4(b)(3)).

Accordingly, the Department declines to adopt specifically any of the changes suggested by the Commentor although, as noted above, certain of these suggestions are already provided for in the regulation.

Non-Substantive Changes

This regulation, however, is being revised to reflect non-substantive changes to § 359.7 concerning the public inspection of the record of an investigation. The Department's regulations concerning public inspection and copying of documents are referenced in § 359.7(b) and a statement is included in § 359.7(d) to indicate that communications received from agencies of the U.S. Government or foreign governments will not be made available for public inspection. Finally, various minor editoral and typographical corrections are made throughout the regulation.

Rulemaking Requirements

The Department has made certain determinations with respect to the following rulemaking requirements:

Classification—This regulation is not a "major rule" pursuant to Executive Order 12291 (46 FR 13193, February 19, 1981), "Federal Regulation." Therefore, a "Regulatory Impact Analysis" is not required as there will be: (1) No major monetary effect on the economy; (2) no major increase in costs or prices; and (3) no significant adverse effects on competition (domestic or foreign), employment, investment, productivity or innovation.

Regulatory Analysis—This regulation relates to agency procedures and the relevant provisions of the Administrative Procedures Act (5 U.S.C. 553) are not applicable. Therefore, it is not subject to the requirements of the Regulatory Flexibility Act (5 U.S.C. 601, *et seq.*).

Information Collection—This regulation does not create an information collection burden under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501, *et seq.*) as the Department anticipates receiving no more then 2 or 3 applications or requests for investigations in any one year. However, once an investigation is initiated, it may be necessary to collect certain information during the course of the investigation that may create an information collection burden under the statute. In this event, the Department will seek approval for the information collection activity, as appropriate, from the Office of Management and Budget.

Accordingly, 15 CFR Part 359 is hereby adopted as a final rule as set forth below.

Dated: March 5, 1982.

Bo Denysyk,

Deputy Assistant Secretary for Export Administration, International Trade Administration.

PART 359—EFFECT OF IMPORTED ARTICLES ON THE NATIONAL SECURITY

Sec.

359.1 Definitions.
359.2 Purpose.
359.3 Commencing an investigation.
359.4 Criteria for determining effect of imports on the national security.
359.5 Request or application for an investigation.
359.6 Confidential information.
359.7 Conduct of an investigation.
359.8 Public hearings.
359.9 Emergency action.
359.10 Report of an investigation and recommendation.

Authority: Sec. 232 Trade Expansion Act of 1962, as amended (Pub. L. 93-618, 88 Stat. 1993, 19 U.S.C. 1862); Reorg. Plan No. 3 of 1979 (44 FR 69273, Dec. 3, 1979); Exec. Ord. 12188 of Jan. 2, 1980 (45 FR 989, Jan. 4, 1980).

§ 359.1 Definitions.

As used in this part:

"Department" means the United States Department of Commerce and includes the Secretary of Commerce and the Secretary's designees.

"Secretary" means the Secretary of Commerce or the Secretary's designees.

"Applicant" means the person or entity submitting a request or application for an investigation pursuant to this part.

§ 359.2 Purpose.

These regulations set forth the procedures by which the Department shall commence and conduct an investigation to determine the effect on the national security of the imports of any article. Based on this investigation, the Secretary shall make a report and recommendation to the President for action or inaction regarding an adjustment of the imports of the article.

§ 359.3 Commencing an investigation.

Upon request of the head of any government department or agency, upon application of an interested party, or upon motion of the Secretary, the Department shall immediately conduct an investigation to determine the effect on the national security of the imports of any article.

§ 359.4 Criteria for determining effect of imports on the national security.

(a) To determine the effect on the national security of the imports of the article under investigation, the Department shall consider the quantity of the article in question or other circumstances related to its import. With regard for the requirements of national security, the Department shall also consider the following:

(1) Domestic production needed for projected national defense requirements;

(2) The capacity of domestic industries to meet projected national defense requirements;

(3) The existing and anticipated availabilities of human resources, products, raw materials, production equipment and facilities, and other supplies and services essential to the national defense;

(4) The growth requirements of domestic industries to meet national defense requirements and the supplies and services including the investment, exploration and development necessary to assure such growth; and

(5) Any other relevant factors.

(b) In recognition of the close relation between the strength of our national economy and the capacity of the United States to meet national security requirements, the Department shall also, with regard for the quantity, availability, character and uses of the imported article under investigation, consider the following:

(1) The impact of foreign competition on the economic welfare of any

domestic industry essential to our national security;

(2) The displacement of any domestic products causing substantial unemployment, decrease in the revenues of government, loss of investment or specialized skills and productive capacity, or other serious effects; and

(3) Any other relevant factors that are causing or will cause a weakening of our national economy.

§ 359.5 Request or application for an investigation.

(a) A request or application for an investigation shall be in writing. The original and 12 copies shall be filed with the Director, Office of Industrial Resource Administration, Room 3876, U.S. Department of Commerce, Washington, D.C. 20230.

(b) When a request, application or motion is under investigation, or when an investigation has been completed pursuant to § 359.10 of this part, any subsequently filed request or application concerning imports of the same or related article that does not raise new or different issues may be either consolidated with the investigation in progress as provided in § 359.7(e) of this part, or rejected. In either event, an explanation for taking such action shall be promptly given to the applicant. If the request or application is rejected, it will not be returned unless requested by the applicant.

(c) Requests or applications shall describe how the quantity, availability, character, and uses of a particular imported article, or other circumstances related to its import, affect the national security, and shall contain the following information to the fullest extent possible:

(1) Identification of the applicant;

(2) A precise description of the article;

(3) Description of the domestic industry affected, including pertinent information regarding companies and their plants, locations, capacity and current output of the industry;

(4) Pertinent statistics on imports and domestic production showing the quantities and values of the article;

(5) Nature, sources, and degree of the competition created by imports of the article;

(6) The effect that imports of the article may have upon the restoration of domestic production capacity in the event of national emergency;

(7) Employment and special skills involved in the domestic production of the article;

(8) Extent to which the national economy, employment, investment, specialized skills, and productive capacity is or will be adversely affected;

(9) Revenues of Federal, State, or local Governments which are or may be adversely affected;

(10) National security supporting uses of the article including data on applicable contracts or sub-contracts, both past and current; and

(11) Any other information or advice relevant and material to the subject matter of the investigation.

(d) Statistical material presented should be, if possible, on a calendar-year basis for sufficient periods of time to indicate trends. Monthly or quarterly data for the latest complete years should be included as well as any other breakdowns which may be pertinent to show seasonal or short-term factors.

§ 359.6 Confidential information.

(a) Any information or material which the applicant or any other party desires to submit in confidence at any stage of the investigation that would disclose national security classified information or business confidential information (trade secrets, commercial or financial information, or any other information considered senstitive or privileged), shall be submitted on separate sheets with the clear legend "National Security Classified" or "Business Confidential," as appropriate, marked at the top of each sheet. Any information or material submitted that is identified as national security classified must be accompanied at the time of filing by a statement indicating the degree of classification, the authority for the classification, and the identity of the classifying entity. By submitting information or material identified as business confidential, the applicant or other party represents that the information is exempted from public disclosure, either by the Freedom of Information Act (5 U.S.C. 552 et seq.) or by some other specific statutory exemption. Any request for business confidential treatment must be accompanied at the time of filing by a statement justifying non-disclosure and referring to the specific legal authority claimed.

(b) The Department may refuse to accept as business confidential any information or material it considers not intended to be protected under the legal authority claimed by the applicant, or under other applicable legal authority. Any such information or material so refused shall be promptly returned to the submitter and will not be considered. However, such information or material may be resubmitted as non-confidential in which case it will be made part of the public record.

§ 359.7 Conduct of an investigation.

(a) If the Department determines that it is appropriate to afford interested parties an opportunity to present information and advice relevant and material to an investigation, a public notice shall be published in the **Federal Register** soliciting from any interested party written comments, opinions, data, information or advice relative to the investigation. This material shall be submitted as directed within a reasonable time period to be specified in the notice. All material shall be submitted with 6 copies. In addition, public hearings may be held pursuant to § 359.8 of this part.

(b) All requests and applications filed and all material submitted by interested parties, except information on material that is classified or determined to be confidential as provided in § 359.6 of this part, will be available for public inspection and copying in the International Trade Administration Freedom of Information Records Inspection Facility, Room 3102, U.S. Department of Commerce, Washington, D.C. 20230, in accordance with regulations published in Part 4 of Title 15, Code of Federal Regulations.

(c) Further information may be requested by the Department from other sources through the use of questionnaires, correspondence, or other appropriate means.

(d) The Department shall, as part of an investigation, seek information and advice from, and consult with, the Secretary of Defense and any other appropriate officers of the United States or their designees, as shall be determined. Communications received from agencies of the U.S. Government or foreign governments will not be made available for public inspection. The Department may also seek assistance in the conduct of an investigation from other agencies of the United States, as shall be necessary.

(e) Any request or application that is filed while an investigation is in progress, concerning imports of the same or related article and raising similar issues, may be consolidated with the request, application or motion that initiated the investigation.

§ 359.8 Public hearings.

(a) If it is deemed appropriate by the Department, public hearings may be held to elicit further information.

(1) A notice of hearing shall be published in the **Federal Register** describing the date, time, place, the subject matter of each hearing and any other information relevant to the conduct of the hearing. The name of a

person to contact for additional information or to request time to speak at the hearing shall also be included. Public hearings may be held in more than one location.

(2) Hearings shall be open to the public unless national security classified information will be presented. In that event the presiding officer at the hearing shall close the hearing, as necessary, to all persons not having appropriate security clearances or not otherwise authorized to have access to such information. If it is known in sufficient time prior to the hearing that national security classified information will be presented the notice of hearing published in the **Federal Register** shall state that national security classified information will be presented and that the hearing will be open only to those persons having appropriate security clearances or otherwise specifically authorized to have access to such information.

(b) Hearings shall be conducted as follows:

(1) The Department shall appoint the presiding officer;

(2) The presiding officer shall determine all procedural matters during the hearing;

(3) Interested parties may appear, either in person or by representation, and produce oral or written information relevant and material to the subject matter of the investigation;

(4) Hearings will be fact-finding proceedings without formal pleadings or adverse parties. Formal rules of evidence will not apply;

(5) After a witness has testified, the presiding officer may question the witness. Questions submitted to the presiding officer in writing by any interested party may, at the discretion of the presiding officer, be posed to the witness. No cross examination of any witness by a party shall be allowed.

(6) Each hearing will be stenographically reported. Transcripts of the hearing, excluding any national security classified information, may be purchased from the Department at actual cost of duplication, and will be available for public inspection in the International Trade Administration, Freedom of Information Records Inspection Facility, Room 3102, U.S. Department of Commerce, Washington, D.C. 20230.

§ 359.9 Emergency action.

In emergency situations, or when in the judgment of the Department, national security interests require it, the Department may vary or dispense with any or all of the procedures set forth in § 359.7 of this part.

§ 359.10 Report of an investigation and recommendation.

(a) When an investigation conducted pursuant to this part is completed, a report of the investigation shall be promptly prepared. The report shall be organized in several sections, if necessary. One section shall contain all information and material that is not classified or confidential as provided in § 359.6 of this part. Another section shall contain all national security classified information and material. A third section shall contain all business confidential information and material.

(b) The Secretary shall report to the President the findings of the investigation and a recommendation for action or inaction within one year after receiving a request or application or otherwise beginning an investigation pursuant to this part.

(c) The report, excluding the sections containing national security classified and business confidential information and material, shall be published in the **Federal Register** upon the disposition of each request, application, or motion made pursuant to this part. Copies of the published report will then be available for public inspection and copying in the International Trade Administration, Freedom of Information Records Inspection Facility, Room 3102, U.S. Department of Commerce, Washington, D.C. 20230.

[FR Doc. 82-8749 Filed 4-5-82; 8:45 am]
BILLING CODE 3510-25-M

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15 CFR Parts 371 and 372

Clarification of Limitations on Multiple Gift Parcels Consolidated in a Single Shipment

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

ACTION: Final rule.

SUMMARY: The Export Administration Regulations are amended to clarify the licensing provisions applicable to consolidated shipments of gift parcels. Under current regulations, individual gift shipments can usually be made under general license. However, a general license does not apply to multiple gift parcels exported in a single shipment for delivery to individuals residing in a foreign country. Such shipments require a validated license. This rule is necessary because of the increased volume of gift parcels being shipped to Vietnam and the fact that many shippers are unaware of the limitations on such shipments. The addition of two new paragraphs to Part 372 of the Regulations clarifies the restrictions. One of these paragraphs contains special instructions for completing ITA-Form 622, Application for Validated License (OMB approval No. 0625–0001, expires 10–31–83).

EFFECTIVE DATE: April 6, 1982.

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

Rulemaking Requirements

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

1. Under section 13(a) of the Export Administration Act of 1979 (Pub. L. 96–72, 50 U.S.C. app. 2401 *et seq.*) ("the Act"), this rule is exempt from the public participation in rulemaking procedures of the Administrative Procedure Act. This rule does not impose new controls on exports, and is therefore exempt from section 13(b) of the Act, which expresses the intent of Congress that where practicable "regulations imposing controls on exports" be published in proposed form.

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

3. This rule is not subject to the requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*

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

Therefore, this regulation is issued in final form. Although there is no formal comment period, public comments on this regulation are welcome on a continuing basis.

List of Subjects in 15 CFR Part 371

Export licenses, general exports.

List of Subjects in 15 CFR Part 372

Export license amendments, export licenses, validated exports.

Accordingly, the Export Administration Regulations (15 CFR 368–399) are amended as follows:

PART 371—GENERAL LICENSE

1. Section 371.18 is amended as follows:

I. Paragraph (a)(1) is amended by adding the phrase "(and not for resale)" to the end of the first sentence.

II. A sentence is added to paragraph (a)(2) reading as follows: "(See § 372.8 regarding validated license exports of gift parcels.)"

III. A sub-paragraph (iii) is added to (b)(1) reading as follows:

§ 371.18 General license GIFT; shipments of gift parcels.

* * * * *

(b) * * *

(1) * * *

(iii) Acceptable in type and quantity by the recipient country for import as gifts. Commodities exceeding the import limits may not be included in gift parcels.

PART 372—INDIVIDUAL VALIDATED LICENSES AND AMENDMENTS

2. Section 372.8 is amended by adding a new paragraph (d) reading as follows:

§ 372.8 Special types of individual license applications.

* * * * *

(d) *Multiple gift parcels consolidated in a single shipment.*—(1) *Limits on consolidated shipments of gift parcels.* The person consolidating multiple gift parcels into a single shipment is responsible for filing an export license application. Each gift parcel included in a license application filed by a consolidator must meet all of the requirements of General License *GIFT.* These requirements include the limits on commodity, dollar-value and frequency of shipment specified in § 371.18 of the Regulations. If all of the requirements are not met, a validated license must be obtained for each parcel.

(2) *Special instructions for completing license applications for consolidated shipments of gift parcels.*

Block 6—Enter the word "none";

Block 7—Enter the word "Various" instead of the name and address of a single ultimate consignee;

Block 8—If the shipment is a direct one, enter the word "none." If the shipment is not direct, enter the name, address and location of the intermediate consignee;

Block 9(a)—Indicate a specific quantity of gift parcels (the quantity requested need not be limited to a single shipment, but may represent a reasonable estimate of parcels expected to be shipped throughout the validity of the license);

Block 9(b)—Enter the words "Gift Parcels";

Block 9(c)—Enter the export control commodity number 6999G and processing code, MG;

Block 9(d)—Indicate a reasonable value approximation proportionate to the quantity of gift parcels shown in block 9(a);

Block 12—Enter "For personal use by recipients," or other similar wording;

Block 16—Be sure the application is signed and the name and title of the signing person is typed or printed; and

Block 17—Leave blank.

To fill out the rest of the application form, follow the instructions on the back of the appliaction cover sheet.

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

Dated: March 11, 1982.

Vincent F. DeCain,

Acting Director, Office of Export Administration.

[FR Doc. 82-9174 Filed 4-5-82; 8:45 am]

BILLING CODE 3510-25-M

DEPARTMENT OF LABOR

Office of the Secretary

20 CFR Ch. VI

29 CFR Subtitle A and Ch. XVII

30 CFR Ch. I

41 CFR Ch. 60

Display of Office of Management and Budget Control Numbers for Reporting Requirements Without Forms

AGENCY: Office of the Secretary, Labor.

ACTION: Technical amendments.

SUMMARY: This document amends certain Department of Labor regulations to include control numbers which the Department has obtained from OMB approved prior to March 15, 1982, at the places in the regulations where current information collection reporting requirements without forms (excluding recordkeeping) are described.

EFFECTIVE DATE: April 6, 1982.

FOR FURTHER INFORMATION CONTACT: Paul Larson, Director, Office of Management Reports and Analysis, Directorate of Management Policy and Systems, Room S-5526, Frances Perkins Building, U.S. Department of Labor, 200 Constitution Ave., NW. Washington, D.C. 20210, Telephone (202) 523-6331.

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The information collection requirements contained in the regulatory sections listed below have been assigned the control numbers contained in the listing by the Office of Management and Budget under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96-511).

Guide to Agency Abbreviation Codes

ESA—Employment Standards Administration.

MSHA—Mine Safety and Health Administration.

OASAM—Office of the Assistant Secretary for Administration and Management.

OSHA—Occupational Safety and Health Administration.

Text of Amendments

Following the text of each paragraph cited in the second column of the table, add parenthetically the corresponding OMB number listed in the third column:

Agency	Regulatory citation	OMB No.
ESA	41 CFR Parts 60-1, 60-2, 60-4, 60-20, 60-30, 60-40, 60-50, 60-60, 60-250, and 60-741.	1215-0072
	20 CFR 725.366	1215-0115
	41 CFR Part 60-3	3046-0017
MSHA	30 CFR 77.215-2	1219-0060
	30 CFR 70.209, 71.209, 90.209	1219-0011
	30 CFR 75.1713-3, 77.1703	1219-0038
	30 CFR 45.3	1219-0040
	30 CFR 57.11-53	1219-0046
	30 CFR 57.5-20	1219-0016
	30 CFR 57.4-61A	1219-0023
	30 CFR 40.2	1219-0042
	30 CFR 11.10	1219-0066
	30 CFR 36.6	1219-0066
	30 CFR 18.6	1219-0066
	30 CFR 23.3	1219-0066
	30 CFR 32.3	1219-0066
	30 CFR 33.6	1219-0066
	30 CFR 44.10, 44.13, 44.16	1219-0065
	30 CFR 43.2	1219-0014
	30 CFR 75.200-2, 75.200-3	1219-0004
	30 CFR 48.3 and 48.23	1219-0009
	30 CFR 75.1702	1219-0041
	30 CFR 77.1000-1	1219-0026
	30 CFR 75.1303-1, 77.1909-1	1219-0025
	30 CFR 75.316, 75.316-1	1219-0075
	30 CFR 75.1204, 75.1204-1	1219-0073
	30 CFR 75.1713 and 77.1702	1219-0036
	30 CFR 75.1716	1219-0020
	30 CFR 77.1900	1219-0019
	30 CFR 75.1712 and 71.500	1219-0018
	30 CFR 70.508-510 and 71.802-805.	1219-0017
	30 CFR 77.215-2	1219-0015
	30 CFR 71.403(d) and 75.1712-4	1219-0024
	30 CFR 70.508-510, 71.802-805	1219-0037
	30 CFR 77.215(j), 77.215-4	1219-0074
OASAM	29 CFR 16.201 thru 16.204	1225-0013
OSHA	29 CFR 1910.1007(f) thru 1910.104(f)1014(f).	1218-0026
	29 CFR 1910.142(1)	1219-0029
	29 CFR 1910.1015(f)	1218-0044
	29 CFR 1926.803(b)(6)	1218-0045
	29 CFR 1910.1016(f)	1218-0046
	29 CFR 1910.217	1218-0050

Signed at Washington, D.C. this 29th day of March, 1982.

Raymond J. Donovan,

Secretary of Labor.

[FR Doc. 82-9092 Filed 4-5-82; 8:45 am]

BILLING CODE 4510-23-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 176

[Docket No. 81F-0354]

Indirect Food Additives: Paper and Paperboard Components; Ammonium Zirconium Carbonate

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of ammonium zirconium carbonate and its tartaric acid adduct as insolubilizers for the binders used in coating for paper and paperboard in contact with aqueous and fatty foods.

DATES: Effective April 6, 1982; objections by May 6, 1982.

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

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

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of December 4, 1981 (46 FR 59313), FDA announced that a food additive petition (FAP 7B3317) had been filed by Magnesium Elektron, Inc., Star Route A, Box 202-1, Flemington, NJ 08822, proposing that the food additive regulations be amended to provide for the safe use of ammonium zirconium carbonate and its tartaric acid adduct as insolubilizers for the binders used in coatings for paper and paperboard in contact with aqueous and fatty foods.

FDA has evaluated data in the petition and other relevant material, and concludes that the proposed food additive use is safe and that the regulations should be amended as set forth below. The petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition, in accordance with § 171.1(h) (21 CFR 171.1(h)), are available for inspection at the Bureau of Foods (address above) by appointment with the information contact person listed above. As provided in § 171.1(h)(2), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

The agency has carefully considered the potential environmental effects of this action and has concluded that the action will not have a significant impact on the human environment and that an environmental impact statement therefore will not be prepared. The agency's finding of no significant impact and the evidence supporting this finding, contained in an environmental impact analysis report (pursuant to 21 CFR 25.1(j)), may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 176

Food additives; Food packaging; Paper and paperboard.

PART 176—INDIRECT FOOD ADDITIVES: PAPER AND PAPERBOARD COMPONENTS

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 72 Stat. 1784-1788 as amended (21 U.S.C. 321(s), 348)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10 (formerly 5.1; see 46 FR 26052; May 11, 1981)), Part 176 is amended in § 176.170(a)(5) by alphabetically inserting a new item in the list of substances to read as follows:

§ 176.170 Components of paper and paperboard in contact with aqueous and fatty foods.

* * * * *

(a) * * *

(5) * * *

List of substances	Limitations
* * * * *	
Ammonium zirconium carbonate (CAS Reg. No. 32535-84-5) and its tartaric acid adduct.	For use only as an insolubilizer for binders used in coatings for paper and paperboard, and limited to use at a level not to exceed 2.5 percent by weight of coating solids.
* * * * *	

* * * * *

Any person who will be adversely affected by the foregoing regulation may at any time on or before May 6, 1982 submit to the Dockets Management Branch, (address above), written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with particularity the provision of the regulation to which objection is made. Each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this regulation. Received objections may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Effective date. This regulation shall become effective April 6, 1982.

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

Dated: March 19, 1982.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 82-9037 Filed 4-5-82; 8:45 am]

BILLING CODE 4160-01-M

21 CFR Part 177

[Docket No. 77F-0171]

Indirect Food Additives; Polymers; Styrene-Maleic Anhydride Copolymers

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of styrene-maleic anhydride copolymers modified with butadiene in food-contact applications. ARCO/Polymers, Inc. (currently the ARCO Chemical Co.) petitioned the agency for this use.

DATES: Effective April 6, 1982; objections by May 6, 1982.

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

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

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of July 26, 1977 (42 FR 38015), FDA announced that a petition (FAP 6B3150) had been filed by ARCO/Polymers, Inc., Monaca, PA 15061 (currently ARCO Chemical Co., Newton Square, PA 19073) proposing that § 177.1820 (21 CFR 177.1820) be amended to provide for the safe use of styrene-maleic anhydride

copolymers modified with butadiene in food-contact applications.

FDA has evaluated data in the petition and other relevant material and finds that the additive is safe for its intended use. In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Bureau of Foods (address above) by appointment with the information contact person listed above. As provided in § 171.1(h)(2) the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

The agency has carefully considered the potential environmental effects of this action and has concluded that the action will not have significant impact on the human environment and that an environmental impact statement therefore will not be prepared. The agency's finding of no significant impact and the evidence supporting this finding, contained in a statement of exemption (pursuant to 21 CFR 24.1(f) (1)(v)) may be seen in the Dockets Management Branch (HFA–305) (address above) between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 177

Food additives; Polymeric food packaging.

PART 177—INDIRECT FOOD ADDITIVES: POLYMERS

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10 (formerly 5.1; see 46 FR 26052; May 11, 1981)), Part 177 is amended by numbering the existing item in the table in § 177.1820(b) as 1 and by adding new item 2, to read as follows:

§ 177.1820 Styrene-maleic anhydride copolymers.

* * * * *

(b) Specifications:

Styrene-maleic anhydride copolymers	Molecular weight (minimum number average)	Residual styrene monomer (weight percent)	Residual maleic anhydride monomer (weight percent)	Maximum extractable fraction in distilled water at specified temperatures, times, and particle size	Maximum extractable fraction in *n*-heptane at specified temperatures, times, and particle size
* * *					
2. Styrene-maleic anhydride copolymer modified with butadiene, (CAS Reg. No. 27288-99-9) containing not more than 15 percent maleic anhydride units by weight and not more than 20 percent styrene-butadiene and/or butadiene rubber units by weight; for use (except carbonated beverage bottles) as articles or as components of articles that contact food of types I, II, III, IV-A, IV-B, V, VI, VII-A, VII-B, VIII, and IX identified in table I in § 176.170(c) of this chapter under conditions of use B, C, D, E, F, G, and H described in table 2 in § 176.170(c) of this chapter.	.....	0.3	0.1	0.015 weight percent at reflux temperature for 1 hour utilizing particles of a size that will pass through a U.S. standard sieve No. 10 and will be held on a U.S. standard sieve No. 20.	1.0 weight percent at 23° C (73° F) for 2 hours utilizing particles of a size that will pass through a U.S. standard sieve No. 10 and will be held on a U.S. standard sieve No. 20.
* * *					

Any person who will be adversely affected by the foregoing regulation may at any time on or before May 6, 1982, submit to the Dockets Management Branch (HFA–305), (address above) written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with particularity the provision of the regulation to which objection is made. Each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this regulation. Received objections may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Effective date: This regulation becomes effective April 6, 1982.

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

Dated: March 16, 1982.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 82-9170 Filed 4-5-82; 8:45 am]

BILLING CODE 4160-01-M

21 CFR Part 177

[Docket No. 80F-0125]

Indirect Food Additives: Polymers; Perfluorocarbon Resins

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of perfluoropropylvinylether/tetrafluoroethylene copolymer as a coating or component of coatings for articles intended for repeated use in contact with food. This action is in response to a petition filed by E. I. du Pont de Nemours & Co.

DATES: Effective April 6, 1982; objections by May 6, 1982.

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

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

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of May 6, 1980 (45 FR 29893), FDA announced that a food additive petition (FAP 9B3459) had been filed by E. I. du Pont de Nemours & Co., Wilmington, DE 19898, proposing to amend Part 177 (21 CFR Part 177) of the food additive regulations to provide for the safe use of perfluoropropylvinylether/tetrafluoroethylene copolymer as a coating or component of coatings for articles intended for contact with food.

FDA has evaluated data in the petition and other relevant material and concludes that the proposed food

additive use is safe and that § 177.1550 (21 CFR 177.1550) should be amended as set forth below. In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Bureau of Foods (address above) by appointment with the contact person listed above. As provided in § 171.1(h)(2), the agency will remove from the documents any materials that are not available for public disclosure before making the documents available for inspection.

List of Subjects in 21 CFR Part 177

Food additives; Polymeric food packaging.

PART 177—INDIRECT FOOD ADDITIVES: POLYMERS

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10 (formerly 5.1; see 46 FR 26052; May 11, 1981)), Part 177 is amended in § 177.1550 by revising paragraph (a), the introductory text of paragraph (b), paragraphs (d)(2), and (e)(2), (3)(i) and (ii), and by adding new paragraph (f), to read as follows:

§ 177.1550 Perfluorocarbon resins.

* * * * *

(a) *Identity.* For the purpose of this section, perfluorocarbon resins are those produced by: (1) The homopolymerization and/or copolymerization of hexafluoropropylene and tetrafluoroethylene, and (2) the copolymerization of perfluoropropylvinylether and tetrafluoroethylene (CAS Reg. No. 26655–00–5). The resins shall meet the extractives limitations in paragraph (d) of this section.

(b) *Optional components.* The perfluorocarbon resins identified in paragraph (a) of this section as well as articles or coating made from these resins may include the following optional components except that the resin identified in paragraph (a)(2) of this section may not be used with the optional component, lithium polysilicate, mentioned in paragraph (b)(4) of this section.

* * * * *

(d) * * *

(2) *Melt-viscosity.* (i) The perfluorocarbon resins identified in paragraph (a)(1) of this section shall have a melt viscosity of not less than 10^4 poises at 380° C (716° F) as determined by ASTM method D1238–57T, "Standard Method of Test for Melt Viscosity in Perfluorocarbon" (Revised 1957), which is incorporated by reference. Copies are available from University Microfilms International, 300 North 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 melt viscosity of the perfluorocarbon resins identified in paragraph (a)(1) of this section shall not vary more than 50 percent within one-half hour at 380° C (716° F).

(ii) Perfluorocarbon resins identified in paragraph (a)(2) of this section shall have a melt viscosity of not less than 10^4 poises at 372° C (702° F) as determined by a more detailed method titled "Determination of Melt Viscosity, Molecular Weight Distribution Index and Viscosity Stability," which is incorporated by reference. Copies are available from the Division of Food and Color Additives (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.

* * * * *

(e)(1) * * *

(2) Perfluorocarbon resins identified in paragraph (a)(1) and (2) of this section and intended for use as coatings or components of coatings shall meet extractability limits prescribed in paragraph (e)(3) of this section when the resins in the form of coatings described in paragraph (e)(2) (i) and (ii) of this section are extracted at reflux temperatures for 2 hours separately with distilled water, 8 percent ethanol, and *n*-heptane:

(i) Perfluorocarbon resin coatings consisting of resins identified in paragraph (a)(1) of this section shall be applied to both sides of a 0.025-millimeter (0.001-inch) thick aluminum foil to a thickness of 0.025 millimeter (0.001 inch) after thermal curing at 399° C (750° F) for 10 minutes. If a primer is used, the total thickness of the primer plus topcoat shall equal 0.025 millimeter (0.001 inch) after heat curing.

(ii) Perfluorocarbon resin coatings consisting of resins identified in paragraph (a)(2) of this section shall be applied to both sides of a 0.025-millimeter (0.001-inch) thick aluminum foil to a thickness of 0.10 millimeter (0.004 inch) after thermal curing at 427° C (800° F) for 10 minutes. If a primer is used, the total thickness of the primer plus topcoat shall equal 0.10 millimeter (0.004 inch) after heat curing.

(3) * * *

(i) Total extractives not to exceed 3.1 milligrams per square decimeter (0.2 milligram per square inch).

(ii) Fluoride extractives calculated as fluorine not to exceed 0.46 milligram per square decimeter (0.03 milligram per square inch).

(f) *Conditions of use.* Perfluorocarbon resins identified in paragraph (a)(2) of this section are limited to use as coatings or components of coatings for articles intended for repeated food-contact use.

Any person who will be adversely affected by the foregoing regulation may at any time on or before May 6, 1982 submit to the Dockets Management Branch (address above) written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered, and each numbered objection shall specify with particularity the provision of the regulation to which objection is made. Each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this regulation. Received objections may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Effective date. This regulation shall become effective April 6, 1982.

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

Dated: April 1, 1982.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

Note.—Incorporation by reference provisions approved by the Director of the Office of the Federal Register on April 2, 1982, and is on file at the Office of the Federal Register.

[FR Doc. 82-9266 Filed 4-2-82; 11:48 am]

BILLING CODE 4160-01-M

21 CFR Part 178

[Docket No. 79F-0474]

Indirect Food Additives: Adjuvants, Production Aids, and Sanitizers; Antioxidants and/or Stabilizers for Polymers

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to extend the safe use of octadecyl 3,5-di-*tert*-butyl-4-hydroxyhydrocinnamate as an antioxidant and/or stabilizer for certain olefin copolymers to include contact with additional food types. This action is in response to a petition filed by Ciba-Geigy Corp.

DATES: Effective April 6, 1982; objections by May 6, 1982.

ADDRESS: Written objections 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: In a notice published in the **Federal Register** of January 11, 1980 (45 FR 2399), FDA announced that a petition (FAP OB3479) had been filed by Ciba-Geigy Corp., Hawthorne, NY 10532, proposing that § 178.2010 (21 CFR 178.2010) be amended to provide for the safe use of octadecyl 3,5-di-*tert*-butyl-4-hydroxyhydrocinnamate in olefin polymers complying with § 177.1520(c), item 3.4 in contact with food of types III, VII-A, and IX identified in § 176.170(c) (21 CFR 176.170(c)), table 1, in addition to food of types I, II, IV-B, VI, VII-B, and VIII which are currently regulated.

FDA has evaluated data in the petition and other relevant material, and concludes that the proposed food additive use is safe and that the regulations should be amended as set forth below. The petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition, in accordance with § 171.1(h) (21 CFR 171.1(h)), are available for inspection at the Bureau of Foods (address above) by appointment with the information contact person listed above. As provided in § 171.1(h)(2), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

List of Subjects in 21 CFR Part 178

Food additives; Food packaging; Sanitizing solutions.

PART 178—INDIRECT FOOD ADDITIVES: ADJUVANTS, PRODUCTION AIDS, AND SANITIZERS

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

§ 178.2010 Antioxidants and/or stabilizers for polymers.

* * * * *

(b) * * *

Substances	Limitations
* * * * *	
Octadecyl 3,5-di-*tert*-butyl-4-hydroxyhydrocinnamate (CAS Reg. No. 2082-79-3).	For use only: * * * 5. At levels not exceeding 0.25 percent by weight of olefin copolymers complying with § 177.1520(c) of this chapter, items 3.4 and 3.5 as follows: (a) item 3.4, *Provided*, That the finished copolymer contacts foods only of types identified in § 176.170(c) of this chapter, table 1, under categories I, II, III, IV-B, VI, VII, VIII, and IX; (b) item 3.5, *Provided*, That the finished copolymer contacts non-fatty foods only of types identified in § 176.170(c) of this chapter, table 1, under categories I, II, IV-B, VI, VII-B, and VIII.
* * * * *	

Any person who will be adversely affected by the foregoing regulation may at any time on or before May 6, 1982, submit to the Dockets Management Branch (address above), written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with particularity the provision of the regulation to which objection is made. Each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such a description and analysis for any particular objection shall constitue a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this regulation. Received objections may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Effective date. This regulation shall become effective April 6, 1982.

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

Dated: March 18, 1982.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 82-9038 Filed 4-5-82; 8:45 am]

BILLING CODE 4160-01-M

21 CFR Parts 510 and 558

Sponsors of Approved Applications; New Animal Drugs for use in Animal Feeds; Tylosin

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration is amending the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) filed for Music City Supplement Co., providing for safe and effective use of a 10-gram-per-pound tylosin premix for making complete swine, beef cattle, and chicken feeds.

EFFECTIVE DATE: April 6, 1982.

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

SUPPLEMENTARY INFORMATION: Music City Supplement Co., 401 Cowan St., Nashville, TN 37202, is sponsor of supplemental NADA 107-958 submitted on its behalf by Elanco Products Co. The supplemental NADA provides for use of premixes containing 10 grams of tylosin (as tylosin phosphate) per pound for making complete feeds for swine, beef cattle, and chickens. The firm currently holds an approved use of said premix in swine feed for increased rate of weight gain and improved feed efficiency. The supplement provides for its use in swine feed for prevention, treatment, and control of swine dysentery, and to maintain weight gains and feed efficiency in the presence of atropic rhinitis; the beef cattle feed for reduction of incidence of certain liver abscesses; the chicken feed for increased rate of weight gain and

improved feed efficiency; and the layer feed for improved feed efficiency.

Approval of this NADA relies upon safety and effectiveness data contained in Elanco's approved NADA 12–491. Use of the data in NADA 12–491 to support this NADA has been authorized by Elanco. This approval does not change the approved use of the drug. Consequently, approval of this NADA poses no increased human risk from exposure to residues of the animal drug, nor does it change the conditions of the drug's safe use in the target animal species. Accordingly, under the Bureau of Veterinary Medicine's supplemental approval policy (42 FR 64367; December 23, 1977), this is a Category II supplemental approval which does not require reevaluation of the safety and effectiveness data in NADA 12–491.

The supplement is approved and the regulations are amended accordingly. This adds to the firm's existing approval for use of a 10-gram-per-pound premix for making certain swine feeds. The regulations are also being amended to reflect the firm's new address.

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

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

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

List of Subjects in 21 CFR Parts 510 and 558

Administrative practice and procedure; Animal drugs; Animal feeds; Labeling; Reporting Requirements.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10 (formerly 5.1; see 46 FR 26052; May 11, 1981)) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), Parts 510 and 558 are amended as follows:

PART 510—NEW ANIMAL DRUGS

1. In Part 510, § 510.600 is amended in paragraph (c)(1) by revising the entry "Music City Supplement Co." and in paragraph (c)(2) by revising the entry "017519" to read as follows:

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

* * * * *

(c) * * *

(1) * * *

Firm name and address	Drug labeler code
* * * * *	
Music City Supplement Co., 401 Cowan St., Nashville, TN 37202	017519
* * * * *	

(2) * * *

Drug labeler code	Firm name and address
* * * * *	
017519	Music City Supplement Co., 401 Cowan St., Nashville, TN 37202.

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

2. In Part 558, § 588.625 is amended by revising paragraph (b)(51) to read as follows:

§ 558.625 Tylosin.

* * * * *

(b) * * *

(51) To 017519: 10 grams per pound, paragraph (f)(1) (i), (iii), (iv), and (vi) of this section.

* * * * *

Effective date. This regulation is effective April 6, 1982.

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

Dated: March 18, 1982.

Robert A. Baldwin,

Associate Director for Scientific Evaluation.

[FR Doc. 82-9033 Filed 4-5-82; 8:45 am]

BILLING CODE 4160-01-M

21 CFR Part 520

Oral Dosage Form New Animal Drugs Not Subject to Certification; Butorphanol Tartrate

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) sponsored by Bristol Laboratories, Division of Bristol-Myers Co., providing for the safe and effective use of butorphanol tartrate tablets for the treatment of dogs for relief of chronic nonproductive cough originating from inflammatory conditions of the upper respiratory tract.

EFFECTIVE DATE: April 6, 1982.

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

SUPPLEMENTARY INFORMATION: Bristol Laboratories, Division of Bristol-Myers Co., P.O. Box 657, Syracuse, NY 13201, filed an NADA (103–390) providing for the use of butorphanol tartrate tablets for the treatment of dogs for the relief of chronic nonproductive cough associated with tracheo-bronchitis, tracheitis, tonsillitis, laryngitis, and pharyngitis originating from inflammatory conditions of the upper respiratory tract.

Bristol Laboratories has submitted data supporting the safety and effectiveness of butorphanol tartrate for this use. The NADA is approved and the regulations are amended accordingly.

The Bureau of Veterinary Medicine has carefully considered the potential environmental effects of this action and has concluded that the action will not have a significant impact on the human environment and that an environmental impact statement therefore will not be prepared. The Bureau's finding of no significant impact and the evidence supporting this finding, contained in a statement of exemption (pursuant to 21 CFR 25.1(f)(1)(ii)(*a*) and (*e*)(*1*) and (*2*)), may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (address above).

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

List of Subjects in 21 CFR Part 520

Animal drugs, oral use.

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

Therefore, under the Federal Food, Drug, and Cosmetic Act (Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10 (formerly 5.1; see 46 FR 26052; May 11, 1981)) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), Part 520 is amended by adding new § 520.246 to read as follows:

§ 520.246 Butorphanol tartrate tablets.

(a) *Specifications.* Each tablet contains 1, 5, or 10 milligrams of butorphanol base activity as butorphanol tartrate.

(b) *Sponsor.* See No. 000015 in § 510.600(c) of this chapter.

(c) *Conditions of use.* The drug is used for the treatment of dogs as follows—(1) *Amount.* 0.25 milligram of butorphanol base activity per pound of body weight.

(2) *Indications for use.* For the relief of chronic nonproductive cough associated with tracheo-bronchitis, tracheitis, tonsillitis, laryngitis, and pharyngitis associated with inflammatory conditions of the upper respiratory tract.

(3) *Limitations.* For oral use in dogs only. Repeat at intervals of 6 to 12 hours as required. If necessary, increase dose to a maximum of 0.5 milligram per pound of body weight. Treatment should not normally be required for longer than 7 days. Federal law restricts this drug to use by or on the order of a licensed veterinarian.

Effective date. This amendment is effective April 6, 1982.

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

Dated: March 17, 1982.

Gerald B. Guest,

Acting Director, Bureau of Veterinary Medicine.

[FR Doc. 82-9040 Filed 4-5-82; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Part 552

Implantation or Injectable Dosage Form New Animal Drugs not Subject to Certification; Oxytetracycline Hydrochloride Injection

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) filed by Medico Industries, Inc., providing for safe and effective intravenous use of a 100-milligram-per-milliliter (mg/mL) oxytetracycline (as oxytetracycline hydrochloride or OTC HCl) injection for treating certain infections of cattle.

EFFECTIVE DATE: April 6, 1982.

FOR FURTHER INFORMATION CONTACT: Richard A. Carnevale, Bureau of Veterinary Medicine (HFV–125), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–1788.

SUPPLEMENTARY INFORMATION: Medico Industries, Inc., Elkan Estates, P.O. Box 338, Elwood, KS 66024, filed supplemental NADA 108–963 providing for intravenous use in cattle of a 100-mg/mL OTC HCl injection. The firm currently holds approval for use of a 50-mg/mL OTC HCl injection which is identical to the 100-mg/mL product regarding composition, differing only in potency and related adjustments. The 50-mg/mL injection is covered by the parent NADA (108–963) which provides for intramuscular use in beef cattle, beef calves, nonlactating dairy cattle, and dairy calves for treatment of bacterial pneumonia and shipping fever complex associated with *Pasteurella spp.;* foot-rot and calf diphtheria caused by *Spherophorus necrophorus;* bacterial enteritis (scours) caused by *Escherichia coli;* wooden tongue caused by *Actinobacillus lignieresi;* wound infections, acute metritis; and traumatic injury caused by staphylococcal and streptococcal organisms. Approval of the 50-mg/mL injection is based on demonstrated generic equivalence (cross-over blood level studies) to Pfizer's 50-mg/mL OTC HCl injection. Pfizer's injection product was reviewed by the National Academy of Sciences/National Research Council (NAS/NRC), Drug Efficacy Study Group and, following labeling revisions, concluded to be effective for treating infections in cattle, swine, and poultry. The conditions of use in cattle for Pfizer's 50-mg/mL product are essentially the same as those mentioned above for Medico Industries' 50-mg/mL product and both are codified in § 522.1662a (21 CFR 522.1662a).

Medico Industries resubmitted results of a tissue residue study involving intramuscular use of their approved 50-mg/mL OTC HCl injection. The results demonstrate that if use of the product is discontinued 22 days before slaughter, any OTC residues occurring in edible tissues of cattle will not exceed the established tolerance (0.1 part per million). The firm's supplemental NADA is approved to provide for use of the 100-mg/mL OTC HCl injection in accordance with the same conditions of use currently approved for the 50-mg/mL injection except that the former is to be adminstered intravenously. Therefore, the same 22-day withdrawal period is considered more than adequate for the 100-mg/mL product.

This action, approval of a supplemental NADA providing for use of an alternative drug concentration level, poses no increased human risk from exposure to residues of oxytetracycline because the number of food-producing animals receiving medication will not significantly increase and the drug is already approved for use at this dosage range. Therefore, in accordance with the Bureau of Veterinary Medicine's supplemental approval policy (42 FR 64367; December 23, 1977), approval of this supplement does not require reevaluation of the safety and effectiveness data in the parent application.

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

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

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

List of Subjects in 21 CFR Part 522

Animal drugs, injectable.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10 (formerly 5.1; see 46 FR 26052, May 11, 1981)) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), Part 522 is amended in § 522.1662a by revising paragraph (h)(1), and (3)(i) and (iii) to read as follows:

PART 522—IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

§ 522.1662a Oxytetracycline hydrochloride injection.

* * * * *

(h)(1) *Specifications.* Each milliliter of sterile solution contains 50 or 100 milligrams of oxytetracycline hydrochloride.

* * * * *

(3) *Conditions of use*—(i) *Amount.* The drug is used in beef cattle, beef calves, nonlactating dairy cattle, and dairy calves as follows: 3 to 5 milligrams of oxytetracycline hydrochloride per pound of body weight per day; 5 milligrams per pound of body weight per day for treatment of severe forms of the indicated diseases.

* * * * *

(iii) *Limitations.* Administer 50-milligram-per-milliliter solution intramuscularly; administer 100-milligram-per-milliliter solution intravenously. Continue treatment 24 to 48 hours following remission of disease symptoms, not to exceed a total of 4 consecutive days. If no improvement is noted within 24 to 48 hours, consult a veterinarian for diagnosis and therapy. When injecting the drug intramuscularly, do no inject more than 10 milliliters per site in adult cattle. Reduce the volume administered per injection site according to age and body size. In calves weighing 100 pounds or less, do no inject more than 2 milliliters intramuscularly per site. Discontinue treatment at least 22 days before slaughter. Not for use in lactating dairy animals.

Effective date. This amendment is effective April 6, 1982.

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

Dated: March 12, 1982.

Robert A. Baldwin,

Associate Director for Scientific Evaluation.

[FR Doc. 82-9034 Filed 4-5-82; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Part 522

Implantation or Injectable Dosage Form New Animal Drugs not Subject to Certification; Dexamethasone-21-Isonicotinate Suspension; Change of Sponsor

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect a change of sponsor for a new animal drug application (NADA), covering a dexamethasone injection, from Norden Laboratories, Inc., to Philips Roxane, Inc. Philips Roxane filed a supplemental NADA providing for the change.

EFFECTIVE DATE: April 6, 1982.

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

SUPPLEMENTARY INFORMATION: Philips Roxane, Inc., 2621 N. Belt Highway, St. Joseph, MO 64502, filed a supplemental NADA (93-600) providing for its sponsorship of dexamethasone-21-isonicotinate suspension. The drug was formerly sponsored by Norden Laboratories, Inc., and is administered intramuscularly to dogs, cats, and horses for its anti-inflammatory effect.

The supplemental NADA for the change of sponsor is approved and the regulation is amended to reflect the approval.

This action, the change of sponsor of the NADA above, does not involve any changes in manufacturing facilities, equipment, procedures, or production personnel. Under the Bureau of Veterinary Medicine's supplemental approval policy (see 42 FR 64367; December 23, 1977) this is a Category I change which does not require reevaluation of the safety and effectiveness data in the parent application.

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

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

List of Subjects in 21 CFR Part 522

Animal drugs, injectable.

PART 522—IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

§ 522.542 [Amended]

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10 (formerly 5.1; see 46 FR 26052; May 11, 1981)) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), § 522.542 *Dexamethasone-21-isonicotinate suspension* is amended in paragraph (b) by removing drug labeler code "011519" and inserting in its place "000010".

Effective date. This amendment is effective April 6, 1982.

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

Dated: March 16, 1982.

Robert A. Baldwin,

Associate Director for Scientific Evaluation.

[FR Doc. 82-9041 Filed 4-5-82; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Part 558

New Animal Drugs for Use in Animal Feeds; Lincomycin With Lasalocid

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect the correct percentage use level of lincomycin in combination with lasalocid in broiler or fryer chicken feeds. The percentage use level was inaccurately calculated in the July 22, 1977 final regulation.

EFFECTIVE DATE: July 22, 1977.

FOR FURTHER INFORMATION CONTACT: David L. Gordon, Bureau of Veterinary Medicine (HFV-238), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-6243.

SUPPLEMENTARY INFORMATION: In the Federal Register of July 22, 1977 (42 FR 37544), FDA published a final regulation that reflected approval of Upjohn's new animal drug application (NADA) 101-689 for use of lincomycin with lasalocid in broiler or fryer chicken feeds at 68 grams per ton (0.0075 percent) lasalocid with 2 grams per ton (0.00022 percent) lincomycin. The final regulation inadvertently designated lincomycin at 2 grams per ton as 0.00044 percent. This use level was codified in 21 CFR 558.311(e) in the table in item (3). The percentage use level, however, was inaccurately calculated and should have read 0.00022 percent, not 0.00044 percent. This document corrects the error.

The Bureau of Veterinary Medicine has determined pursuant to 21 CFR 25.24(d)(1)(i) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment

nor an environmental impact statement is required.

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

List of Subjects in 21 CFR Part 558

Animal drugs; Animal feeds.

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

§ 558.311 [Amended]

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10 (formerly 5.1; see 46 FR 26052; May 11, 1981)) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), § 558.311 *Lasalocid sodium* is amended in paragraph (e) in the table in item (3) in the "Combination in grams per ton" column by removing "(0.00044 pct)" and inserting in its place "(0.00022 pct)".

Effective date. July 22, 1977.

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

Dated: March 17, 1982.

Gerald B. Guest,

Acting Director, Bureau of Veterinary Medicine.

[FR Doc. 82-9032 Filed 4-5-82; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Part 558

New Animal Drugs for Use in Animal Feeds; Tylosin

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration is amending the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) sponsored by Growmark, Inc., providing for the safe and effective use of 8 and 10-gram-per-pound tylosin premixes for making complete feeds for swine, beef cattle, and chickens.

EFFECTIVE DATE: April 6, 1982.

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

SUPPLEMENTARY INFORMATION: Growmark, Inc., 1701 Towanda Ave., Bloomington, IL 61701, is sponsor of a supplemental NADA (99-098) submitted on its behalf by Elanco Products Co. The supplement provides for use of 8 an 10-gram-per-pound tylosin premixes for making a complete swine feed which is used for prevention, treatment, and control of swine dysentery, maintaining weight gain in the presence of atrophic rhinitis; in beef cattle feed for reduction of incidence of certain liver abscesses; in chicken feed for increased rate of weight gain and improved feed efficiency; and in feed for laying chickens for improving feed efficiency. The firm currently holds an approval for use of 8, 10, and 40-gram-per-pound premixes for making a complete swine feed for increased rate of weight gain and improved feed efficiency. The supplement is approved and the regulations are amended accordingly.

Approval of this NADA relied upon safety and effectiveness data contained in Elanco Product Co.'s approved NADA 12-491. Use of the data in NADA 12-491 to support this supplement was authorized by Elanco. This approval does not involve reevaluation of the drug's safety and effectiveness in NADA 12-491.

Accordingly, under the Bureau of Veterinary Medicine's supplemental approval policy (42 FR 64367; December 23, 1977), this is a Category II supplemental approval which does not require reevaluation of the safety and effectiveness data in the original approval.

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

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

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

List of Subjects in 21 CFR Part 558

Animal drugs; Animal feeds.

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10 (formerly 5.1; see 46 FR 26052; May 11, 1981)) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), § 558.625 is amended by revising paragraph (b)(27) to read as follows:

§ 558.625 Tylosin.

* * * * *

(b) * * *

(27) To 020275: 8 and 10 grams per pound; paragraph (f)(1) (i), (iii), (iv), and (vi) of this section; 40 grams per pound; paragraph (f)(1)(vi)(*a*) of this section.

* * * * *

Effective date. This regulation is effective April 6, 1982.

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

Dated: March 15, 1982.

Robert A. Baldwin,

Associate Director for Scientific Evaluation.

[FR Doc. 82-9035 Filed 4-5-82; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Part 558

New Animal Drugs for Use in Animal Feeds; Tylosin

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration is amending the animal drug regulations to codify a previously approved supplemental new animal drug application (NADA) sponsored by Elanco Products, Co., providing for safe and effective use of a 100-gram-per-pound tylosin premix for making complete beef cattle feed.

EFFECTIVE DATE: April 6, 1982.

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

SUPPLEMENTARY INFORMATION: Elanco Products, Co., a Division of Eli Lilly & Co., 740 S. Alabama St., Indianapolis, IN 46206, submitted a supplemental NADA (12-491) on November 4, 1974 for a premix containing 100 grams of tylosin (as tylosin phosphate) per pound. The supplement contained revised labeling and a new claim for beef cattle for reduction of incidence of certain liver abscesses. The supplement was approved on January 14, 1975. However,

the additional claim for use of said premix in feed for beef cattle was inadvertently not codified.

The codification of an approved supplemental NADA does not require reevaluation of the safety and effectiveness data on file for this NADA 12–491. The regulations are amended accordingly.

A freedom of information summary of safety and effectiveness data and information submitted to support approval of NADA 12–491 for presently approved uses of tylosin premixes, including use in beef cattle feed, previously submitted in accordance with Part 20 (21 CFR Part 20) and § 514.11 (21 CFR 514.11) may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

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

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

List of Subjects in 21 CFR Part 558

Animal drugs; Animal feeds.

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10 (formerly 5.1; see 46 FR 26052; May 11, 1981)) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), Part 558 is amended in § 558.625 by revising paragraph (b)(1) to read as follows:

§ 558.625 Tylosin.

* * * * *

(b) * * *

(1) To 000986: 10, 40, 100 grams per pound, paragraph (f)(1)(i) through (vi) of this section.

* * * * *

Effective date. This amendment is effective April 6, 1982.

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

Dated: March 17, 1982.

Robert A. Baldwin,

Associate Director for Scientific Evaluation.

[FR Doc. 82–9036 Filed 4–5–82; 8:45 am]

BILLING CODE 4160–01–M

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21 CFR Part 884

[Docket No. 80M–0430]

Ovutime, Inc.; Reclassification of Viscometer for Cervical Mucus

AGENCY: The Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is announcing that it issued an order in the form of a letter to a petitioner reclassifying the viscometer for cervical mucus form class III (premarket approval) into class I (general controls). FDA also is issuing a final regulation that codifies the reclassification of the device. The effect of reclassifying a device into class I is to require that the device meet only the general controls applicable to all devices. If the device had remained classified in class III, each manufacturer of the device would have been required to submit to FDA for its approval an application for premarket approval. FDA reclassified this device in response to a petition from Ovutime, Inc., Newton, MA 02158.

EFFECTIVE DATES: The reclassification was effective on February 26, 1981. This rule becomes effective May 6, 1982.

FOR FURTHER INFORMATION CONTACT: Lillian Yin, Bureau of Medical Devices (HFK–470), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7555.

SUPPLEMENTARY INFORMATION: On February 1, 1980, Ovutime, Inc., Newton, MA 02158, submitted to FDA, under section 513(f)(2) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360c(f)(2)), a petition requesting that a new device with the brand name "Ovutime Tackiness Rheometer" be reclassified from class III into class I. The device was classified by statute into class III because it was not substantially equivalent to a device in commerical distribution before enactment of the Medical Device Amendments of 1976 (Pub. L. 94–295), see 21 U.S.C. 360c(f)(1). FDA referred the petition to the Obstetrics-Gynecology Device Section of the Obstetrics-Gynecology and Radiologic Devices Panel (the Section) for a recommendation. The Section, which named the device the "cervical mucus viscometer," recommended that the device be reclassified from class III into class I. The Section did not recommend that the device be exempted from certain requirements of section 510, 519, or 520(f) of the act, as provided in section 513(f)(2)(B)(ii) of the act.

The recommendation was based on the Section's belief that general controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device. In a notice published in the Federal Register of November 28, 1980 (45 FR 79161), FDA announced the Section's recommendation and provided a period of 30 days for interested persons to submit to FDA written comments on the recommendation. No comments were received. FDA agreed with the Section's recommendation. In accordance with section 513(f)(2)(C)(i) of the act and 21 CFR 860.134(b)(6) of the regulations, FDA approved the petition and, by order in the form of a letter dated February 26, 1981 and sent to the petitioner, reclassifed the device from class III into class I without exemptions.

Accordingly, as required by 21 CFR 860.134(b)(7) of the regulations, FDA is announcing the reclassification of a generic type of device FDA calls a viscometer for cervical mucus from class III into class I without exemptions. In addition, FDA is issuing a final regulation that codifies the reclassification of the device. Publication of this rule has been delayed because of the need to coordinate classification regulations on new, reclassified devices with regulations on devices that were in commerical distribution before enactment of the Medical Device Amendments. FDA advises that any device it determines to be substantially equivalent to the viscometer for cervical mucus also has been reclassified from class III into class I without exemptions. Based upon additional findings of the Section, FDA advises that the viscometer for cervical mucus that has been reclassified into class I has been reclassified only insofar as it is marketed for use as an adjunct in the clinical evaluation of fertility dysfunction. The labeling of the device should include a disclaimer of its use for contraceptive purposes, because such uses are investigational. Further, the labeling should include a statement to caution the user concerning the concomitant use of hormone therapy.

After considering the economic consequences of approving this reclassification, FDA certifies that this final rule requires neither a regulatory impact analysis, as specified in Executive Order 12291, nor a regulatory flexibility analysis, as defined in the Regulatory Flexibility Act (Pub. L. 96–

354). Approval of this petition will not have a significant economic impact on a substantial number of small entities. The petitioner, and all future manufacturers of a viscometer for cervical mucus, will be relieved of the costs of complying with the premarket approval requirements in section 515 of the act. There are no off-setting costs that the petitioner or other manufacturers would incur from reclassification into class I. The magnitude of the economic savings from approval of this petition depends on the extent of premarket approval studies that the petitioner would have conducted and the number of future competitors satisfying the same requirements. Neither of these parameters can be reliably calculated to permit quantification of the economic savings.

List of Subjects in 21 CFR Part 884

Medical devices; Obstetrical and gynecological devices.

PART 884—OBSTETRICAL AND GYNECOLOGICAL DEVICES

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10 (formerly 5.1; see 46 FR 26052; May 11, 1981)), Part 884 is amended in Subpart B by adding new § 884.1040, to read as follows:

§ 884.1040 Viscometer for cervical mucus.

(a) *Identification.* A viscometer for cervical mucus is a device that is intended to measure the relative viscoelasticity of cervical mucus collected from a female patient. Measurements of relative viscoelasticity are intended for use as an adjunct in the clinical evaluation of a female with chronic infertility, to determine the time of ovulation and the penetrability of cervical mucus to motile sperm.

(b) *Classification.* Class I (general controls).

Effective dates. This reclassification was effective February 26, 1981. This rule becomes effective on May 6, 1982.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)))

Dated: March 24, 1982.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 82-9039 Filed 4-5-82; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF LABOR

Office of the Secretary

29 CFR Subtitle A and Ch. XVII

30 CFR Ch. I

Display of Office of Management and Budget Control Numbers for Recordkeeping Requirements

AGENCY: Office of the Secretary, Labor.

ACTION: Technical amendments and correction.

SUMMARY: This document amends certain Department of Labor regulations to include control numbers which the Department has obtained from OMB prior to February 17, 1982, at the places in the regulations where current information collection requirements are described. OMB control numbers for other recordkeeping requirements appeared in the December 29, 1981 (46 FR 62844), and January 5, 1982 (47 FR 145), issues of the Federal Register. This document also removes obsolete references to previous GAO and OMB approvals of information collection requirements.

EFFECTIVE DATE: April 6, 1982.

FOR FURTHER INFORMATION CONTACT: Paul Larson, Director, Office of Management Reports and Analysis, Directorate of Management Policy and Systems, Room S–5526, Frances Perkins Building, U.S. Department of Labor, 200 Constitution Avenue, NW, Washington, D.C. 20210, Telephone 202–523–6331.

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The information collection requirements contained in the regulatory sections listed below have been assigned the control numbers contained in the listing by the Office of Management and Budget under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96–511).

Guide to Agency Abbreviation Code

BLS—Bureau of Labor Statistics
ESA—Employment Standards Administration
MSHA—Mine Safety and Health Administration
OSHA—Occupational Safety and Health Administration

Text of Amendments

The following corrections are made in the table appearing on page 145 of the Federal Register of January 5, 1982:

1. Under BLS, the citation reading "29 CFR 1904.2, 1904.4, and 1904.5" should read "29 CFR 1904.2, 1904.4, 1904.5 and 1904.6".

2. Under BLS, the citation reading "29 CFR 1904.5" should read "29 CFR 1904.15(b) and 1904.21".

3. Under ESA, the citation reading "29 CFR 4.6(b)(2)(1)" should read "29 CFR 4.6(b)(2) and 4.6(k)".

4. Under ESA, the entry reading "29 CFR 4.6(1)(i) * * * OMB No. 1215–0127" should not have appeared and is removed.

The following text of each paragraph cited in the second column of the table, add parenthetically the corresponding OMB number listed in the third column:

Agency	Regulatory citation	OMB No.
OSHA	29 CFR 1915.10(c)(1), 1916.10(c)(1), and 1917.10(c)(1).	1218–0052
	29 CFR 1926.550(a)(11)	1218–0054
	29 CFR 1910.68(e)(3)	1218–0055
	29 CFR 1910.252(c)(6)	1218–0056
	29 CFR 1910.268	1218–0057
	29 CFR 1910.421(b) (1)–(5), 1910.423(d)(i–iii), and 1910.440.	1218–0058
	29 CFR 1910.1007 thru 1910.1014(g)(2).	1218–0059
	29 CFR 1910.1016(g)(2)	1218–0060
	29 CFR 1910.1043(k)	1218–0061
	29 CFR 1926.400(h)(3)(vii)	1218–0062
	29 CFR 1926.803(b)(5)	1218–0063
	29 CFR 1910.1015(g)(2)	1218–0044
MSHA	30 CFR 75.200 and 75.200–5	1219–0004
	30 CFR 57.5–25	1219–0012
	30 CFR Parts 55, and 56, and 30 CFR 57.4–23.	1219–0013
	30 CFR 57.4–69	1219–0022
	30 CFR 75.1107–16	1219–0027
	30 CFR 77.1713	1219–0028
	30 CFR Parts 55 and 56, and 30 CFR 57.19–121.	1219–0029
	30 CFR 57.21–21	1219–0030
	30 CFR 57.21–35	1219–0031
	30 CFR 77.1906	1219–0032
	30 CFR 77.1901	1219–0033
	30 CFR 75.1400–4 and 77.1403	1219–0034
	30 CFR 55.3–53, 56.3–53 and 57.3–53.	1219–0035
	30 CFR 57.5–47	1219–0039
	30 CFR Part 45	1219–0043
	30 CFR 75.1714–3	1219–0044
	30 CFR 57.11–58	1219–0045
	30 CFR 57.11–53	1219–0046
	30 CFR 55.19–57, 56.19–57, and 57.19–57.	1219–0047, 1219–0048
	30 CFR 55.5–5, 56.5–5 and 57.5–5.	1219–0048
	30 CFR 75.159 and 77.106	1219–0049
	30 CFR 77.1110	1219–0050
	30 CFR 77.1101	1219–0051
	30 CFR 75.1704–2	1219–0052
	30 CFR 75.1100–3	1219–0053
	30 CFR 75.1101–23	1219–0054
	30 CFR 57.4–73	1219–0055
	30 CFR 55.13–15, 56.13–15, and 57.13–15.	1219–0056
	30 CFR 57.18–28	1219–0057
	30 CFR 57.4–74	1219–0058
	30 55.18–2, 56.18–2, and 57.18–2.	1219–0059
	30 CFR 57.5–37	1219–0061
	30 CFR 55.4–48, 56.4–48, and 57.4–48.	1219–0062
	30 CFR 55.13–30, 56.13–20, and 57.13–30.	1219–0063
	30 CFR 55.9–1, 56.9–1, and 30 CFR 57.9–1.	1219–0064
	30 CFR 75.512, 75.313–1, 75.812, 75.1805, 75.1001–1, 75.1003–2, 75.800–4, 75.900–4, and 75.1806.	1219–0067
	30 CFR 48.9 and 48.29	1219–0070
	30 CFR 75.305, 75.316, 75.309–4, 75.300–4, 75.306, and 75.303.	1219–0075

Signed at Washington, D.C. this 29th day of March, 1982.

Raymond J. Donovan,

Secretary of Labor.

[FR Doc. 82-9093 Filed 4-5-82; 8:45 am]

BILLING CODE 4510-23-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA Docket No. AH300g/IVA; A-3-FRL-2067-7]

Approval and Promulgation of Implementation Plans; Approval of Revisions to the Virginia State Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: On July 13, 1981 and on August 10, 1981, the Commonwealth of Virginia submitted rules and regulations governing the State's automobile inspection and maintenance (I/M) program and mobile source emission standards for inclusion in its State Implementation Plan (SIP). These regulations will apply only to vehicles registered in the Northern Virginia ozone nonattainment area. EPA is today approving revisions as part of the Virginia SIP.

EFFECTIVE DATE: This action is effective on May 6, 1982.

ADDRESSES: Copies of the SIP revisions and the accompanying support documents are available for inspection during normal business hours at the following addresses:

U.S. Environmental Protection Agency, Air Programs & Energy Branch (3AW10), Curtis Building, 6th & Walnut Streets, Philadelphia, Pennsylvania 19106. Attn: Ms. Patricia Sheridan

Virginia State Air Pollution Control Board, Ninth Street Office Building, Room 801, Richmond, Virginia 23219. Attn: Mr. John M. Daniel, Jr.

Public Information Reference Unit, Room 2922, EPA Library, U.S. Environmental Protection Agency, 401 M. Street SW., (Waterside Mall), Washington, D.C. 20460

The Office of the Federal Register, 1100 L Street NW., Room 8401, Washington, D.C. 20408

FOR FURTHER INFORMATION CONTACT: Ms. Eileen M. Glen at the EPA, Region III address or telephone 215/597-8187.

SUPPLEMENTARY INFORMATION: Under section 172 of the Clean Air Act, nonattainment plans for major urban areas which require an extension beyond 1982 for attainment of a standard for ozone or carbon monoxide, are required to include a vehicle I/M program as an element of the 1979 SIP revision. Full implementation of that program, in accordance with EPA's established I/M policy, is required in all cases by December 31, 1982.

Virginia included I/M as an element in their 1979 SIP revision. EPA's evaluation of and action on the I/M portion of Virginia 1979 SIP revision is documented in 45 FR 55180 (August 19, 1980), 46 FR 22185 (April 16, 1981) and 46 FR 45628 (September 14, 1981).

On May 15, 1980, the Commonwealth submitted to EPA a schedule for the implementation of the I/M program in Northern Virginia. Approval of that schedule, as revised by an April 3, 1981 submittal (EPA Docket No. AH300a/b/eVA), is the subject of a separate EPA rulemaking action. Two of the increments of progress in that schedule pertain to the adoption of Administrative and Procedural Regulations, and Motor Vehicle Emission Standards. The proposed SIP revisions, which are the subject of today's Notice, satisfy these increments. The I/M program itself was implemented on December 11, 1981.

EPA published the 1982 SIP policy (part of which pertains to I/M programs) on January 22, 1981 (46 FR 7182). As discussed in that policy, States with areas that have I/M programs under development or operational as part of their 1979 SIP revisions, were required to submit only qualitative descriptions of the I/M program elements in the 1979 SIP submittal. The 1982 SIP revision to be submitted to EPA on or before July 1, 1982, must include, unless already submitted and approved as part of a previous SIP submittal, rules and regulations and all other I/M elements which could affect the ability of the I/M program to achieve the minimum emission reduction requirements. More specifically, the 1982 submittal must include the following critical elements: (1) Inspection test procedures; (2) emission standards; (3) inspection station licensing requirements; (4) emission analyzer specification and maintenance/calibration requirements; (5) recordkeeping and record submittal requirements; (6) quality control, audit, and surveillance procedures; (7) procedures to assure that non-complying vehicles are not operated on the public roads; (8) any other official program rules, regulations and procedures; (9) a public awareness plan; and (10) a mechanics training program, if additional emission reduction credits are being claimed for mechanics training.

EPA will determine the overall adequacy of the critical elements of each I/M program and, therefore, the approvability of the 1982 SIP by comparing those elements to established I/M policy. I/M program elements must be consistent with EPA policy or a demonstration must be made that the program elements are equivalent.

State or local governments that have I/M programs, but plan to increase the coverage and/or stringency of the programs in order to achieve greater reductions and to demonstrate earlier attainment of the standards, must submit the program modifications in legally enforceable form through the 1982 SIP revision process.

In the case of a partial submittal, EPA's action will be limited to the submitted program elements. Final action on the total I/M program must be reserved until all elements are submitted and reviewed in order to assure that the program satisfies the requirements of Part D of the Clean Air Act.

On July 13, 1981 and August 10, 1981, the Commonwealth submitted certain elements designed to satisfy, in part, the I/M requirements for the 1982 SIP revision. These elements were fully described in EPA's proposed rulemaking published on December 23, 1981 (46 FR 62298). At the time, EPA proposed approval of all those completed elements, namely, the inspection test procedures, the emission standards, the inspection station licensing procedures, the emission analyzer specifications and maintenance/calibration requirements, the procedures to assure that non-complying vehicles are not operated on the public roads, and the other program rules, regulations and procedures describing the geographic coverage area, the start-up date, and the classes and ages of subject vehicles as well as the provisions for reference stations. We also proposed approval of the regulations submitted by the Commonwealth on July 13, 1981 and August 10, 1981 which only partially satisfy the following elements: Recordkeeping and record submittal requirements; and the quality control, audit, and surveillance procedures. Additional information, as outlined in the Proposed Rulemaking, must be submitted before these elements will be fully satisfied.

Public Comments

As a result of the proposed rulemaking, EPA received only one comment, from the State of Connecticut,

dated January 13, 1982. The State's comments and EPA's response are discussed in detail in EPA's memorandum dated February 17, 1982. However, the major issues raised by the State are also addressed below:

Comment: The State of Connecticut does not believe the Commonwealth can obtain the required 35% emissions reduction.

Response: EPA's 35% policy requires a 35% reduction in 1987 emissions from light duty gasoline powered vehicles in the urbanized area, as defined by the U.S. Census Bureau. Virginia's I/M program has the potential to satisfy this policy. Virginia's standards have the potential to produce a 20% failure rate for pre-1981 vehicles and should be equivalent to the section 207(b) warranty standards for 1981 and later model year vehicles. If all model years were inspected, EPA's Computer Model (MOBILE 2) for predicting I/M benefits predicts Virginia's standards should produce a 35% reduction; however, Virginia will inspect only the most recent eight model years. This limited model coverage will reduce the program's effectiveness.

The loss in program effectiveness can be overcome because Virginia will inspect vehicles outside the urbanized area and light duty trucks (LDTs). The emissions reductions obtained from inspecting vehicles outside the urbanized area and LDTs can be credited towards the 35% reduction requirement. EPA's analysis indicates that these reductions have the potential to offset the emission reduction benefits lost due to the limited model year coverage, even after the effect of Virginia's $75 waiver is factored in, so that the 35% policy may be satisfied.

It must be noted that this analysis is only preliminary and is based on national averages and the 1970 census. As EPA stated in its proposed rulemaking, Virginia must submit a complete analysis with the 1982 SIP. The use of Virginia-specific data and 1980 census data may indicate that the program will achieve more or less emission reduction benefits than this analysis indicates. If adequate emission reductions will not be achieved, the VSAPCB will have to increase the failure rate, as it is authorized to do.

Comment: The Commonwealth claims that testing will be done by an inspector who has demonstrated proficiency and has been trained in the use and calibration of analyzers, test procedures, and I/M rules and regulations yet it has no systematic mechanic training program.

Response: The Commonwealth, as required by EPA policy, has an established inspector training program. The Commonwealth has not submitted its mechanics (repairmen) training program to EPA for review and approval because they are not claiming credit for emission reductions achieved as a result of this program and, therefore, EPA approval is not required.

Comment: It would appear that this proposed rulemaking is merely in fulfillment of a procedural requirement and is contrary to the spirit of the section 307(d)(3) of the Clean Air Act Amendments concerning the "statement of basis and purpose" of rulemakings published in the **Federal Register**, in that the notice of proposed rulemaking was not published in time to allow public comments prior to the start of the Virginia program.

Response: The start-up date of the I/M program was mandated by State statute and, while EPA's administrative review of the proposed revision did somewhat delay publication of a Proposed Rulemaking, EPA has no authority to delay implementation of a State law pending submittal of comments to a **Federal Register** notice. Furthermore, the Commonwealth held public hearings prior to submittal of the proposed revisions and has already addressed any comments received at that time.

Comment: The State of Connecticut expressed concern that EPA did not publish the actual emission standards in its Notice of Proposed Rulemaking.

Response: It is standard practice to describe and summarize the State regulation in the **Federal Register** rather than reprint it. The Notice provides names, addresses, and phone numbers of State and Federal personnel any interested party may contact should he desire a copy of the regulation in question.

EPA has thoroughly reviewed all of the State of Connecticut's comments and does not find sufficient evidence has been presented to justify disapproval of the proposed revisions.

Conclusion

The Administrator's decision to approve the proposed revision was based on the comments received and on a determination that the amendments meet the requirements of section 110 and 172 of the Clean Air Act and 40 CFR Part 51, Requirements for Preparation, Adoption, and Submittal of State Implementation Plans.

Furthermore, today's action is *not* intended, nor should it be interpreted as complete approval of Virginia's total I/M program or the total I/M section of Virginia 1982 SIP revision. Approval of the total I/M program and the I/M section of the 1982 SIP revision can only be granted after all of the remaining elements, as specified above, required by the 1982 SIP policy (46 FR 7181, January 22, 1981) are submitted and reviewed in order to assure that Virginia's total I/M program and I/M section of Virginia's 1982 SIP satisfy the requirements of Part D of the Clean Air Act.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Pursuant to the provisions of 6 U.S.C. 605(b), I hereby certify that SIP approvals under section 110 and 172 of the Clean Air Act will not have a significant economic impact on a substantial number of small entities. See 46 FR 8709 (January 27, 1981). This action constitutes a SIP approval under sections 110 and 172 within the terms of the January 27 certification.

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.

(42 U.S.C. 7401–7642)

Dated: March 31, 1982.

Anne M. Gorsuch,

Administrator.

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

List of Subjects in 40 CFR Part 52

Air Pollution Control
Ozone
Sulfur oxides
Nitrogen dioxide
Lead
Particulate matter
Carbon monoxide
Hydrocarbons.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

Subpart VV—Virginia

1. In § 52.2420, paragraph (c)(70) is added as follows:

§ 52.2420 Identification of Plan

* * * * *

(c) * * *

(70) Revisions submitted on July 13, 1981 and August 10, 1981, pertaining to the Inspection and Maintenance Program in the Northern Virginia AQCR, by the Secretary of Commerce and Resources.

[FR Doc. 82-9181 Filed 4-5-82; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 201

[AH-FRL-2090-7]

Noise Emission Standards for Transportation Equipment; Interstate Rail Carriers; Correction

AGENCY: Environmental Protection Agency.

ACTION: Correction to final rule.

SUMMARY: This is a notice of corrections to the **Federal Register** published January 4, 1980, Volume 45, No. 3, at pages 1252 to 1271, titled "Environmental Protection Agency (40 CFR Part 201) Noise Emission Standards for Transportation Equipment; Interstate Rail Carriers." The corrections listed below are necessitated by minor inconsistencies and/or typographical errors in the published final rule.

FOR FURTHER INFORMATION CONTACT: Mr. Robert C. Rose, Office of Noise Control Programs, (ANR-490), Environmental Protection Agency, Washington, D.C. 20460, (703) 557-7666.

SUPPLEMENTAL INFORMATION: Errors were made to:

Page 1263, column 2, Table of Contents for Subpart C—Measurement Criteria
Page 1263, paragraph 201.1(h)
Page 1264, paragraph 201.1(r)
Page 1264, paragraph 201.1(aa)
Page 1264, paragraph 201.1(ii), was inadvertently deleted
Page 1264, column 1, line 28
Page 1264, column 1, line 31
Page 1265, column 2, line 42
Page 1265, column 2, line 51
Page 1265, column 3, line 15
Page 1265, column 3, line 34
Page 1265, column 3, line 52
Page 1265, column 3, line 56
Page 1265, column 3, line 59
Page 1266, column 1, line 58
Page 1266, column 2, line 20
Page 1266, column 2, line 30
Page 1266, column 3, line 6
Page 1270, column 1, line 5

1. Correct Table of Contents for Subpart C—Measurement Criteria as follows:

Subpart C—Measurement Criteria

Sec.
201.20 Applicability and purpose.
201.21 Quantities measured.
201.22 Measurement instrumentation.
201.23 Test site, weather conditions and background noise criteria for measurement at a 30 meter (100 feet) distance of the noise from locomotive and rail car operations and locomotive load cell test stands.
201.24 Procedures for measurement at a 30 meter (100 feet) distance of the noise from locomotive and rail car operations and locomotive load cell test stands.
201.25 Measurement location and weather conditions for measurement on receiving property of the noise of retarders, car coupling, locomotive load cell test stands, and stationary locomotives.
201.26 Procedures for the measurement on receiving property of retarder and car coupling noise.
201.27 Procedures for: (1) determining applicability of the locomotive load cell test stand standard and switcher locomotive standard by noise measurement on a receiving property; (2) measurement of locomotive load cell test stands more than 120 meters (400 feet) on a receiving property.
201.28 Testing by railroad to determine probable compliance with the standard.

§ 201.1 [Corrected]

2. On pages 1263 and 1264, § 201.1 paragraphs (h), (r), and (aa) are corrected to read as follows:

* * * * *

(h) "Decibel" means the unit measure of sound level, abbreviated as dB.

* * * * *

(r) "Maximum Sound Level" means the greatest A-weighted sound level in decibels measured during the designated time interval or during the event, with either fast meter response § 201.1(l) or slow meter response § 201.1(ii) as specified. It is abbreviated as L_{max}.

* * * * *

(aa) "Sound Level" means the level, in decibels, measured by instrumentation which satisfies the requirements of American National Standard Specification for Sound Level Meters S1.4-1971 Type 1 (or S1A) or Type 2 if adjusted as shown in Table 1. This publication is available from the American National Standards Institute, Inc., 1430 Broadway, New York, New York 10018. For the purpose of these procedures the sound level is to be measured using the Aweighting of spectrum and either the FAST or SLOW dynamic averaging characteristics, as designated. It is abbreviated as L_A.

3. Add inadvertently removed § 201.1(ii) as follows:

* * * * *

(ii) "Slow Meter Response" means that the slow response of the sound level meter shall be used. The slow dynamic response shall comply with the meter dynamic characteristics in paragraph 5.4 of the American National Standard Specification for Sound Level Meters, ANSI S1.4-1971. This publication is available from the American National Standards Institute Inc., 1430 Broadway, New York, New York 10018.

4. Corrected line 28, column 1 on page 1264 is as follows: "ANSI S1.4-1971. This publication is"

5. Corrected line 31, column one, on page 1264 is as follows: "Broadway, New York, New York 10018."

6. Corrected line 42, column two on page 1265 is as follows: "operation under stationary conditions."

7. Corrected line 51, column two on page 1265 is as follows: "operated singly and when connected to a."

8. Corrected line 15, column three on page 1265 is as follows: "when operated singly and when".

9. Corrected line 34, column three on page 1265 is as follows: "except idle, when operated singly and".

10. Corrected line 52, column three on page 1265 is as follows: "when measured with fast meter".

11. Corrected line 59, column three on page 1265 is as follows: "operation under moving conditions".

12. Corrected line 58, column one on page 1266 is as follows: "201.13 Standard for rail car operations".

13. Corrected line, column two on page 1266 is as follows: "level of 83 dB at any receiving property".

14. Corrected line 30, column two on page 1266 is as follows: "Sound level of 92 dB at any receiving".

15. Corrected line 6, column three on page 1266 is as follows: "load cell does not exceed 65 dB at any".

16. Corrected line 5, column one on page 1270 is as follows: "weighted sound level [FAST] at a rate".

Dated: March 25, 1982.

Kathleen M. Bennett,

Assistant Administrator for Air, Noise & Radiation.

[FR Doc. 82-9090 Filed 4-5-82; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL MARITIME COMMISSION

46 CFR Part 530

Maritime Carriers and Related Activities; Interpretations and Statements of Policy

AGENCY: Federal Maritime Commission.

ACTION: Adoption of statement of policy.

SUMMARY: This sets forth the Commission's policy that documents relating to matters pending before the Commission are to be filed with the Office of the Secretary. Also, requests as to whether the disposition of matters considered by the Commission in closed session has been made public are to be directed to the Office of the Secretary rather than to other Commission personnel. Recent Commission experience indicates that clarification of these points is necessary.

EFFECTIVE DATE: April 6, 1982.

FOR FURTHER INFORMATION CONTACT: Francis C. Hurney, Secretary, Federal Maritime Commission, 1100 L Street, NW., Washington, D.C. 20573; (202) 523-5725.

SUPPLEMENTARY INFORMATION: Pursuant to section 43 of the Shipping Act, 1916 (46 U.S.C. 841a) and the provisions of section 4 of the Administrative Procedure Act (5 U.S.C. 553), the Commission hereby adopts the following statement of policy by adding a new § 530.16, Policy Statement—Filing of documents and confidentiality of closed Commission meetings, to Title 46 CFR:

PART 530—INTERPRETATIONS AND STATEMENTS OF POLICY

§ 530.16 Policy statement—Filing of documents and confidentiality of closed Commission meetings.

(a) Documents relating to matters pending before the Commission are to be filed with the Office of the Secretary, unless otherwise required by 46 CFR 502.118(b)(4), in the case of exhibits in formal proceedings. Pleadings, correspondence or other documents relating to pending matters should not be submitted to the Offices of individual Commissioners. Distribution to Commissioners and other agency personnel is handled by the Office of the Secretary, to ensure that persons in decision-making and advisory positions receive in a uniform and impersonal manner identical copies of submissions, and to avoid the possibility of *ex parte* communications within the meaning of 46 CFR 502.11(b). These considerations apply to informal and verbal communications as well, such as requests for expedited consideration.

(b) All inquiries as to the status of pending matters which were considered by the Commission in closed session should be directed to the Secretary of the Commission. Commission personnel who attend closed meetings of the Commission are prohibited from disclosing anything that occurs during those meetings. An employee's failure to respect the confidentiality of closed meetings constitutes a violation of the Commission's General Standards of Conduct. The Commission can, of course, determine to make public the events or decisions occurring in a closed meeting, such information to be disseminated by the Office of the Secretary. An inquiry to the Office of the Secretary as to whether any information has been made public is not, therefore, improper. However, a request of or attempt to persuade a Commission employee to divulge the contents of a closed meeting constitutes a lack of proper professional conduct inappropriate to a person practicing before this agency, and requires that the employee file a report of such event so that a determination can be made whether disciplinary action should be initiated pursuant to 46 CFR 502.30.

By the Commission March 25, 1982.

Francis C. Hurney,

Secretary.

[FR Doc. 82-9147 Filed 4-5-82; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 22

[CC Docket 79-318]

Public Mobile Radio Services; Cellular Communications Systems; Correction

AGENCY: Federal Communications Commission.

ACTION: Final rule; correction.

SUMMARY: This document corrects a Memorandum Opinion and Order on Reconsideration that appeared on page 10018 in the **Federal Register** on March 9, 1982, 47 FR 10018 relating to use of specific frequency bands for cellular communications systems. This action is necessary to correct errors in the original document.

FOR FURTHER INFORMATION CONTACT: Thomas Gutierrez, Mobile Services Division, Common Carrier Bureau, (202) 632-6450.

SUPPLEMENTARY INFORMATION: In the matter of an inquiry into the use of the Bands 825-845 MHz and 870-890 MHz for Cellular Communications Systems; and amendments of Parts 2 and 22 of the Commission's Rules Relative to Cellular Communications Systems.

The *Memorandum Opinion and Order on Reconsideration* in the captioned proceeding, FCC 82-99 (released March 3, 1982), 47 FR 10018 (March 9, 1982), is corrected as follows:

1. On page 10031 in the issue of March 9, at footnote 51, the phrase "the day cut-off" is corrected to delete the word "day".

2. On page 10036 in the issue of March 9, near the bottom of column 3, 47 CFR 22.916(b)(1) is corrected by inserting the word "non-wireline" between the words "that" and "applicants".

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 82-9175 Filed 4-5-82; 8:45 am]

BILLING CODE 6712-01-M

INTERSTATE COMMERCE COMMISSION

49 CFR Parts 1005, 1008, and 1015

[Ex Parte 263 (Sub-3) and Ex Parte 406]

Electronic Transmission of Loss and Damage Claims and Freight Bills; Correction

AGENCY: Interstate Commerce Commission.

ACTION: Final rules; correction.

SUMMARY: At 47 FR 12803, March 25, 1982, the Commission published rules to permit electronic transmission and disposition of: (1) Freight bills; and (2) loss and damage claims (as well as overcharge, duplicate payment, or overcollection claims), as an alternative to paper bills and claims, when agreed to by the parties (carriers and shippers/consignees). That notice carried an incorrect effective date for those rules. The correct effective date is set forth below.

EFFECTIVE DATE: April 26, 1982.

FOR FURTHER INFORMATION CONTACT: Jane F. Mackall, (202) 275-7656.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-9182 Filed 4-5-82; 8:45 am]

BILLING CODE 7035-01-M

Proposed Rules

Federal Register
Vol. 47, No. 66
Tuesday, April 6, 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.

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Part 1406

Provision of Performance and Technical Data for Coal and Wood Burning Appliances

AGENCY: Consumer Product Safety Commission.

ACTION: Announcement of deferral of consideration of final rule.

SUMMARY: The Commission announces that it is deferring consideration of whether to issue its previously proposed rule that would require that certain performance and technical data be supplied with coal and wood burning stoves, freestanding fireplaces, and similar appliances. These data would be supplied so that consumers will be aware of important safety information concerning the installation, operation, and maintenance of these appliances. The proposed rule would require part of the data to be in the form of labeling on the device, and the rule would also require that complete installation, operation, and maintenance directions be provided with the appliance. The Commission has decided not to vote until the spring of 1982 on whether to issue this rule, in order to provide time to confirm preliminary data showing that a mandatory rule may not be needed due to great increase in the number of stove models that are certified by independent testing organizations and by anticipated changes in the labeling and instructions requirements that such organizations apply to these appliances.

FOR FURTHER INFORMATION CONTACT: James F. Hoebel, Office of Program Management, Consumer Product Safety Commission, Washington, D.C., 20207, phone (301) 492–6554.

SUPPLEMENTARY INFORMATION: After considering a petition from Adam Paul Banner of Midland, Michigan, the Commission concluded that a number of fires connected with coal and wood burning appliances were occurring because the appliances were improperly installed, particularly where they are installed too close to combustible walls or other materials. In addition, the Commission found that consumers were not being given sufficient information to enable them to ensure that the appliances are properly installed and that they are properly operated and maintained after installation. In order to reduce the fires occurring from these causes, the Commission, on November 17, 1980 (45 FR 76018), proposed a rule that, among other provisions, would require certain coal and wood burning appliances to bear a label containing the following information:

1. Appropriate minimum clearances from combustibles to avoid fires.
2. Type and dimensions of floor protection, if necessary to protect combustible floors.
3. Type of chimney and chimney connector to be used with the appliance.
4. Identification of parts or precautions required for passing a chimney or chimney connector through combustible walls or ceilings.
5. A statement that the appliance should not be overfired and a description of the condition(s) which signal(s) overfiring.
6. A statment of how often the chimney and chimney connector should be inspected and cleaned.

The proposal also required manufacturers to provide complete installation, operation, and maintenance directions.

In order that consumers may select an appliance suitable for their intended use and compare the safety of different appliances, the proposals would require all sales catalogs and other point of sale literature to include the appliance clearance information and the statement that local building or fire officials should be consulted concerning restrictions and installation inspection requirements.

The proposed rule would also require manufacturers to provide to the Commission copies of the written notice and directions required by the rule. Manufacturers would also provide to the Commission a statement of how the clearance distances from the appliance to combustibles were determined.

A detailed discussion of the hazards addressed by this proposal and of the rationale for its requirements is contained in the **Federal Register** notice that issued the proposal.

In response to the proposal, the Commission received 76 written comments. The Commission also received oral comments at a proceeding held on December 2, 1980. After considering the comments and other available data, the Commission's staff recommended certain modifications to the proposal, in the event the Commission decided to issue a final rule.[1]

However, in evaluating the issues involved in promulgating a final rule, the staff became aware of information showing that since the proposal had originally been considered, voluntary efforts to address the same hazards that were addressed by the proposal had increased significantly.

The voluntary activities relevant to hazards addressed by the proposal consist of a complex situation involving two Underwriters Laboratories (UL) voluntary standards (UL 1492 and UL 737), several independent test laboratories testing and certifying products to these standards (in addition to UL itself), and state and local code officials enforcing labeling and installation requirements of codes. The certification of a stove or other appliance by an independent laboratory other than UL, or by a code organization, usually indicates that the appliance has been tested to the applicable UL standard's performance requirements, but the safety labeling requirements vary with the laboratory or code group issuing the certification label.

The industry association, as well as state and local codes, have influenced manufacturers to have their products tested to the existing UL standards. The number of appliances now being sold which are certified as conforming to the UL standards' performance requirements and have some degree of installation and maintenance information accompanying them appears to be quite substantial and increasing. Information from Underwriters Laboratories indicates

[1] The recommended final rule is at Tab B of the Commission staff briefing package, "Briefing Paper on Final CPSA 27(e) Rule for Coal and Wood Burning Appliances," dated May 29, 1981, copies of which may be obtained through the Office of the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207.

that, in 1978, 78,000 UL labels were issued for stoves, representing 7 percent of the total sales. In 1980, the labels issued rose to 723,000 or 72 percent of the market. Three other certifying laboratories reported issuing a total of 82,000 labels for 1980. Based on this information, staff estimates that between 70 percent and 85 percent of the stoves built in 1980 were models that had been tested by independent laboratories.

Furthermore, UL has issued changes to their standards that are intended to reflect the substance of the Commission's proposed labeling rule. These changes are to be effective for all products manufactured with a UL label after August 31, 1982.

Based on UL listings data of 1980, it appears that in 1982 at least 70 to 75 percent of the appliances that would be subject to the proposed rule will be in conformance with the intent of all provisions, except for the requirements covering point-of-sale literature. Because of the anticipated actions of certification organizations to adopt similar label requirements, the percentage is expected to be even higher by the end of 1982.

These developments concerning voluntary efforts to address these risks are encouraging, and if the instructions and labels provided by the proposed rule are implemented by voluntary action, the Commission would consider withdrawing its proposed rule and not issuing a mandatory rule. However, the predictions of the future effectiveness of these voluntary efforts are based on estimates of the number of appliances sold by manufacturers and on the anticipated success of programs to change existing standards. Therefore, before deciding to withdraw its proposal, the Commission will conduct a survey to verify the extent to which currently marketed appliances have been certified as complying with a UL standard's performance requirements and will monitor the activities initiated by other certifying laboratories and code groups. Clearance from the Office of Management and Budget to conduct this survey was received on January 18, 1982 (control number 30410009). After these activities are completed, the Commission will analyze the available data and decide whether to withdraw the proposal or issue a final rule.

Therefore, the Commission announces that it will delay formal consideration of whether to issue a final rule requiring labeling and instructions for coal and wood burning appliances until the spring of 1982.

Dated: April 1, 1982.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 82-9247 Filed 4-5-82; 8:45 am]

BILLING CODE 6335-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Part 201

[Docket No. R-82-970]

Property Improvement Loans

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

ACTION: Proposed rule.

SUMMARY: This Proposed rule would require that all Title I Property Improvement loans in excess of $2,500 be secured by a recorded lien upon the improved property. In addition, a lien on the improved property would also be required in the event the total obligation of class 1 and class 2 loans exceeds $2,500, exclusive of financing charges. This requirement would be applicable to a borrower, co-maker or co-signer.

The reduction of the loan amount on which security is required from $7,500 to $2,500 is deemed necessary because of the significant increase in personal bankruptcy filings and the adverse treatment afforded unsecured property improvement loans in such proceedings. Lien security will also enhance the collectibility on loans and reduce credit insurance claims by insured lenders.

DATES: Comment due date: June 7, 1982.

ADDRESS: Interested persons are invited to submit comments regarding this rule to the Office of General counsel, Rules Docket Clerk, Room 5218, Department of Housng and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410. Communications should refer to the above docket number and title. A copy of each communication submitted will be available for public inspection copying during regular business hours at the above address. The proposed rule may be changed on the basis of comments received.

FOR FURTHER INFORMATION CONTACT: John L. Brady, Director, Office of Title I Insured Loans, Depatment of Housing and Urban Development, Room 9160, 451 Seventh Street, SW., Washington, D.C. 20410, (202) 755-6680. (This is not a toll-free number).

SUPPLEMENTARY INFORMATION: The Department proposes to amend its regulations to require that all Title I property improvement loans in excess of $2,500 be secured by a lien on the improved property. In addition, a lien on the improved property is also required in the event the total obligation of class 1 and class 2 loans exceeds $2,500, exclusive of financing charges. This requirement is applicable to a borrower, co-maker or co-signer. These liens may be secondary or junior to existing liens.

The reduction of the loan amount on which security is required from $7,500 to $2,500 is deemed necessary because of the significant increase in personal bankruptcy filings and the adverse treatment afforded unsecured property improvement loans in such proceedngs. Lien security will also enhance the collectibility on loans and reduce credit insurance claims by insured lenders.

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations in 24 CFR Part 50 which implement section 102(2)(C) of the National Environmental Policy Act of 1969. The Finding of No Significant Impact is available for public inspection and copying during regular business hours in the Office of the Rules Docket Clerk at the address set forth above.

This rule does not constitute a "major rule" as that term is defined in Section 1(b) of the Executive Order 12291 on Federal Regulations. An analysis of the rule indicates that it does not (1) have an annual effect on the economy of $100 million or more; (2) cause a major increase in costs or prices for consumers, individual industries, federal, state or local government agencies, or geographic regions; or (3) have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of the 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) (the Regulatory Flexibility Act), the Undersigned hereby certifies that this rule does not have a significant economic impact on a substantial number of small entities.

This rule was listed as item (C) 11(H-21-81) under the Office of Housing in the Department's Semi-annual Agenda of Regulations published on August 17, 1981 (46 FR 41717) pursuant to Executive Order 12291 and the Regulatory Flexibility Act.

The Catalog of Federal Domestic Assistance program number is 14.142, Property Improvement Loan Insurance

for Improving All Existing Structures and Building of New Nonresidential Structures.

PART 201—PROPERTY IMPROVEMENT AND MOBILE HOME LOANS

Accordingly, the Department proposes to amend 24 CFR Part 201 by revising 24 CFR 201.2(f) to read as follows:

§ 201.2 [Amended]

* * * * *

(f) *Secured notes.* A loan in excess of $2,500, exclusive of financing charges, shall be secured by a recorded lien upon the improved property. A recorded lien on the improved property, for loans of less than $2,500, is required if the total amount of all class 1 and class 2 loans of the borrower, co-maker or co-signer exceeds $2,500, exclusive of financing charges.

* * * * *

(Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d); sec. 2 of the National Housing Act 12 U.S.C. 1703)

Dated: March 26, 1982.

Philip Abrams,

General Deputy Assistant Secretary—Deputy Federal Housing Commissioner.

[FR Doc. 82-9112 Filed 4-5-82; 8:45 am]

BILLING CODE 4210-01-M

24 CFR Parts 203, 204, 213, 220, 221, 222, 226, 227, 233, 234, 235, 237, and 240

[Docket No. R-82-952]

Single Family Waiver Authority

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

ACTION: Proposed rule.

SUMMARY: This proposed change in the regulations would provide the Department with discretionary authority in individual cases to waive provisions of the single family housing regulations governing eligibility for mortgage insurance and assistance payments which are not required by law. The purpose of the change is to provide the Department with the necessary flexibility to meet the objectives of the National Housing Act.

DATE: Comment due date: June 7, 1982.

ADDRESS: Send comments to Rules Docket Clerk, Office of General Counsel, Department of Housing and Urban Development, Room 5218, 451 7th Street, SW., Washington, D.C. 20410.

FOR FURTHER INFORMATION CONTACT: John J. Coonts, Director, Single Family Development Division, Department of Housing and Urban Development, Room 9270, 451 Seventh Street, SW., Washington, D.C. 20410, (202) 755-6720. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: The Department from time to time receives single family housing proposals which meet the objectives of the National Housing Act and would provide much needed housing but which conflict with specific provisions of the regulations governing eligibility for mortgage insurance. Since the Department's single family regulations, with the exception of those governing the Section 235 program, do not provide for the issuance of waivers, many such proposals have been rejected notwithstanding that the provisions of the regulations covering such conflicts are not required by statute.

"It is well established that an agency's authority to proceed in a complex area * * * by means of rules of general application entails a concomitant authority to provide exemption procedures in order to allow for special circumstances." *U.S. v. Allegheny-Ludlum Steel Corp.*, 406 U.S. 742, 755 (1972). "[A]n application for waiver has an appropriate place in the discharge by an administrative agency of its assigned responsibilities. The agency's discretion to proceed in difficult areas through general rules is intimately linked to the existence of a safety valve procedure for consideration of an application based on special circumstances." *WAIT Radio* v. *FCC*, 418 F.2d 1153, 1157 (D.C. Cir. 1969).

The foregoing principles are exemplified by the presence of more than 20 waiver or exemption provisions in the Department's regulations (see, e.g., 24 CFR 242.88 (hospital mortgage insurance), 290.7 (management and disposition of HUD-owned properties), 510.104 (Section 312 rehabilitation loans), 570.4 (Community Development Block Grants), 899.101 (low-income housing)). At a time of volatile market conditions resulting in unmet housing needs, the necessity and desirability of such safety valve procedures applicable to the programs under the National Housing Act become more apparent. During 1980, a waiver provision applicable solely to the lower-income homeownership program under section 235 was adopted (24 CFR 235.3, published at 45 FR 53806 (August 13, 1980)). The Department proposes to adopt separate waiver provisions applicable to the eligibility requirements and assistance payments under each of the Department's single-family mortgage insurance programs. In addition, § 235.3 would be changed to be consistent with these provisions.

The Department's intent is that this waiver procedure would be available in individual cases to prevent undue hardship to homebuyers resulting from new or changed market conditions; to test the feasibility of an innovative financing proposal; or to solve a unique housing problem. The waiver would be granted only if the Secretary finds that application of a provision of the regulations not required by statute would adversely affect achievement of the purposes of the National Housing Act. The waiver authority could be delegated to the Assistant Secretary for Housing—Federal Housing Commissioner, but could not be redelegated.

The Department emphasizes that its waiver authority is not intended to be utilized for end runs around the rulemaking process. Waivers would be considered in special circumstances and would be granted in limited cases. Where apparent needs arise for modification of regulatory requirements on a more general basis, the Department would proceed by amendment to the regulations.

This regulation would apply to the following subparts: Part 203, Subpart A (except §§ 203.1 to 203.9); Part 204, Subpart A; Part 213, Subpart C; Part 220, Subpart A; Part 221, Subpart A; Part 222, Subpart A; Part 226, Subpart A; Part 227, Subpart C; Part 233, Subparts A and C; Part 234, Subpart A; Part 235, Subparts A and C; Part 237, Subparts A and C; and Part 240, Subpart A. The authority to waive would be limited to those subparts which govern eligibility for mortgage insurance and housing assistance for single family programs.

This rule does not constitute a "major rule" as that term is defined in section 1(b) of the Executive Order on Federal Regulation issued by the President on February 17, 1981. Analysis of the rule indicates that it does not (1) have an annual effect on the economy of $100 million or more; (2) cause a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; or (3) have a significant adverse effect 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.

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD

regulations in 24 CFR Part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969. The Finding of No Significant Impact is available for public inspection during regular business hours at the Office of the Rules Docket Clerk, Office of the General Counsel, Room 5218, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410.

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

This rule was not listed in the Department's Semiannual Agenda of Regulations published August 17, 1981 (46 FR 41708) pursuant to Executive Order 12291 and the Regulatory Flexibility Act.

The following numbers identify the programs as listed in the Catalog of Federal Domestic Assistance, affected by these regulation changes:

Section 203(k)—14.108 Rehabilitation Mortgage Insurance
Section 203(b)—14.117 Mortgage Insurance—Homes
14.118 Mortgage Insurance—Homes for Certified Veterans
Section 213—14.126 Mortgage Insurance—Management Type Cooperative Projects
Section 220—14.122 Mortgage Insurance—Homes in Urban Renewal Areas
Section 221(d)(2)—14.120 Mortgage Insurance—Homes for Low and Moderate Income Families
Section 222—14.166 Mortgage Insurance—Servicemen
Section 233—14.152 Experimental Housing
Section 234(c)—14.133 Mortgage Insurance—Purchase of Units in Condominiums
Section 235—14.147 Homeownership for Lower Income Families
Section 237—14.140 Special Mortgage Insurance for Low and Moderate Income Families
Section 240—14.130 Mortgage Insurance—Purchase by Homeowners of the Fee Simple Title by Lessors
Section 244—14.161 Coinsurance
Section 245(a) and 245(b)—14.159 Section 245 Graduated Payment Mortgage Program
Section 809—14.167 Mortgage Insurance—Armed Services Housing—Civilian Employees
Section 810—14.168 Armed Services Housing—Impacted Areas

List of Subjects

Part 203

Home improvement, Loan programs: housing and community development, Mortgage insurance, Solar energy.

Part 204

Mortgage insurance.

Part 213

Mortgage insurance, Cooperatives.

Part 220

Home improvement, Mortgage insurance, Urban renewal, Rental housing, Loan programs: housing and community development, Projects.

Part 221

Condominiums, Low and moderate income housing, Mortgage insurance, Displaced families, Single family housing, Projects.

Part 222

Condominiums, Military personnel, Mortgage insurance.

Part 226

Government employees, Mortgage insurance, Single family housing.

Part 227

Federally affected areas: defense housing, Military personnel, Mortgage insurance, Projects, Rental housing, Single family housing.

Part 233

Loan programs: housing and community development, Mortgage insurance, Experimental housing, Projects.

Part 234

Condominiums, Mortgage insurance, Homeownership, Projects, Units.

Part 235

Condominiums, Cooperatives, Low and moderate income housing, Mortgage insurance, Homeownership, Grant programs: housing and community development.

Part 237

Low and moderate income housing, Mortgage insurance.

Part 240

Mortgage insurance, Fee title purchase.

Accordingly, the Department proposes to amend 24 CFR Chapter II as follows:

PART 203—MUTUAL MORTGAGE INSURANCE AND REHABILITATION LOANS

Subpart A—Eligibility Requirements

1. A new center caption and § 203.248 are added as follows:

Waivers

§ 203.248 Waivers.

The Secretary in an individual case may waive any requirement of this subpart (except §§ 203.1 through 203.9) not required by statute if the Secretary finds that application of such requirement would adversely affect achievement of the purposes of the Act. Each such waiver shall be in writing and supported by a statement of the facts and grounds forming the basis for the waiver. The authority under this section may be delegated to the Assistant Secretary for Housing—Federal Housing Commissioner, but shall not be redelegated.

PART 204—COINSURANCE

Subpart A—Eligibility Requirements

2. A new center caption and § 204.248 are added as follows:

Waivers

§ 204.248 Waivers.

The Secretary in any individual case may waive any requirement of this subpart not required by statute if the Secretary finds that application of such requirement would adversely affect achievement of the purposes of the Act. Each such waiver shall be in writing and supported by a statement of the facts and grounds forming the basis for the waiver. The authority under this section may be delegated to the Assistant Secretary for Housing—Federal Housing Commissioner, but shall not be redelegated.

PART 213—COOPERATIVE HOUSING MORTGAGE INSURANCE

Subpart C—Eligibility Requirements—Individual Properties Released From Project Mortgage

3. A new center caption and § 213.748 are added as follows:

Waivers and Amendments

§ 213.748 Waivers.

The Secretary in any individual case may waive any requirement of this subpart not required by statute if the Secretary finds that application of such requirement would adversely affect achievement of the purposes of the Act. Each such waiver shall be in writing and supported by a statement of the facts and grounds forming the basis for the waiver. The authority under this section may be delegated to the Assistant Secretary for Housing—Federal Housing Commissioner, but shall not be redelegated.

PART 220—URBAN RENEWAL MORTGAGE INSURANCE AND INSURED IMPROVEMENT LOANS

Subpart A—Eligibility Requirements—Homes

4. A new center caption and § 220.248 are added as follows:

Waivers

§ 220.248 Waivers.

The Secretary in any individual case may waive any requirement of this subpart not required by statute if the Secretary finds that application of such requirement would adversely affect achievement of the purposes of the Act. Each such waiver shall be in writing and supported by a statement of the facts and grounds forming the basis for the waiver. The authority under this section may be delegated to the Assistant Secretary for Housing—Federal Housing Commissioner, but shall not be redelegated.

PART 221—LOW COST AND MODERATE INCOME MORTGAGE INSURANCE

Subpart A—Eligibility Requirements—Low Cost Homes

5. A new center caption and § 221.248 are added as follows:

Waivers

§ 221.248 Waivers.

The Secretary in any individual case may waive any requirement of this subpart not required by statute if the Secretary finds that application of such requirement would adversely affect achievement of the purposes of the Act. Each such waiver shall be in writing and supported by a statement of the facts and grounds forming the basis for the waiver. The authority under this section may be delegated to the Assistant Secretary for Housing—Federal Housing Commissioner, but shall not be redelegated.

PART 222—SERVICEMEN'S MORTGAGE INSURANCE

Subpart A—Eligibility Requirements

6. A new center caption and §222.248 are added as follows:

Waivers

§ 222.248 Waivers.

The Secretary in any individual case may waive any requirement of this subpart not required by statute if the Secretary finds that application of such requirement would adversely affect achievement of the purposes of the Act. Each such waiver shall be in writing and supported by a statement of the facts and grounds forming the basis for the waiver. The authority under this section may be delegated to the Assistant Secretary for Housing—Federal Housing Commissioner, but shall not be redelegated.

PART 226—ARMED SERVICES HOUSING—CIVILIAN EMPLOYEES (SEC. 809)

Subpart A—Eligibility Requirements

7. A new center caption and § 226.248 are added as follows:

Waivers

§ 226.248 Waivers.

The Secretary in any individual case may waive any requirement of this subpart not required by statute if the Secretary finds that application of such requirement would adversely affect achievement of the purposes of the Act. Each such waiver shall be in writing and supported by a statement of the facts and grounds forming the basis for the waiver. The authority under this section may be delegated to the Assistant Secretary for Housing—Federal Housing Commissioner, but shall not be redelegated.

PART 227—ARMED SERVICES HOUSING—IMPACTED AREAS (SEC. 810)

Subpart C—Eligibility Requirements—Individual Mortgages

8. A new center caption and § 227.748 are added as follows:

Waivers

§ 227.748 Waivers.

The Secretary in any individual case may waive any requirement of this subpart not required by statute if the Secretary finds that application of such requirement would adversely affect achievement of the purposes of the Act. Each such waiver shall be in writing and supported by a statement of the facts and grounds forming the basis for the waiver. The authority under this section may be delegated to the Assistant Secretary for Housing—Federal Housing Commissioner, but shall not be redelegated.

PART 233—EXPERIMENTAL HOUSING MORTGAGE INSURANCE

Subpart A—Eligibility Requirements—Homes

9. A new center caption and § 223.248 are added as follows:

Waivers

§ 233.248 Waivers.

The Secretary in any individual case may waive any requirement of Subparts A and C of this Part not required by statute if the Secretary finds that application of such requirement would adversely affect achievement of the purposes of the Act. Each such waiver shall be in writing and supported by a statement of the facts and grounds forming the basis for the waiver. The authority under this section may be delegated to the Assistant Secretary for Housing—Federal Housing Commissioner, but shall not be redelegated.

PART 234—CONDOMINIUM OWNERSHIP MORTGAGE INSURANCE

Subpart A—Eligibility Requirements—Individually Owned Units

10. A new center caption and § 234.248 are added as follows:

Waivers and Amendment

§ 234.248 Waivers.

The Secretary in any individual case may waive any requirement of this subpart not required by statute if the Secretary finds that application of such requirement would adversely affect achievement of the purposes of the Act. Each such waiver shall be in writing and supported by a statement of the facts and grounds forming the basis for the waiver. The authority under this section may be delegated to the Assistant Secretary for Housing—Federal Housing Commissioner, but shall not be redelegated.

PART 235—MORTGAGE INSURANCE AND ASSISTANCE PAYMENTS FOR HOME OWNERSHIP AND PROJECT REHABILITATION

Subpart A—Eligibility Requirements—Homes for Lower Income Families

11. By revising § 235.3 to read as follows:

§ 235.3 Waivers.

The Secretary in any individual case may waive any requirement of Subparts A and C of this Part not required by statute if the Secretary finds that application of such requirement would adversely affect achievement of the purposes of the Act. Each such waiver shall be in writing and supported by a statement of the facts and grounds forming the basis for the waiver. The authority under this section may be delegated to the Assistant Secretary for Housing—Federal Housing

Commissioner, but shall not be redelegated.

PART 237—SPECIAL MORTGAGE INSURANCE FOR LOW AND MODERATE INCOME FAMILIES

Subpart A—Eligibility Requirements

12. A new center caption and § 237.248 are added as follows:

Waivers

§ 237.248 Waivers.

The Secretary in any individual case may waive any requirement of Subparts A and C of this Part not required by statute if the Secretary finds that application of such requirement would adversely affect achievement of the purposes of the Act. Each such waiver shall be in writing and supported by a statement of the facts and grounds forming the basis for the waiver. The authority under this section may be delegated to the Assistant Secretary for Housing—Federal Housing Commissioner, but shall not be redelegated.

PART 240—MORTGAGE INSURANCE ON LOANS FOR FEE TITLE PURCHASE

Subpart A—Eligibility Requirements

13. A new center caption and § 240.248 are added as follows:

Waivers

§ 240.248 Waivers.

The Secretary in any individual case may waive any requirement of this subpart not required by statute if the Secretary finds that application of such requirement would adversely affect achievement of the purposes of the Act. Each such waiver shall be in writing and supported by a statement of the facts and grounds forming the basis for the waiver. The authority under this section may be delegated to the Assistant Secretary for Housing—Federal Housing Commissioner, but shall not be redelegated.

(Sec. 211, National Housing Act (12 U.S.C. 1715b))

Dated: February 16, 1982.

Philip D. Winn,

Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 82-9248 Filed 4-5-82; 8:45 am]

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DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Parts 1910 and 1918a

[Docket No. S-506]

Marine Terminals; Extension of Written Comment Period; Informal Hearing

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Extension of time for submission of written comments; notice of public hearing.

SUMMARY: In this document OSHA further extends until May 3, 1982, the time period for submission of written comments concerning the rulemaking proceeding for marine terminals (29 CFR Parts 1910 and 1918a). This further extension is due to requests from many interested parties for additional time to submit their comments, therefore, OSHA is extending the comment period to May 3, 1982.

This document also schedules an informal public hearing on the marine terminal proposal. The purpose of this hearing is to receive testimony on the feasibility and appropriateness of the proposal as well as on a series of alternative provisions to the proposal which were derived from the comments thus far submitted.

DATES: All notices of intention to appear at the public hearing, and all written comments, must be submitted by May 3, 1982. In addition, all testimony and evidence which will be introduced into the hearing record must be received by May 10, 1982.

ADDRESSES: Comments should be sent to: Docket Office, Docket No. S-506, Room S-6212, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20210, Telephone: (202) 523-7894. All written submissions will be available at the Docket Office for inspection and copying.

Notices of intention to appear and written testimony should be sent to: Tom Hall, Division of Consumer Affairs, Room N-3635, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20210, Telephone: (202) 523-8024.

The informal public hearings will begin at 9:30 a.m. on the following dates:

May 25, 1982—Auditorium, Frances Perkins Department of Labor Building, 200 Constitution Avenue, N.W., Washington, D.C. 20210

June 8, 1982—Riviera Room, Bellevue Hotel, Geary and Taylor Streets, San Francisco, California 94102, (415) 474-3600

June 22, 1982—Terrace Ballroom, University of Houston, Downtown College Center, 101 Main Street, Houston, Texas 77002, (713) 225-1781

FOR FURTHER INFORMATION CONTACT:

Concerning the proposal, contact: Basil Needham, Director, Office of Maritime Safety Standards, Occupational Safety and Health Administratin, U.S. Department of Labor, Room N-3471, 200 Constitution Avenue, NW., Washington, D.C. 20210, Telephone: (202) 523-7236.

Concerning the hearings, contact: Tom Hall, Division of Consumer Affairs, Room N-3635, Occupatinal Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20210, Telephone: (202) 523-8024.

SUPPLEMENTARY INFORMATION:

1. Background

The Occupational Safety and Health Administration (OSHA) published a Notice of Proposed Rulemaking on January 16, 1981 (46 FR 4182), which proposed to add a new part, 29 CFR Part 1918a, to provide safety and health regulations for marine terminals (Marine Terminal Standard, or MTS). Interested persons were given until May 15, 1981, to submit comments with respect to the proposal. An informal public meeting was also scheduled for April 28, 1981, in order for interested persons to obtain clarification of the proposal from representatives of OSHA. The notice of proposed rulemaking also informed the public of the opportunity to request an informal public rulemaking hearing on the substance of the proposal.

The public meeting was held as scheduled in Washington, D.C., on April 28, 1981, at which time numerous parties in attendance requested that the comment period be extended. In accordance with these requests, OSHA extended the period for written public comment to August 15, 1981, and published a notice of this extension in the Federal Register on May 29, 1981 (46 FR 28864).

Many commenters have since requested additional time to review the record and submit written data, views and arguments and also requested an opportunity for a public hearing. In response to these requests, OSHA has decided to extend the comment period to May 3, 1982, and to schedule a public hearing.

OSHA has carefully reviewed the comments submitted thus far in response to the proposal. In addition,

the Agency has asked labor unions, stevedoring companies, port authorities and trade associations, among others, to indicate which of the proposed provisions were found to be either inadequate, vague, impractical or unduly restrictive, or were creating other interpretive difficulties. The Agency asked these parties to suggest alternatives to those provisions in the proposal that were considered unsatisfactory or in some way flawed. A number of interested parties submitted such alternative language, along with their reasons for why the proposal should be changed in the manner that they suggested. The Agency believes the alternatives presented are viable and solicts the views of interested persons. Generally, the stated rationale behind many of the suggested alternative provisions was to provide more flexibility in meeting the goals of the proposal's provisions. In those instances, interested parties proposed language that was, in their view, more performance oriented, yet equally as protective as that originally proposed. In other cases, these commenters advocated that grandfather clauses be added so that existing equipment which is performing adequately does not have to be retrofitted to meet the proposal's new standards. Also, some commenters pointed out provisions in the proposal that were technically incorrect, or were correct only for certain circumstances, suggesting alternative wording to remedy these deficiencies. Many of the recommendations and alternative provisions suggested in the public comments received to date are discussed in detail below.

Review of the proposal also revealed that, in at least two instances, provisions were inadvertently omitted from the proposal of January 16, 1981. First, paragraph (a)(2)(vii) of § 1918a.1 was not included in the proposal as published. Paragraph (a)(2) of § 1918a.1 lists the limited provisions of Part 1910 that would still apply to marine terminals; paragraph (a)(2)(vii) incorporates OSHA's standard on access to employee exposure and medical records, § 1910.20, into that list. Accordingly, § 1918a.1(a)(2)(vii) should read: "(vii) Access to employee exposure and medical records. Subpart C, § 1910.20." It should be noted that the Agency did list the records access standard in its proposed amendments to paragraph (a) of § 1910.16 (see 46 FR 4226). Proposed paragraphs (a)(3) and (a)(4) of § 1910.16 were intended to parallel exactly paragraphs (a)(1) and (a)(2) of § 1918a.1 in the marine terminal code.

The second omission involved the crane standard, § 1918a.45. Paragraph (a)(1) of § 1918a.45 states that § 1918.45 applies to every kind of crane and derrick such as, but not limited to the types of cranes listed in paragraphs (a)(1)(i) through (a)(1)(vii). Inadvertently omitted from the list of examples was paragraph (a)(1)(iii), "Portal and Gantry Cranes." OSHA appreciates the assistance of several commenters who noted the omission of specific reference to portal and gantry cranes in the list of examples.

On the same day as the Marine Terminals proposed was published, OSHA also published a final rule which added detailed hearing conservation requirements top the general industry noise standard, § 1910.95 (46 FR 4078).

That standard was proposed to be incorporated in the Marine Terminal Code by virtue of § 1918a.1(a)(2)(iii). OSHA is currently engaged in a review of the hearing conservation provisions for general industry application. (See the **Federal Register** document published at 46 FR 42623 on August 21, 1981). OSHA is also aware of the concerns of various parties about the application of the hearing conservation amendment to marine terminal operations. Comment and testimony are specifically requested on the hearing conservation provisions and their appropriateness for marine terminals. OSHA also solicts recommendations as to whether the MTS should contain its own noise standard instead of incorporating § 1910.95 by reference, and what form that standard should take.

2. Economic Analyses

In addition, OSHA continues to seek information on the economic impact of the proposal. At the time of the proposal's publication, the Agency determined that the standard was not a "major" action as defined by Executive Order 12044 (43 FR 12661, March 24, 1978). However, a new Executive Order, E.O. 12291, published on February 19, 1981 (46 FR 13193), contained new criteria by which to judge whether a proposed rule would have a "major" effect on the national economy. Moreover, though OSHA provided an analysis of the economic impact of the standard in the form of a study prepared by Centaur Associated, Inc., many parties questioned the accuracy of that study's cost determinations and submitted cost estimates of their own. OSHA encurages interested persons to submit additional relevant economic information to the Agency to facilitate a more complete determination of the regulatory impact of the standard. Parties submitting economic analyses should also provide all underlying data on which these analyses are based, in order for the Agency to evaulate fairly the conclusions of each analysis.

In the proposal, OSHA made a preliminary determination that the MTS was not expected to have adverse effects on small business. In this regard, OSHA invites submission of any economic information that concerned parties may have regarding the impact of the standard on small businesses and other small entities, so that the Agency may fully carry out its responsibilities under the Regulatory Flexibility Act (Pub. L. 96–353, 94 Stat. 1164 (5 U.S.C. 601et seq.)).

3. Recommendations From Interested Parties

I. Alternative Provisions—Generic Changes

Commenters suggested that many provisions of the proposal should be revised in some respect. However, most of the recommended changes merely involved alteration or deletion of a single word or phrase appearing many times throughout the standard. Where these types of changes were recommended, this notice will not discuss each individual provision in detail. Rather, it will explain which general phrases have been suggested for modification or deletion, and the reasons interested parties provided for making such changes. This document will then give examples of how an affected provision would appear after such a change, and will then list those provisions found throughout the standard that would be similarly affected by the change set forth in the example.

Interested parties also noted that some parts of the proposal were either duplicative, unnecessary, or unrealistic, or were covered by regulations of other Federal agencies (e.g., U.S. Coast Guard). If correct, such provisions should be deleted. Accordingly, the Agency will list below those paragraphs that many commenters believed should be deleted, together with the rationale suggested for their deletion.

In addition, many of those parties submitting comments indicated a preference for carrying forward the language and coverage of the existing provisions in Parts 1910 and 1918 instead of adopting

language was unduly restrictive. To illustrate these concerns, OSHA will list the affected provision of the proposal along with its analog from either Parts 1910 or 1918.

Finally, in keeping with the spirit of Executive Order 12291, OSHA, on its own initiative, is asking for further comment on whether Part 1918a as a whole can be made more performance-oriented; that is to say, is it necessary to have regulations addressing each particular hazard, or should hazards be dealt with on a more generic basis?

a. *"The employer shall ensure * * *"* Concerned parties commented that, in most instances, the phrase "the employer shall ensure" is redundant, in that the Occupational Safety and Health Act (the OSH Act) is explicit in placing the responsibility of compliance with OSHA regulations on the employer. The phrase appeared to these individuals to be unnecessary. An example of how these commenters would alter a paragraph of the proposal is as follows:

§ 1918a.19 Movement of barges and railcars.

Present Language of Proposal: The employer shall ensure that barges and railcars are not moved by cargo runners (running rigging) from vessel cargo booms, cranes or other equipment not suitable for the purpose.

Suggested Alternative Language: Barges and railcars shall not be moved by cargo runners (running rigging) from vessel cargo booms, cranes or other equipment not suitable for the purpose.

Interested parties suggested that the following provisions be altered in the above manner:

1918a.11(a)—Housekeeping.
1918a.13(a)—Slinging.
1918a.14—Stacking of cargo and pallets.
1918a.15—Coopering.
1918a.16—Line Handling.
1918a.17(a), (e), (i), (k)—Railroad Facilities.
1918a.19—Movement of Barges and Railcars.
1918a.20—Interference With Communications.
1918a.23(b), (d), (e)—Hazardous Atmospheres and Substances.
1918a.24(a)—Carbon Monoxide.
1918a.25(e)—Fumigants, Pesticides, Insecticides and Hazardous Preservatives.
1918a.27(a)—Personnel.
1918a.41(a)—House Falls.
1918a.42(a)—Miscellaneous Auxiliary Gear.
1918a.43(b)(1), (c)(1), (e)(1), (e)(6)(ii)(D), (e)(6)(ii)(G)—Powered Industrial Trucks.
1918a.44(b), (j), (k), (l)(1), (p)(3)(ii), (p)(4)—General Rules Applicable to Vehicles.
1918a.45(b)(1), (d)(1), (g)(2), (j)(1), (6), (7), (k)(1)—Cranes and Derricks.
1918a.47(a)(1)—Winches.
1918a.48(a), (g), (j)(2)—Conveyors.
1918a.49(a), (h), (i), (l)(1)—Spoutes, Chutes, Hoppers, Bins.
1918a.50(h)—Certification of Marine Terminal Handling Devices.
1918a.51(a)—Hand Tools.
1918a.71(b)—Terminals Handling Intermodal Containers or Roll-On, Roll-Off Operations.
1918a.73(b)(1)—Terminal Facilities Handling Menhaden and Similar Species of Fish.
1918a.111(a)—Maintenance and Load Limits.
1918a.112(a)(1)—Guarding of Edges.
1918a.113—Clearance Heights.
1918a.114(a)(1), (c)(2)—Cargo Doors.
1918a.116(a), (b), (c)—Platforms and Skids.
1918a.117(c), (e)—Elevators and Escalators.
1918a.119(c)(1), (7)—Fixed Ladders.
1918a.120(b)(1), (c), (d), (e)(1), (f)(8)—Portable Ladders.
1918a.121(d)—Fixed Stairways.
1918a.122(b)—Spiral Stairways.
1918a.123(a)—Employee Exits.
1918a.126—Guarding Temporary Hazards.
1918a.151(b)(1), (7), (9), (c), (d)(1), (e)(5), (g)(1), (6), (h)—Machine Guarding.
1918a.152(b)(1), (c)(1), (2), (d)(1), (e)(1)(i), (6), (f)(1), (2), (f)(3)(iii), (iv), (v), (f)(4), (g), (h)—Welding, Cutting and Heating.
1918a.153(c)(1), (8), (d)(1), (e)(1)—Spray Painting.
1918a.154—Compressed Air.
1918a.155(b)(1)—Air Receivers.
1918a.156(b)(1), (c)(1)—Fuel Handling and Storage.
1918a.157(a)—Battery Charging and Changing.
1918a.158(a)—Prohibited Operations.

In a limited number of cases, commenters suggested that the word "ensure" be changed to "instruct" or "direct." They indicated that the work practices described in these provisions were laudable and that the employer has the obligation both to educate his workers in these practices through an ongoing safety program, and to insist that his employees continue to perform their work in such a manner. However, these parties argued that in these instances, an employer cannot be a guarantor or "ensurer" of employee conduct, since the manner in which these work practices are performed is in large part determined by the individual employee and out of the employer's immediate control. An example of this type of suggested change is as follows:

§ 1918a.43(b)(7) Powered industrial trucks.

Present Language of Proposal: The employer shall ensure that drivers ascend and descend grades slowly.

Suggested Alternative Language: The employer shall instruct drivers to ascend and descend grades slowly.

Commenters advocated that the following provisions of the standard be altered in the above manner:

1918a.41(c)—House Falls.
1918a.43(b)(7), (8), (9)—Powered Industrial Trucks.
1918a.44((d), (g)—General Rules Applicable Vehicles.
1918a.45(e)(l), (g)(3)—Cranes and Derricks.
1918a.71(g)(2)—Terminals Handling Intermodal Containers or Roll-On Roll-Off Operations.
1918a.128(c)—Sanitation.

OSHA invites comments and testimony on the entire list of proposed provisions which contain the language "The employer shall ensure." The Agency specifically requests that interested persons provide their rational for recommending particular changes in the above:

b. *[Records] "which shall be available at the terminals."* Many parties submitting comments contended that records concerning strength ratings for loose gear and other material handling devices do not have to be kept at the terminal, but need only be in a location where they can be retrieved if so requested. Accordingly, these persons suggested that the phrase "at the terminal" be deleted from the following provisions:

1918a.42(g)(4), (h)—Miscellaneous Auxiliary Gear.
1918a.45(f)(7)—Cranes and Derricks.
1918a.50(c)(l), (2), (3),(h)—Certification of Marine Terminal Material Handling Devices.

c. *Deletions.* Commenters argued that a number of the proposal's rules were redundant, unnecessary, overly vague, technically infeasible, or are covered more appropriately by the rules of another agency, and therefore, asked that these provisions be deleted. These proposed rules, together with the reasons suggested for their deletion, are as follows:

§ 1918a.13(c), (e) Slinging.

Several commenters argued that pargraphs (c) and (e) were unnecessary because other provisions of § 1918a.13 covered the matters addressed by these two paragraphs. Additionally, other commenters asserted that paragraph (e) was unrealistic and would create unduly costly production delays.

§ 1918a.17(c) Railroad facilities.

One commenter argued that this paragraph would require physical inspection of every railcar on the terminal, and, as such, was unreasonable and should be eliminated.

§ 1918a.18(a) Log handling.

A commenter indicated that log bunks are designed so that slings can not come in contact with the structural parts of the log bunk, thereby making this provision unnecessary.

§ 1918a.21 Open fires.

Several commenters asserted that U.S. Coast Guard regulations already

prohibit open fires in marine terminals and that OSHA's rule is unnecessary.

§ 1918a.27(a)(2) Personnel.

Several commenters contended that a modification of the training requirements of paragraph (a)(1) would eliminate the need for paragraph (a)(2).

§ 1918a.42(g)(4) Miscellaneous auxiliary gear.

Many commenters argued that manufacturer's use recommendations for synthetic web slings are seldom available a the work site, particularly in the case of inbound cargoes.

§ 1918a.43(g)(4) Powered industrial trucks.

(c)(3) Maintenance of daily inspection records for 30 days was considered unnecessary, especially since other requirements of this paragraph called for trucks to be maintained in safe working order or not operated.

(e)(3)(ii) Unauthorized riding on vehicles was considered to be adequately covered elsewhere in the section.

(e)(6)(i) Some commenters asserted that this paragraph's prohibition of standing on the forks of a lift truck was covered by other provisions.

(e)(6)(ii)(E) One commenter asked that this overhead guarding provision be struck on grounds of impracticality.

(g)(3) Several commenters urged that the straddle truck visibility requirement be struck because it was vague.

§ 1918a.44 General rules applicable to vehicles.

(h) One commenter argued that this sign posting requirement was covered by other provisions in this section.

(1)(2) A commenter contened that this provision concerning safety factors for ramps could not feasibly be complied with, and so should be eliminated.

§ 1918a.45 Cranes and derricks.

(f)(2)(ii) Many commenters asserted that securing purchase blocks with extendable booms when a whip line is in use could result in either structural damage to the crane or personal injury.

(g)(3)(iii) Several commenters argued that requiring wind indicating devices to read out in the operator's cab was overly restrictive, in that the employer should be permitted the option of deciding where this information should "read out."

(h) A number of commenters indicated that proper hoisting by locomotive cranes may be adequately covered by other parts of § 1918a.45.

(j)(1)(ii)(E) Several commenters argued that inclusion of an overhead guard on a hoisting platform was unnecessary.

(j)(4) One commenter asserted that the tying off requirement covering employees on a hoisted platform was impossible to enforce and would create tripping hazards.

§ 1918a.71 Terminals handling intermodal containers or roll-on, roll-off operations.

(h) Several commenters remarked that requiring employees working with container handling equipment or in the terminal's traffic lanes to wear high visibility vests was impractical and unenforceable.

§ 1918a.95 Other protective measures.

(b) One commenter argued that since some employees have allergic reaction to certain protective ointments and creams, their use should not be a requirement.

(c) One commenter contended that work experience demonstrated little need for life-savings equipment to protect against drownings.

§ 1918a.115—Cargo handling surfaces.

One commenter asserted that this provision was too vague to be enforceable.

§ 1918a.120 Portable ladders.

(f)(10) Commenters suggested that this paragraph covering ladder placement be deleted because ladder placement is the employee's responsibility.

§ 1918a.127 River banks.

One commenter argued that there is no necessity for § 1918a.127 because the hazards it addresses are "most uncommon."

d. *Preference for Wording of Parts 1910 and 1918.* Many interested parties argued that certain provisions of the proposal should be replaced by existing parallel regulations found in either Part 1918 or Part 1910. They believed that the language in the current rules is more understandable in some instances, and in other cases is either less restrictive or more practical than that of the proposal. These persons suggested that the following rules of the proposal be supplanted by the current regulations listed below:

Proposed rule	Current rule
1918a.11(b)—Housekeeping	1918.43(c).
1918a.13(a)—Slinging	1918.81(a).
1918a.13(b)—Slinging	1918.81(e).
1918a.13(g)—Slinging	1918.81(d).
1918a.13(h)—Slinging	1918.81(f).
1918a.22(b)—Hazardous Cargo.	1918.86(b).
1918a.27(a)(1)—Personnel	1918.97(a).
1918a.27(a)(3)—Personnel	1918.97(b).
1918a.42(a)(2)—Miscellaneous Auxiliary Gear.	1918.61(a).
1918a.42(b)(2)(i)—Miscellaneous Auxiliary Gear.	1918.63(e)(4).
1918a.43(c)(7)—Powered Industrial Trucks.	1918.178(a)(3).
1918a.45(f)(9)—Cranes	1918.179(g)(2)(i).
1918a.46—Crane Load/Limit Devices.	1918.74.
1918a.48(f)—Conveyors	1918.69(a).
1918a.71(c)—Containers or Roll-On/Roll-Off.	1918.85(b).
1918a.71(d)—Containers or Roll-On/Roll-Off.	1918.85(b).
1918a.71(e)—Containers or Roll-On/Roll-Off.	1918.85(b).
1918a.71(f)—Containers or Roll-On/Roll-Off.	1918.85(c).

OSHA requests that interested persons provide explanations as to which of the present provisions they consider to be more appropriate than those in the proposal, and how they provide equivalent safety.

II. Alternative Provisions—Individual Changes

Those persons submitting comments on the proposal suggested alternative language for a large number of proposed provisions. The reasons given to support these changes are not easily categorized, since they are completely dependent upon the particular subject matter of the proposed rule being examined. OSHA is publishing many of the suggested alternative provisions in full in this section, together with the language contained in the January 16, 1981, proposal. Where necessary for clarification of the suggested alternative, the reasons provided by the commenters in support of their recommended changes are summarized succinctly. Comments and testimony are invited on whether the original proposal, the suggested alternative, or some other language should be adopted. OSHA also requests information on whether certain provisions should be more performance-oriented, and how this can best be accomplished.

§ 1918a.1 Scope and applicability.

Proposed Provision (a)(1): The provisions of Part 1918a do not apply to the following.

(i) Facilities used for bulk storage, handling and transfer of flammable and combustible liquids, gases and hazardous cargo to the extent that specific working conditions are regulated by the United States Coast Guard.

Concerned parties have commented that regulations currently in place for both OSHA (29 CFR Part 1910/29 CFR Part 1918) and the U.S. Coast Guard (33 CFR Chapter I/49 CFR Chapter IV)

afford more protection to employees at bulk liquid and gas facilities than would the provisions of Part 1918a. It is felt by these parties that OSHA's proposed maritime code is directed at the more standard types of marine cargo handling, (i.e., break bulk and container facilities) and as such they feel the provision should read as follows:

Alternative Provision (a)(1): The provisions of Part 1918a do not apply to the following:

(i) Facilities used solely for the bulk storage, handling and transfer of flammable, non-flammable and combustible liquids and gases.

§ 1918a.2 Definitions.

Proposed Provision (1): "Examination," as applied to material handling devices required by this Part to be certificated, means a thorough visual inspection, supplemented by other tests and procedures appropriate to the type of gear or device. For example, crane examinations include testing of all normal operations, such as slewing, topping, and hoisting, followed by inspection of accessory gear such as sheaves, or blocks, which disassembled to ensure that they are in good operating condition.

Concerned parties have commented that a distinction needs to be made between the terms "inspection" and "examination." The following change has been suggested:

Alternative Provision (1): "Examination," as applied to material handling devices required by this Part to be certificated, means a comprehensive survey consisting of the criteria outlined in 29 CFR 1919.17(d) as applicable to the type of gear or device. The examination is supplemented by a unit proof test in the case of a quadrennial survey.

Proposed Provision (u): "Marine Terminal" means wharves, bulkheads, quays, piers, docks and other berthing locations and adjacent storage or contiguous areas and structures which are devoted to receiving, handling, holding, consolidation, and loading or delivery of waterborne shipments, including areas devoted to the maintenance of the terminal or equipment. The term does not include production or manufacturing areas having their own docking facilities and located at a marine terminal.

Concerned parties have commented that a great deal of confusion would ensue if storage areas directly related to production and manufacturing areas were not excluded from the provisions of this Part. Other parties expressed uncertainty as to whether passenger terminals were intended to be included in the provisions of this Part. They suggest the following language:

Alternative Provision (u): "Marine Terminal" means wharves, bulkheads, quays, piers, docks and other berthing locations and adjacent storage or contiguous areas and structures associated with the primary movements of cargo or materials from vessel to shore or shore to vessel including structures which are devoted to receiving, handling, holding, consolidation and loading or delivery of waterborne shipments and passengers, including areas devoted to the maintenance of the terminal or equipment. The term does not include production or manufacturing areas having their own docking facilities and located at a marine terminal nor does the term include storage facilities directly associated with those production or manufacturing areas.

§ 1918a.11 Housekeeping.

Proposed Provision (a): The employer shall ensure that work areas are kept reasonably free of equipment and materials not in use, and clear of debris, projecting nails, strapping and other sharp objects not directly associated with the work in progress.

Alternative Provision (a): Active work areas shall be kept free of equipment and materials not in use, and clear of debris, projecting nails, strapping and other sharp objects not directly associated with the work in progress.

Proposed Provision (b): Hatch beams and covers placed in terminal working areas shall either be stowed in stable piles with beams secured against tipping or falling, or be laid on their sides.

One commentor contended that this paragraph was incomplete, in that it did not offer enough flexibility, nor did it provide the same degree of coverage as that provided under the present maritime rules (see § 1918.43(c)). The following language has been suggested:

Alternative Provision (b): Hatch beans, covers and pontoons placed in terminal working areas shall be stowed in stable piles with beams secured against tipping or falling. Alternatively, beams may be laid on their sides. When beams and pontoons are stowed in tiers more than one high, dunnage or other suitable material shall be used under and between tiers.

Proposed Provision (c): Cargo and material shall not obstruct access to vessels, cranes, vehicles or buildings.

Alternative Provision (c): Cargo and material shall not obstruct access to vessels, cranes, vehicles or buildings. Means of access and egress within buildings shall be similarly unobstructed.

§ 1918a.12 Slippery conditions.

Proposed Provision: The employer shall eliminate, to the extent possible, slippery working and walking surfaces in areas used by employees.

Alternative Provision: The employer shall eliminate, to the extent possible, conditions causing slippery working and walking surfaces in immediate work areas used by employees.

§ 1918a.13 Slinging.

Proposed Provisions (d): Unitized loads bound by bands or straps may be hoisted by the banding or strapping only if the banding or strapping is designed for hoisting and is strong enough to support the weight of the load. The means of handling shall not damage the bands or straps.

Concerned parties have commented that unitized banding and strapping which may not have been designed specifically for hoisting may in fact be very capable of being hoisted. They suggest the following:

Alternative Provision (d): Unitized loads bound by bands or straps may be hoisted by the banding or strapping only if the banding or strapping is suitable for hoisting and is strong enough to support the weight of the load.

Proposed Provision (f): Unitized loads having damaged banding or strapping shall be handled by additional means that will ensure safe handling of the draft.

Alternative Provision (f): Additional means of hoisting shall be employed to ensure safe lifting of unitized loads having damaged banding or strapping.

§ 1918a.14 Stacking of cargo and pallets.

Proposed Provision: The employer shall ensure that cargo and pallets stored in tiers are stacked to provide stability against sliding and collapse.

Alternative Provision: Cargo, pallets and other material stored in tiers shall be stacked in such a manner as to provide stability against sliding and collapse.

§ 1918a.15 Cooperating.

Proposed Provision: The employer shall ensure that the repair or reconditioning of damaged or leaking cargo packaging (coopering) is so located and performed as not to endanger employees.

Commenters stated that the location of a coopering operation is usually out of the hands of the employer and suggested the following:

Alternative Provision: Repair and reconditioning of damaged or leaking cargo packaging (coopering) shall be

performed as not to endanger employees.

§ 1918a.16 Line handling.

Proposed Provision (a): The employer shall ensure that areas used to handle mooring lines are kept free of obstructions.

Commenters stated that items commonly found in areas used to handle mooring lines (e.g., bollards, cleats), should not be considered obstructions. Accordingly, they suggest:

Alternative Provision (a): In order to provide safe access for handling lines while mooring and unmooring vessels, cargo or material shall not be stowed or vehicles placed where they obstruct the necessary work surface.

§ 1918a.17 Railroad facilities.

Proposed Provision (a): The employer shall ensure that work is performed in railcars only if floors of the railcars are in safe condition.

One commenter argued that the proposed standard would make an employer responsible for "hidden" defects, and as such, was an unreasonable burden to impose. It offered the following language:

Alternative Provision (a): Work shall be performed in railcars only if floors of the railcars are in visibly safe condition for the work activity and equipment to be used.

Proposed Provision (e): When employees are working in, on, or under a railcar, the employer shall ensure that flags or signs warning that work is in progress are placed no less than 50 feet from any end of the railcar exposed to impact from moving railcars.

Commenters have indicated that rail operations at marine terminals vary widely, making compliance with the provision difficult. Performance language has been suggested:

Alternative Provision (e): When employees are working in, on, or under a railcar, positive means shall be taken to protect them from exposure to impact from moving railcars.

Proposed Provision (g): Railcars shall be moved only when attached to an engine or other powered vehicle. Free rolling movement of railcars is prohibited.

Alternative Provision (g): The employer shall institute all necessary controls during railcar movement to safeguard personnel. If winches or capstans are employed for movement, employees shall stand clear of the hauling rope and shall not stand between the rope and the cars.

Proposed Provision (h): Only freight car doors in safe condition shall be opened. Before being opened fully, doors shall be opened slightly to ensure that the load has not shifted during transit.

Alternative Provision (h): Before being opened fully, doors shall be opened slightly to ensure that the load has not shifted during transit. Special precautions shall be taken if the doors being opened are visibly damaged.

Proposed Provision (i): If power trucks are used to open freight car doors, the trucks shall be equipped with door opening attachments. The employer shall ensure that truck drivers stand clear of the railcar door while it is being opened or closed.

Alternative Provision (i): If power industrial trucks are used to open freight car doors, the trucks or the railcar doors shall be equipped with door opening attachments. Employees shall stand clear of the railcar doors while they are being opened and closed.

Proposed Provision (k): The employer shall ensure that employees do not remain in or on gondolas or flat cars when drafts are being hoisted over the car or landed in the car; end gates, if raised, shall be secured.

Commenters suggested that a leading cause of injuries associated with this equipment relates to slipping and tripping while getting in or out of the car. Therefore, if an employee does not have to leave the car during operations, the risk of such accidents is reduced. These commenters noted in this regard that depending upon the cargo being moved and the hazards presented, it is not always necessary for employees to leave the car. Those commenters suggest the following:

Alternative Provision (k): Employees shall not remain in or on gondolas or flat cars when drafts that create overhead, caught-in or between or struck by hazards are being landed in or on the railcar; end gates, if raised, shall be secured.

Proposed Provision (o): Warning signs shal be posted if a clearance of less than 24 inches (.61m) exists between railcars and structures, cargo or waterside edges.

Alternative Provision (o): Warning signs shall be posted if insufficient clearance for personnel exists between railcars and structures.

§ 1918a.18 Log handling.

Proposed Provision (d): Logs placed adjacent to vehicle curbs on the dock shall not be over one tier high unless they are contained in bunks or are stacked or unitized to prevent spreading.

Alternative Provision (d): Logs placed adjacent to vehicle curbs on the dock shall not be over one tier high unless placed in bunks or so stacked as not to roll or otherwise create a hazard to workers.

§ 1918a.20 Interference with communications.

Proposed Provision: The employer shall ensure that noise does not interfere with the communication of warnings or instructions during cargo-handling operations.

Some commenters felt that some noise, i.e., overhead aircraft, ship whistles, may be beyond their ability to control. They suggested the following:

Alternative Provision: Workplace noise generated by the employer's activities shall not interfere with communications, warnings, or instructions to employees during cargo-handling operations.

§ 1918a.23 Hazardous atmospheres and substances.

Proposed Provision (a): Purpose and scope. This section covers areas in which a hazardous atmosphere or substance may exist, except where one or more of the following sections apply: § 1918a.22 *Hazardous cargo;* § 1918a.24 *Carbon monoxide;* § 1918a.25 *Fumigants, pesticides, insecticides and hazardous preservatives;* 1981a.73 *Menhaden terminals;* § 1918a.152 *Welding, cutting and heating (hot work);* and § 1918a.153 *Spray painting.*

Alternative Provision (a): Purpose and scope. This section covers areas in which the employer is aware that a hazardous atmosphere or substance may exist, except where one or more of the following sections apply: § 1918a.22 *Hazardous cargo;* §1918a.24 *Carbon monoxide;* § 1918a.25 *Fumigants, pesticides, insecticides and hazardous preservatives;* § 1918a.73 *Menhaden terminals;* § 1981a.152 *Welding, cutting, and heating (hot work);* and §1918a.153 *Spray painting.*

Proposed Provision (b) Determination of hazard. (1): When a room, building, vehicle, railcar or other space contains or has contained a hazardous atmosphere, the employer shall ensure that a designated and appropriately equipped person tests the atmosphere before employee entry to determine whether a hazardous atmosphere exists.

Alternative Provision (b) Determination of hazard. (1): When the employer is aware that a room, building, vehicle, railcar or other space contains or has contained a hazardous atmosphere, a designated and appropriately equipped person shall test the atmosphere before employee entry to determine whether a hazardous atmosphere exists.

Proposed Provisions (d)(3) and (d)(4):

(3) No ignition source shall be permitted in spaces containing flammable atmospheres; and

(4) Persons required to enter flammable atmospheres or those containing less than 19.5% oxygen shall use self-contained breathing apparatus or supplied air respirators drawing air from an uncontaminated source.

Commenters have recommended that employees only be permitted to enter flammable or oxygen deficient atmospheres in emergencies and for rescue operations. The following language has been suggested:

Alternative Provisions (d)(3) and (d)(4):

(3) Except for emergency or rescue operations, employees shall not enter into any atmosphere which has been identified as flammable or oxygen deficient (less than 19.5% oxygen). Persons who may be required to enter flammable or oxygen deficient atmospheres in emergency operations shall be instructed in the dangers attendant to those atmospheres and instructed in the use of self-contained oxygen breathing apparatus, which shall be utilized.

(4) To prevent inadvertent employee entry into spaces that have been identified as having hazardous, flammable or oxygen deficient atmospheres, appropriate warning signs or equivalent means shall be posted at all means of access to those spaces.

§ 1918a.24 Carbon monoxide.

Proposed Provision (a) Exposure limits: The employer shall ensure that the carbon monoxide content of the atmosphere in a room building, vehicle, railcar or other enclosed spaces does not exceed 50 parts per million (0.005%) as an 8-hour time-weighted average (TWA) or 75 parts per million (0.0075%) at any time. Areas with concentrations above these levels shall be considered hazardous and employees entering these areas shall be protected as provided in § 1918a.23(d).

Alternative Provision (a) Exposure limits: The carbon monoxide content of the atmosphere in a room, building, vehicle, railcar or any enclosed space shall be maintained at not more than 50 parts per million (0.005%) as a time-weighted average and employees shall be removed from the enclosed space if the carbon monoxide concentration exceeds 100 parts per million (0.01%).

§ 1918a.25 Fumigants, pesticides, insecticides and hazardous preservatives.

Proposed Provision (a): When cargo in a space is or has been stowed, handled, or treated with a fumigant, pesticide, insecticide, or hazardous preservative, a determination shall be made as to whether a hazardous atmosphere is present in the space, and only employees protected as required in paragraph (e) of this section shall enter the space if it is hazardous.

Alternative Provision (a): When the employer is aware that cargo in a space is or has been stowed, handled, or treated with a fumigant, pesticide, insecticide, or hazardous preservative, a determination shall be made as to whether a hazardous atmosphere is present in the space, and only employees protected as required in paragraph (e) of this section shall enter the space if it is hazardous.

Proposed Provision (e)(2): Persons entering a space containing a hazardous atmosphere shall be instructed in the nature of the hazard, precautions to be taken, and the use of protective and emergency equipment. Standby observers shall be similarly equipped and instructed and shall continuously monitor the activity of employees within such a space.

Comment has been received which suggests that depending on the degree of hazard generated by the fumigant, pesticide, insecticide or hazardous preservative, standby observers may not always be required. That comment suggests the following:

Alternative Provision (e)(2): Persons entering a space containing a hazardous atmosphere shall be instructed in the nature of the hazard, precautions to be taken, and the use of protective emergency equipment. Standby rescue workers, if required, shall be similarly equipped and instructed and shall continuously monitor the activity of employees within such a space.

§ 1918a.26 First aid and lifesaving facilities:

Proposed Provision (d): Stretchers permanently equipped with bridles for hoisting shall be readily accessible. A blanket shall be available.

Concerned parties have commented that blankets are extremely susceptible to pilferage in the marine terminal environment, and that other coverings can be used in the effective treatment of shock. They suggest the following:

Alternative Provision (d): Stretchers permanently equipped with bridles for hoisting shall be readily accessible. A blanket or other suitable covering shall be available.

Proposed Provision (f): A U.S. Cost Guard approved 30-inch (76.2 cm) life ring, with at least 90 feet (27.42 M) of line attached, shall be available at readily accessible points within 20 feet (61 m) of each waterside work area. Employees working on any bridge or structure leading to a detached vessel berthing installation shall wear work vests provided by the employer at no cost to the employee. A readily available portable or permanent ladder giving access to the water shall also be provided within 200 feet (61 m) of such work areas.

Alternative Provision (f): A U.S. Coast Guard approved 30-inch (76.2 cm) life ring, with at least 90 feet (26.42 m) of line attached, shall be available at readily accessible points at each waterside work area where the employees' work exposes them to the hazard of drowning. Employees working on any bridge or structure leading to a detached vessel berthing installation shall wear U.S. Coast Guard approved personal flotation devices except where protected by railings, nets, or safety belts and lifelines. A readily available portable or permanent ladder giving access to the water shall also be provided within 200 feet (61 m) of such work areas.

§ 1918a.27 Personnel.

Proposed Provision (b) Supervisory accident prevention proficiency. (1): After (two years after promulgation) supervisors of more than five persons shall possess documentary evidence of satisfactory completion of a course in accident prevention. Employees newly assigned to supervisory duties after that date shall be required to meet the provisions of this paragraph within ninety (90) days of such assignment.

Commenters have indicated that this provision, as written, would require accident prevention training for office managers and other persons not involved with cargo-handling operations. They also stated that documentary evidence of training can be maintained using customary records, and that it need not be spelled out in the standard. Accordingly, they suggest the following:

Alternative Provision (b) Supervisory accident prevention proficiency. (1): After (3 years from promulgation) immediate supervisors of cargo-handling operations of more than five persons shall satisfactorily complete a course in accident prevention. Employees newly assigned to supervisory duties after that date shall be required to meet the provisions within ninety (90) days of such assignment.

Proposed Provision (b)(2): The course shall consist of classroom instruction suited to the particular operations involved and shall include at least the following:

(i) Safety responsibility and authority;

(ii) Elements of accident prevention;
(iii) Attitudes, leadership and motivation;
(iv) Hazards of longshoring, including peculiar local circumstances;
(v) Hazard identification and elimination;
(vi) Applicable regulations; and
(vii) Accident investigation.

Alternative Provision (b)(2): The course shall consist of instruction suited to the particular operations involved. The following are recommended topics.
(i) Safety responsibility and authority;
(ii) Elements of accident prevention;
(iii) Attitudes, leadership and motivation;
(iv) Hazards of longshoring, including peculiar local circumstances;
(v) Hazard identification and elimination;
(vi) Applicable regulations; and
(vii) Accident investigation.

§ 1918a.42 Miscellaneous auxiliary gear.

Proposed Provision (b) Wire rope and wire rope slings. (1): The employer shall ascertain and adhere to the manufacturer's recommended ratings for wire rope and wire rope slings used for hoisting and shall have such ratings available at the terminal. A design safety factor of at least five shall be maintained for the common sizes of running wire used as falls, in purchases or in such uses as light load slings * * *

Comment has been received indicating that due to the location of some worksites and because of the transitory nature of these worksites, ratings for all wire rope and wire rope slings being used would be hard to furnish. Additional comment contends that there should not be a prohibition against the use of wire rope and wire rope slings for which the employer may not possess use recommendations, due either to the age of the rope or to the possibility of the rope's manufacturer having gone out of business. Accordingly, the following language has been suggested:

Alternative Provision (b) Wire rope and wire rope slings. (1): The employer shall ascertain and adhere to the manufacturer's recommended ratings for wire rope and wire rope slings and shall have such ratings available. When the manufacturer is unable to supply such ratings, the employer shall use the tables for wire rope and wire rope slings found in American National Safety Standard for Slings, ANSI B30.9–1971. A design safty factor of at least five shall be maintained for the common sizes of running wire used as falls, in purchases or in such uses as light load slings * * *

Proposed Provision (f) Thimbles: Properly fitting thimbles shall be used where any rope is secured permanently to a ring, shackle or attachment.

Alternative Provision (f) Thimbles: Where practicable, properly fitting thimbles shall be used where any rope is secured permanently to a ring, shackle or attachment.

Proposed Provision (g) Synthetic web slings. (3): Defective synthetic web slings removed from service shall not be repaired and returned to service.

Comment has been received that indicates that this provision is unreasonable in that it precludes repair which can extend the lifespan of slings considerably, while at the same time assuring their safe condition. Accordingly, the following language is suggested:

Alternative Provision (g) Synthetic web slings. (3): Defective synthetic web slings removed from service shall not be returned to service unless repaired by a sling manufacturer or similar entity. Each repaired sling shall be proof tested by the repairer to twice the slings' rated capacity prior to its return to service. The employer shall retain a certificate of the proof test and made it available for examination.

Proposed Provision (h) Chains and chain slings used for hoisting. (1): The employer shall adhere to the manufacturer's recommended ratings for safe working loads for the sizes of wrought iron and alloy steel chains and chain slings used and shall have such ratings available at the terminal.

Comment has been received that indicates that this provision implies a prohibition on the use of chains and chain slings for which the employer may not possess use recommendations due either to the age of the chain or to the possibility of the chain's manufacturer having gone out of business. Comment suggests the following:

Alternative Provision (h) Chains and chain slings used for hoisting. (1): The employer shall adhere to the manufacturer's recommended ratings for safe working loads for the sizes of wrought iron and alloy steel chains and chain slings used and shall have such ratings available. When the manufacturer is unable to provide such ratings, the employer shall use the tables for chains and chain slings found in American National Safety Standard for Slings, ANSI B30.9–1971.

Proposed Provision (k) Pallets. (2): Damaged pallets shall be removed from active work areas, identified as damaged and stored away from the work area.

Some commenters contended that the provision as presently written is confusing with regard to the removal of pallets from the work area. The following language was suggested:

Alternative Provision (k) Pallets. (2): Damaged pallets shall be stored in designated areas and identified.

§ 1918a.43 Powered industrial trucks.

Proposed Provision (b) General. (1): The employer shall ensure that modifications, such as adding counterweights, that might affect the vehicle's capacity or safety are not performed without either the manufacturer's prior written approval or a written approval of a professional engineer experienced with the equipment and who has consulted with the manufacturer. Capacity, operation and maintenance instruction plates, tags or decals shall be changed to conform to the equipment as modified.

Alternative Provision (b) General. (1): After (effective date of final standard) modifications, such as adding counterweights, that might affect the vehicle's capacity or safety shall not be performed without either the manufacturer's prior written approval or the written approval of a professional engineer experienced with the equipment who has consulted with the manufacturer, if available. Capacity, operation and maintenance instruction plates, tags or decals shall be changed to conform to the equipment as modified.

Proposed Provision (b)(10): Steering knobs shall not be used.

Several commenters asserted that steering knobs presented a hazard on small industrial trucks before the advent of power steering because the knobs did not provide effective steering control and could cause injury to the driver if the steering wheel spun. These commenters argued that power steering has eliminated the hazards of poor steering control and wheel spin. The following language has been offered:

Alternative Provision (b)(10): Steering knobs shall not be used unless the truck is equipped with power steering.

Proposed Provision (b)(11): When powered industrial trucks use cargo lifting devices that have a means of engagement hidden from the operator, mirrors or other means shall be provided to enable the driver to see that the cargo has been engaged.

A commenter indicated that the language of this provision is restrictive in that the "other means" may not always allow the driver to actually "see" the load engaged. The following language is suggested:

Alternative Provision (b)(11): When powered industrial trucks use cargo

lifting devices that have a means of engagement hidden from the operator, a means shall be provided to enable the operator to determine that the cargo has been engaged.

Additional Suggested Provision (b)(12):

Comment has been received that proposes a new paragraph to be added which will protect vehicle operators from loads which can slide and strike the operator. The comment suggests that the following provision from the Pacific Coast Maritime Safety Code adequately addresses this issue:

(b)(12) When towing cargo on pipe trucks or similar equipment, a safe means shall be provided to protect the driver from sliding loads.

Proposed Provision (c) Maintenance. (2): Batteries shall be disconnected during repairs to the primary electrical, system unless power is necessary for testing or repair.

Alternative Provision (c) Maintenance. (2): Batteries on electrically powered trucks shall be disconnected during repairs to the primary electrical system unless power is necessary for testing and repair. On trucks equipped with systems capable of storing residual energy, that energy shall be safely discharged before work on the primary electrical system begins.

Proposed Provision (c)(3): Replacement parts whose performance may affect the vehicle's safety shall be at least equivalent in performance capability to the original parts.

Alternative Provision (c)(3): Replacement parts whose function might affect operational safety shall be equivalent in strength and performance capability to the original parts which they replace.

Proposed Provision (c)(5): Powered industrial trucks shall be maintained in safe working order and shall be inspected by an authorized person on each day of use. Safety devices shall not be removed or made inoperative except as otherwise provided in this section. Trucks with a fuel system leak or any other operational defect shall not be operated.

Alternative Provision (c)(5): Powered industrial trucks shall be maintained in safe working order. Safety devices shall not be removed or made inoperative except as otherwise provided in this section. Trucks with a fuel system leak or any other safety defect shall not operated.

Proposed Provision (d) Approved trucks. (2): Approved trucks shall bear a label or other identification indicating testing or laboratory approval.

Alternative Provision (d) Approved trucks. (2): Approved trucks purchased after (effective date of standard) shall bear a label or other identification indicating testing laboratory approval.

Proposed Provision (e) Counterweights. (4): Counterweights shall be affixed so that they cannot be dislodged.

Alternative Provision (e) Counterweights. (4): Counterweights shall be affixed so that they cannot be accidentally dislodged.

Proposed Provision (f) Bulk cargo-moving vehicles. (2): Guards and their attachment points shall be designed to withstand a load equal to the load that will bend the machine's drawbar.

Alternative Provision (f) Bulk cargo-moving vehicles. (2): Guards and their attachment points shall be so designed as to be able to withstand, without excessive deflection, a load applied horizontally at the operator's shoulder level equal to the drawbar pull of the machine.

§ 1918a.44 General rules applicable to vehicles.

Proposed Provision (b): The employer shall ensure that private vehicle parking in marine terminals is allowed only in designated areas, which shall not be used concurrently for storage.

Alternative Provision (b): Private vehicle parking in marine terminals shall be allowed only in designated areas.

Proposed Provision (j): The employer shall ensure that a distance of at least 20 feet (4.6 m) is maintained between any two vehicles in a check-in, check-out, roadability, or vessel loading/discharging line.

Alternative Provision (j): A distance of not less than 20 feet (4.6 m) shall be maintained between the first two vehicles in a check-in, check-out, roadability, or vessel loading/discharging line. This distance shall be maintained between any subsequent vehicles behind which employees are required to work.

Proposed Provision (k): The employer shall ensure that no unattended vehicle is left with its engine running.

Alternative Provision (k): No unattended vehicle shall be left with its engine running unless secured against movement (see § 1918a.(b)(3) for powered industrial trucks).

§ 1918a.45 Cranes and derricks.

Proposed Provision (a) Coverage. (2): This section does not apply to small industrial truck-type cranes and chain hoists.

Comment has been received that indicates that some equipment that performs the function of cranes, but in actuality are not cranes, should be recognized in this exclusion provision for the sake of clarity. The followng is suggested:

Alternative Provision (a) Coverage. (2): This section does not apply to small industrial truck-type cranes, container handling top-loaders and side-loaders, and chain hoists.

Proposed Provision (b) Ratings. (3): Designated working loads shall not be increased beyond the manufacturer's ratings or original design limitations unless such increase meets with the manufacturer's approval. When the manufacturer's services are not available or where the equipment is of foreign manufacture, engineering design analysis performed or approved by the agency certificating the equipment under Part 1919 of this Chapter is required. Any structural changes necessitated by the change in rating shall be carried out.

Commenters have indicated that not all persons or organizations accredited under Part 1919 of this Chapter may be capable of performing engineering design analysis. Commenters suggest language that recognizes this fact. The following language has been suggested:

Alternative Provision (b) Ratings. (3): Designated working loads shall not be increased beyond the manufacturer's ratings or original design limitations unless such increase meets the manufacturer's approval. When the manufacturer's services are not available or where the equipment is of foreign manufacture, engineering design analysis performed or approved by the agency certificating the equipment under Part 1919 of this Chapter is required. Any structural changes necessitated by the change in rating shall be carried out. Engineering design analysis shall be performed by a registered professional engineer competent in the field of cranes and derricks.

Proposed Provision (d) Prohibiting usage. (1): The employer shall ensure that equipment is not used in a manner that exerts sideloading stresses upon the crane or derrick boom.

Alternative Provision (d) Prohibited usage. (1) Equipment shall not be used in a manner that deliberately exerts sideloading stresses upon the crane or derrick boom.

Proposed Provision (d)(2): No crane or derrick having an operational defect shall be used.

Alternative Provision (d)(2): No crane or derrick having a visible or known defect that affects safe operation shall be used.

Proposed Provision (e) Protective devices. (1): The employer shall ensure that guards protect employees from exposed moving parts such as gears, chains and chain sprockets during crane

and derrick operations. The guards shall be securely fastened.

Alternative Provision (e) Protective devices. (1): When exposed moving parts such as gears, chains and chain sprockets present a hazard to employees during crane and derrick operations, those parts shall be securely guarded.

Proposed Provision (f) General. (1)(ii): After (one year after effective date), crane and derrick controls shall be self-centering so that they will automatically move to the "off" position when the operator releases the control.

Commenters have contended that this provision is unreasonable and impractical. They indicate that some cranes were designed to operate in three (3) simultaneous modes and have done so without incident for many years. Other commenters maintained that a hazardous situation could arise if the application of this provision is not limited to particular types of cranes. The following language has been suggested:

Alternative Provision (f) General. (1)(ii): After (one year after effective date), overhead bridge and container gantry crane operating control levers shall be self-centering so that they will automatically move to the "off" position when the operator releases the control.

Proposed Provision (f)(2)(iii): Stairways on cranes shall be equipped with rigid handrails meeting the requirements of § 1918a.112(c)(1).

Alternative Provision (f)(2)(iii): Stairways on cranes shall be equipped with rigid handrails meeting the requirements of § 1918a.112(e)(1).

Proposed Provision (f)(4)(iv): If the top of a ladder or stairway or any portion thereof is located where a moving part of a crane, such as a revolving house, could strike an employee ascending or descending the ladder or stairway, a prominent warning sign shall be posted at the hazardous location on the ladder or stairway.

Comment has been received that indicates the desirability of a system of communication between the foot of the ladder and the operator's cab. The following language has been suggested:

Alternative Provision (f)(4)(iv): If the top of a ladder or stairway or any position thereof is located where a moving part of a crane, such as a revolving house, could strike an employee ascending or descending the ladder or stairway, a prominent warning sign shall be posted at the hazardous location on the ladder or stairway. A system of communication (such as a buzzer or bell) shall be established and maintained between the foot of the ladder or stairway and the operator's cab.

Proposed Provision (f)(8) Exhaust gases: Engine exhaust gases shall be discharged away from areas in which employees are working.

Alternative Provision (f)(8) Exhaust gases: Engine exhaust gases shall be discharged away from the normal position of crane operating personnel.

Proposed Provisions (f)(13)(i) and (ii):

(i) Each independent hoisting unit of a crane or derrick shall be equipped with two means of braking, one of which shall work directly on the drive shaft or other part of the reducing gear.

(ii) Each brake shall be capable of sustaining 1½ times the crane's rated load.

Comment received contends that this provision cannot be applied to all cranes without considerable retro-fitting and difficulty. Commenters expressed a preference for the performance requirements in ANSI B30.2.0.–1976. Accordingly, the following was suggested:

Alternative Provisions (f)(3) (i) thru (iv):

Brakes. (i) Each independent hoisting unit of a crane shall be equipped with at least one holding brake, applied directly to the motor shaft or gear train.

(ii) Each independent hoisting unit of a crane, except worm geared hoists, the angle of whose worm is such as to prevent the load from accelerating in the lowering direction, shall, in addition to a holding brake, be equipped with a controlled braking means to control lowering speeds.

(iii) Holding brakes for hoist units shall have not less than the following percentage of the rated load hoisting torque at the point where the brake is applied:

(A) 125 percent when used with a controlled braking means.

(B) 100 percent when used a mechanically-controlled braking means.

(C) 100 percent when two holding brakes are provided.

(iv) All power control braking means shall be capable of maintaining safe lowering speeds of rated loads.

Proposed Provision (g) Rail-mounted cranes (excluding locomotive types). (3) Wind-indicating devices. (i): After (effective date of final standard) each rail-mounted crane shall be fitted with an operable wind-indicating device.

Commenters have argued that applying this provision to all rail-mounted cranes would be unreasonable, in that some rail-mounted cranes are never affected by winds. Additional comment suggests that there should be a more reliable option to the mounting of these devices on the cranes. It has been stated that the low voltage signal that would be sent to the cranes's cab would have to be run through long lengths of flexible wire, making the reading unreliable. Also, commenters have recommended shifting (g)(3)(ii) (A) and (B) to (g)(3)(i). The following language was suggested.

Alternative Provision (g) Rail-mounted cranes (excluding locomotive types). (3) Wind-indicating devices. (i): After (effective date of standard) the operator's cab or terminal on all rail-mounted bridge and portal cranes located out of enclosed structure, shall be provided with a warning device to alert the operator of high wind conditions. That device shall be activated whenever the following circumstances are present:

(A) When wind velocity reaches that speed (the warning speed), not exceeding the crane manufacturer's recommendations, at which a warning is to be provided or partial shutdown (such as stopping of crane movement on the rails) is to be accomplished; and

(B) When wind velocity reaches that speed (the shutdown speed), not exceeding the crane manufacturer's recommendations, at which work is to be stopped and the crane secured.

Proposed Provision (g)(3)(iv) Instructions: The employer shall post operating instructions for wind-indicating devices, including warning and shutdown velocities and the actions to be taken on their indications, in the operator's cab of each crane. The employer shall ensure that operators comply with these instructions. The instructions shall include directions for any coordination necessary when two or more affected cranes are located at the same terminal.

Alternative Provision (g)(3)(iv) Instructions: The employer shall post operating instructions for high wind conditions in the operator's cab of each crane. Operators shall be directed to comply with these instructions. The instructions shall include procedures for responding to high wind alerts and for any coordination necessary with other cranes.

Proposed Provision (G)(4)(i)(B): Any portion of the crane spanning or partially spanning a vessel is moved clear of the vessel; and . . .

Comment indicates that although this procedure may be generally correct, it may not be safe to move clear in some emergency situations. The following was suggested:

Alternative Provision (g)(4)(i)(B): Any portion of the crane spanning or partially spanning a vessel is moved clear of the vessel if safe to do so; and . . .

Proposed Provision (g)(10) Communications: Means of communication shall be provided between the operator's cab and the base of the gantry of all rail-mounted cranes. This requirement may be met by telephone, radio, sound-signalling system or other effective methods, but not by a hand-signalling system.

Alternative Provision (g)(10) Communications: Means of communication shall be provided between the operator's cab and the base of the gantry of all rail-mounted cranes. This requirement may be met by telephone, radio, sound-signalling system or other effective methods, but not solely by hand-signalling.

Proposed Provision (i) Operations. (4)(iii): The power supply shall be shut off.

Alternative Provision (i) Operations. (4)(iii): The electrical power supply shall be shut off.

Proposed Provision (j) Protection for employees being hoisted. (l)(i): In a boatswain's chair rigged to prevent it from accidentally disengagement from the hook or supporting member; or

Alternative Provision (j) Protection for employees being hoisted. (l)(i): In a boatswain's chair or other device rigged to prevent it from accidental disengagement from the hook or supporting member; or

Proposed Provision (j)(2): Except in an emergency, the hoisting mechanism of a crane or derrick used to hoist personnel shall operate in power up and power down, with automatic brake application when not hoisting or lowering.

Comments indicate that the wording must be clarified to apply only to overhead and container gantry cranes, as mobile and crawler type cranes do not have the capabilities to fulfill the requirements of this provision. The following language has been suggested:

Alternative Provision (j)(2): Except in an emergency, the hoisting mechanism of an overhead and container gantry crane used to hoist personnel shall operate on power up and power down, with automatic brake application when not hoisting or lowering.

Proposed Provision (j)(8): Cranes shall not travel while employees are hoisted, except in an emergency.

Commenters have indicated that this provision is too restrictive and could, in and of itself, create hazards in container operations where employees are transferred from tier to tier by the cranes' movement rather than the extensive use of portable ladders at significant heights and sometimes less than ideal weather conditions. The following is suggested:

Alternative Provision (j)(8): Cranes shall not travel while employees are hoisted, except in emergency or in normal tier to tier transfer of employees during container operations.

Proposed Provision (k) Routine inspection. (3): Any defects found during such inspections shall be corrected before further equipment use. Repairs shall be done only by designated persons.

Alternative Provision (k) Routine inspection. (3): Any defects found during such inspections which may create a safety hazard shall be corrected before futher equipment use. Repairs shall be performed by designated persons only.

§ 1918a.48 Conveyors.

Proposed Provision (d) Braking. (1): Brakes or equivalent means of stopping objects at the delivery end of the conveyor shall be provided.

Alternative Provision (d) Brakes. (1): When necessary for safe operation, provisions shall be made for braking objects at the delivery end of the conveyor.

Proposed Provisions (i)(1) and (i)(2):

(1) The employer shall ensure that conveyors are stopped and their power sources locked out during maintenance, repair, and servicing unless power is necessary for testing.

(2) The starting device shall be locked in the stop position before an attempt is made to remove the cause of a jam or overload that has stopped the conveying medium.

Commenters recommended that a tagging system be allowed as an option for (i)(2) purposes, but required, in addition to lockout, for purposes of pargarph (i)(1). They also recommended language for a new definition of lockout/tagout, to be inserted in § 1918a.2. The following wording for paragraphs (i)(1) and (i)(2) and lockout/tagout has been suggested.

Alternative Provisions (i)(1) and (i)(2):

(i) *Lockout/Tagout.* (1) Conveyors shall be stopped and their power sources locked out and tagged out during maintenance, repair, and servicing, unless power is necessary for testing.

(2) The starting device shall be locked out/tagged out in the stop position before an attempt is made to remove the cause of a jam or overload that has stopped the conveying medium, unless it is necessary to have the power on to remove the jam.

Suggested Additional Definition of Lockout/Tagout: The placement of a lock/tag on the energy isolating device in accordance with an established procedure, indicating the energy isolating device shall not be operated until removal of the lock/tag in accordance with established procedure. (The term lockout/tagout is interchangeable and allows the use of a lockout, a tagout, or a combination of both.

§ 1918a.49 Spouts, chutes, hoppers, bins and associated equipment.

Proposed Provision (b): Instantaneous and direct communication shall be provided between the discharge or shipboard control end of loading spouts and chutes and the point in the terminal from which the flow of cargo is controlled.

Comment suggests that the term "Instantaneous" is undefinable in this case and recommends the following:

Alternative Provision (b): Direct communication shall be provided between the discharge or shipboard control end of loading spouts and chutes and the point in the terminal from which the flow of cargo is controlled.

Proposed Provision (c): Chute and hopper openings shall be guarded to prevent employees from falling through them.

Alternative Provision (c): Chute and hopper openings which present a hazard shall be guarded to prevent employees from falling through them.

Proposed Provision (e): Chutes shall be equipped with sideboards to protect employees from falling objects.

Alternative Provision (e): When necessary for the safety of employees, chutes shall be equipped with sideboards to afford protection from falling objects.

Proposed Provision (g): Brakes or equivalent means of stopping objects at the delivery end of chutes shall be provided.

Comment contended that the language of this provision is not limited to situations involving potential employee exposure. Additionally, interested parties asserted that it was technologically infeasible to brake bulk commodities. The following was suggested:

Alternative Provision (g): When necessary for the safety of employees, provisions shall be made for braking objects other than bulk commodities at the delivery end of the chute.

Proposed Provision (h)(2): The power supply to the equipment carrying the cargo to the bin has been turned off and locked out.

Alternative Provision (h)(2): The power supply to the equipment carrying the cargo to the bin shall be turned off, locked out and tagged.

Proposed Provision (i)(2): The power supply to the equipment carrying the cargo to the bin had been turned off and locked out.

Alternative Provision (i)(2): The power supply to the equipment carrying the cargo to the bin shall be turned off, locked out and tagged.

Proposed Provision (j): Bin top openings shall be covered with gratings or other means of preventing employees from falling into the bin when the cover is removed.

Alternative Provision (j): Bin top openings that present a hazard to employees shall be covered to prevent employees from falling into bins.

Proposed Provision (l)(3): Before adjustments are made to a power shovel, wire, or associated equipment, the power supply to the shovel shall be turned off and locked out, the belt stopped, and the hopper closed.

Alternative Provision (l)(3): Before adjustments are made to a power shovel, wire, or associated equipment, the power supply to the shovel shall be turned off, locked out, and tagged the belt stopped, and the hopper closed.

§ 1918a.50 Certification of marine terminal handling devices.

Proposed Provision (a): Employers shall not use any material handling device listed in paragraph (c) of this section until they have ascertained that the device has been certificated, as evidenced by current and valid documents attesting to compliance with the requirements of paragraph (b) of this section.

Commenters indicated that it would be helpful to include criteria from OSHA's policy on equipment surveys (USDL/OSHA—"Supplemental Guidance for Surveyors"—March 1, 1979) in this proposed paragraph § 1918a.50(a). This section would then include an additional paragraph (a)(1) which would read:

Suggested New Provision (a)(1): Certification surveys are to be completed for the "conditions of use" found at the time such surveys are completed, with the understanding that equipment owners/users can change the configurations of the equipment according to the manufacturer's specifications without affecting the established certification status for the equipment.

Commenters contended that § 1918a.50 should also address foreign manufactured cranes. They noted that U.S. practices for design and specification of foreign cranes are stipulated in § 1919.71(c) which reads:

"In cases of foreign manufacture, the manufacturer's specifications shall be subject to approval by the certificating authority as being equivalent to U.S. practice."

The following language has been suggested:

Suggested New Provision (a)(2): In cases of foreign manufactured cranes, there shall be an owner's warranty of the design adequacy.

Proposed Provision (c)(1): Each crane and derrick shall be tested as a unit annually and quadrennially, and shall be inspected annually and examined quadrennially. Certificates of tests, inspections, and examinations shall be available for inspection on the equipment or at the terminal.

Commenters indicate that Part 1919 (Gear Certification) requires proof load testing only every four (4) years, not every year. In addition, they indicated that it is necessary to know the intended difference between "inspected" and "examined". Alternative language for the term "examination" has been previously suggested. (See Alternative Provision § 1919a.2(1)). The following language has been suggested:

Alternative Provision (c)(1): Each crane and derrick shall be tested as a unit quadrennially, and shall be examined annually. Certificates of tests and examinations shall be made readily available for inspection.

Proposed Provision (c)(2): Bulk cargo spouts and suckers, together with any portable extensions and rigging or outriggers supporting them vertically, shall be inspected annually. Certificates attesting to the required examination shall be available at the terminal.

Alternative Provision (c)(2): Bulk cargo spouts and suckers, together with any portable extensions and rigging or outriggers supporting them vertically, shall be inspected annually. Certificates attesting to the required examination shall be made readily available at the terminal.

Proposed Provision (c)(3): Vertical pocket or bucket conveyors such as banana, sugar and grain marine legs (other than those within a grant elevator structure) used within a marine terminal facility shall be inspected annually and examined quadrennially. The quadrennial examination shall include all supporting structures, rigging and mechanical components and observation of all steps of operation. Certificates attesting to the required inspections and examinations shall be available at the terminal.

Alternative Provision (c)(3): Vertical pocket or bucket conveyors such as banana, sugar and grain marine legs (other than those within a grant elevator structure) used within a marine terminal facility shall be examined annually. The annual examination shall include all supporting structures, rigging and mechanical components and observation of all steps of operations. Certificates attesting to the required examinations shall be made readily available.

Proposed Provision (c)(4)(i): House fall cargo-handling gear in use shall be tested as a unit and subjected to an examination upon initial certification and every fourth year, and shall be subjected to annual inspections in other years. The unit test shall consist of a proof load to 25% in excess of the rated safe working load. Inspections and examinations shall include all supporting structures and components. Certificates attesting to the required tests, inspections and examinations shall be available at the terminal.

Alternative Provision (c)(4)(i): House fall cargo-handling gear in use shall be proof load tested as a unit upon initial certification and very fourth year thereafter. An examination shall be carried out in conjunction with each unit proof load test and annually thereafter. The unit test shall consist of a proof load of 25% in excess of the rated safe working load. Examinations shall include all supporting structures and components. Certificates attesting to the required tests and examinations shall be made readily available.

Proposed Provision (c)(5) Special gear. (ii). Every spreader (after effective date of standard) not a part of the ship's gear and used for hoisting and intermodal containers shall be tested to a proof load equal to 25% in excess of its rated capacity. Additionally, any spreader which suffers damage necessitating structural repair shall be retested after repair and before being returned to service.

Alternative Provision (c)(5) Special gear. (ii). Every spreader (after effective date of standard) not a part of the ship's gear and used for hoisting intermodal containers shall be tested to a proof load equal to 25% in excess of its rated capacity. Additionally, any spreader which suffers damage necessitating structural repair shall be retested after repair and before being returned to service.

Proposed Provision (d): Disassembly and reassembly of equipment necessary for movement from job to job or which does not affect the equipment's rating will not nullify the validity of the equipment's existing certification.

Alternate Provision (d): Disassembly and reassembly of equipment does not require recertification of the equipment provided that the equipment is

reassembled and used in a manner consistent with its certification.

Proposed Provision (f): In addition to certification procedures, all certified equipment shall be maintained in accordance with the manufacturer's maintenance procedures.

Alternative Provision (f): Certification procedures shall not be construed as a substitute for, or cause for elimination of, normal operational inspection and maintenance routine throughout the year.

Proposed Provision (g)(1): Every unit of equipment requiring quadrennial certification shall have had such quadrennial certification within the previous 48 months. Equipment requiring annual certification shall have had such annual certification within the previous 12 months, except that no annual certification is required within 12 months after any required quadrennial certification. Annual surveys, inspections or examinations for certification may be accomplished up to one month early without effect on subsequent due dates.

Alternative Provision (g)(1): Every unit of equipment requiring quadrennial certification shall have had such quadrennial certification within the previous 48 months. Equipment requiring annual certification shall have had such annual certification within the previous 12 months, except that no annual certification is required within 12 months after any required quadrennial certification. Annual examinations for certification may be accomplished up to one month early without effect on subsequent due dates.

§ 1918a.71 Terminals handling intermodal containers or roll-on roll-off vehicles.

Proposed Provision (f): No container shall be hoisted whose actual gross weight exceeds either the sum of the container's empty weight and the maximum cargo weight the container is designed to carry or the capacity of the crane or device used for hoisting.

Comment has been received that indicates that the language used in this provision may not meet the intent of the provision. That comment suggested that some hoisting devices are able to hoist two containers at one time and that, in theory, two twenty-foot containers hoisted together can contain weights in excess of the safe working loads of some container gantry cranes while one forty-foot container generally will not. Accordingly, the following has been suggested:

Alternative Provision (f): No container or containers shall be hoisted whose actual gross weight exceeds either the sum of the container's empty weight and the maximum cargo weight the container is designed to carry or the capacity of the crane or device used for hoisting.

Proposed Provision (g)(1): Marked and designated areas shall be set aside within a container or roll-on roll-off terminal for passage of employees to and from work areas.

Alternative Provision (g)(1): Unless employee transportation is provided, marked or designated areas shall be set aside within a container or roll-on roll-off terminal for passage of employees to and from active cargo transfer points.

Proposed Provision (i)(1): Intermodal containers of 20 feet (6.1 m) or more in length shall be hoisted as follows:

Comments have indicated that empty containers do not present the same handling risks as do loaded containers and are not as susceptible to damage from hoisting. The following has been suggested:

Alternative Provision (i)(1): Loaded intermodal containers of 20 feet (6.1 m) or more in length shall be hoisted as follows:

Proposed Provision (i)(1)(i): If hoisted by the top lifting fittings, the lifting forces shall be applied vertically from at least four such fittings.

Several commenters indicated that some containers handled in locations other than specialized container terminals are hoisted with special stevedoring gear and hooks attached to double or single spreader bars by wire rope. Use of this gear brings about an other than completely vertical lift that has been performed safely and efficiently for many years. The following was suggested:

Alternative Provision (i)(1)(i): When hoisting by the top fittings, the lifting forces shall be applied near vertically from at least four such fittings.

Proposed Provision (i)(2)(i): Intermodal container spreaders using lanyards for activation of releasing devices shall not be used except when there is no possibility of the lanyards accidentally releasing a suspended intermodal container.

Alternative Provision (i)(2)(i): Intermodal container spreaders using lanyards for activation of releasing devices shall not be used except when precautions have been taken to prevent accidental release.

Proposed Provision (i)(3): Intermodal containers moved by flat bed trucks or container chassis shall be secured to prevent dislodgement in transit.

Alternative Provision (i)(3): Flat bed trucks or container chassis used to move intermodal containers shall be equipped with pins, flanges, or other means to prevent the container from shifting.

Suggested New Provision (k): Comment has been received that suggests that OSHA consider the inclusion of a provision that addresses the hazards associated with the hoisting of containers mounted on chassis. The following has been suggested:

(k) Containers shall not be hoisted from chassis unless all chassis twist locks are released.

§ 1918a.73 Terminal facilities handling menhaden or similar species of fish.

Proposed Provision (d): At least four units of respiratory protective equipment consisting of supplied-air respirators or self-contained breathing apparatus complying with the requirements of § 1918a.92 of this Part shall be available in a suitably labeled cabinet for immediate use in case of emergency caused by oxygen deficiency or hydrogen sulfide. Any employee entering a tank in an emergency shall, in addition to respiratory protective equipment, wear a lifeline and safety harness to facilitate rescue. At least two other employees, similarly equipped, shall be continuously stationed outside the tank to observe and to provide rescue services.

Alternative Provision (d): At least four units of respiratory protective equipment consisting of supplied-air respirators or self-contained breathing apparatus complying with the requirements of § 1918a.92 of this Part shall be available in a suitably labeled cabinet for use in case of emergency caused by oxygen deficiency or hydrogen sulfide. Any employee entering a tank in an emergency shall, in addition to respiratory protective equipment, wear a lifeline and safety harness to facilitate rescue. A standby monitor, similarly equipped, shall be continuously stationed outside the tank to observe and to provide rescue services.

§ 1918a.91 Eye protection.

Proposed Provision (a)(1): When employees perform work hazardous to the eyes, the employer shall provide, at no cost to the employee, eye protection equipment marked or labeled as meeting the manufacturing specifications of American National Standards Practice for Occupational and Educational Eye and Face Protection, ANSI Z87.1–1968, and shall ensure its use.

Alternative Provision (a)(1): Employees performing work that presents significant risks for eye injury shall be directed by the employer to wear eye protection equipment meeting the manufacturing specifications of the American National Standards Practice

for Occupational and Educational Eye and Face Protection, ANSI Z87.1–1968.

§ 1918a.92 Respiratory protection.

Proposed Provision (a): The employer shall provide, at no cost to the employee, approved respiratory protective equipment meeting the requirements of 30 CFR Part 11 and shall ensure its use in hazardous atmospheres as defined in § 1918a.2(p).

Alternative Provision (a): Employees performing work in hazardous atmospheres as defined in § 1918a.2(p) shall be directed by the employer to use approved respiratory protective equipment meeting the requirements of 30 CFR Part 11.

Proposed Provision (j): When an employee enters a hazardous atmosphere, at least one attendant shall stand by with rescue equipment and with respiratory protection approved for the hazard involved.

Commenters contend that there are varying degrees of hazardous atmospheres, and that it is the employer's responsibility to determine if an attendant is required. They suggest that the section should read as follows:

Alternative Provision (j): When an employee enters a hazardous atmosphere, an attendant, if required by the nature of the hazard, shall stand by with rescue equipment and respiratory protection approved for the hazard involved.

§ 1918a.93 Head protection.

Proposed Provision (a): The employer shall ensure that employees exposed to impact, falling or flying objects, or electric shocks or burns shall wear protective hats, which shall be provided at no cost to the employee.

Alternative Provision (a): Employees performing work that present significant risks for head injuries shall be directed by the employer to wear head protection.

§ 1918a.94 Foot protection.

Proposed Provision (a): The employer shall ensure that employees exposed to impact, falling objects, or puncture hazards wear safety shoes, which shall be provided by the employer at no cost to the employee.

Alternative Provision (a): Employees performing work that presents significant risks for toe injury shall be directed by the employer to wear safety shoes, or equivalent protection.

§ 1918a.95 Other protective measures.

Proposed Provision (a) Protective clothing. (1): The employer shall provide, at no cost to the employee, protective clothing when ordinary clothing is unsuitable and circumstances necessitate special protective clothing, and shall ensure its use.

Alternative Provision (a) Protective clothing. (1): Employees performing work that requires special protective clothing shall be directed by the employer to wear the necessary special protective clothing.

Proposed Provision (a)(2): Protective clothing previously worn shall be cleaned and disinfected before issuance by the employer to another employee.

Alternative Provision (a)(2): When necessary, protective clothing previously worn shall be cleaned and disinfected before reissuance.

Proposed Provision (b) Protective creams or ointments: The employer shall ensure that employees use protective creams or ointments when skin exposure to a particular substance requires their use.

Comments suggest that some employees are allergic to certain protective creams and ointments and that this should not be a requirement. It has been suggested to delete this provision.

Proposed Provision (c) Protection against drowning. (1): The employer shall provide, at no cost to the employee, and shall ensure that employees wear, personal flotation devices for those employees, such as line handlers, who are engaged in work in which they may be pulled into the water.

(2) Personal flotation devices shall be United States Coast Guard approved Type I PFD, Type II PFD, Type III PFD, or Type V PFD, or equivalent, in accordance with 46 CFR 160 (Coast Guard Lifesaving Equipment Specifications) and 33 CFR 175.23 (Coast Guard Table of Devices Equivalent to Personal Flotation Devices).

(3) Personal flotation devices shall be maintained in safe condition and shall be considered unserviceable when damaged so as to affect buoyance or fastening capability.

Comments suggest that falls into water rarely occur and that use of such devices impede an employee's movements, possibly creating a hazardous condition. The comments suggested that all of paragraph (c) be deleted.

§ 1918a.111 Maintenance and load limits.

Proposed Provision (b): Maximum safe load limits, in pounds per square foot (kilograms per square meter), of floors within buildings and structures shall be conspicuously posted in all cargo areas.

Alternative Provision (b): Maximum safe load limits, in pounds per square foot (kilograms per square meter), of floors elevated above ground level and pier structures over the water shall be conspicuously posted in all cargo areas.

§ 1918a.112 Guarding of edges.

Proposed Provision (a) Vehicle protection. (1): The employer shall ensure that vehicle curbs and bull rails at least 10 inches (22.9 cm) in height are provided at the water side of aprons and bulkheads, except where vehicles are prohibited.

Alternative Provision (a) Vehicle protection. (1): At the waterside edges of aprons and bulkheads, there shall be provided vehicle curbs, bull rails, or other effective barriers at least 6 inches (13.74 cm) in height, except where vehicles are prohibited. Curbs or bull rails installed after (effective date of standard) shall be at least 10 inches (22.9 cm) in height.

Proposed Provision (e) Stair railings. (1): Stair railings shall be capable of withstanding a force of at least 200 pounds (890 N) applied in any direction, and shall be not more than 36 inches (0.9 m) nor less than 32 inches (0.8 m) in height from the upper top rail surface to the tread surface in line with the leading edge of the tread. Railings shall be provided at any stairway having four or more risers, as follows:

Alternative Provision (e) Stair railings. (1): Stair railings shall be capable of withstanding a force of at least 200 pounds (890 N) applied in any direction, and shall not be more than 36 inches (0.9 m) nor less than 32 inches (0.8 m) in height from the upper top rail surface to the tread surface in line with the leading edge of the tread. Railings and midrails shall be provided at any stairway having four or more risers, as follows: * * *

§ 1918a.117 Elevators and escalators.

Proposed Provision (c): The employer shall ensure that no elevator or escalator with any operational defect is used.

Alternative Provision (c): No elevator or escalator with a defect which affects safety shall be used.

Proposed Provision (e): The employer shall ensure that elevators and escalators are thoroughly inspected at intervals not exceeding one year, and that additional monthly inspections for satisfactory operation are carried out by designated persons. Records of the results of the latest annual and monthly elevator inspections shall be posted in elevators. Records of escalator inspections shall be posted in the

vicinity of the escalator or be available at the terminal.

Alternative Provision (e): Elevators and escalators shall be thoroughly inspected at intervals not exceeding one year. Additional monthly inspections for satisfactory operation shall be conducted by designated persons. Records of the results of the latest annual elevator inspections shall be posted in elevators. Records of annual escalator inspections shall be posted in the vicinity of the escalator or be available at the terminal.

§ 1918a.118 Manlifts.

Proposed Provision (b) Inspection records: Inspection records shall be kept for at least one year. The record of the most recent inspection shall be posted in the vicinity of the manlift or in the terminal.

Alternative Provision (b) Inspection records: Inspection records shall be kept for at least two months. The record of the most recent inspection shall be posted in the vicinity of the manlift or in the terminal.

§ 1918a.119 Fixed ladders.

Proposed Provision (a) Scope and applicability. (4): Special-purpose ladders, such as fruitpickers' ladders, shelf ladders, combination step and extension ladders and library ladders.

Comment suggest that these are not fixed ladders. It was recommended that this wording be deleted and in its place the following be inserted:

Alternative Provision (a) Scope and applicability. (4): Ladders used only for fire-fighting or emergency purposes.

Proposed Provision (e) Protection against falls. (1): Fixed ladders more than 20 feet (6.1 m) in height shall be provided with a cage, well, or ladder safety device.

Alternative Provision (e) Protection against falls. (1): Fixed ladders more than 20 feet (6.1 m) in height except for those used only for firefighting or emergency purposes shall be provided with a cage, well, or ladder safety device.

Proposed Provision (e)(2)(iii): Except as specified in paragraph (e)(2)(IV) of this section, a landing platform capable of supporting a load of 100 pounds per square foot (4.70 KPa) and fitted with guardrails complying with § 1918a.112(c) shall be provided at least every 30 feet; and * * *

A commenter argued that the 100 pounds per square foot requirement for landing platforms was unnecessary and excessive, and that this requirement should not be any greater than 50 pounds per square foot. The following language has been suggested:

Alternative Provision (e)(2)(iii): Except as specified in paragraph (e)(2)(iv) of this section, a landing platform capable of supporting a load of 50 pounds per square foot (2.4 KPa) and fitted guardrails complying with § 1918a.112(c) shall be provided at least every 30 feet; and * * *

Proposed Provision (e)(2)(iv): For ladders installed before (effective date of standard), offset sections and landing platforms are not required if hinged platforms capable of supporting 100 pounds per square feet (4.79 KPa), and which are kept closed except when opened for passage, are within the cage or well at intervals not exceeding 30 feet (9.14 m).

Alternative Provision (e)(2)(iv): For ladders installed before (effective date of standard), offset sections and landing platforms are not required if hinged platforms capable of supporting 50 pounds per square foot (2.4 KPa), and which are kept closed except when opened for passage, are within the cage or well at intervals not exceeding 30 feet (9.14 m).

Proposed Provision (e)(3)(i): Capable of supporting a load of 100 pounds per square foot (4.79 KPa).

Alternative Provision (e)(3)(i): Capable of supporting a load of 50 pounds per square foot (2.4 KPa).

Proposed Provision (e)(5)(iv): Extend to within 8 feet (2.4 m) above the ground or base.

Alternative Provision (e)(5)(iv): Extend to within 20 feet (6.1 m) above the ground or base.

Proposed Provision (f) Individual rung ladders: Ladders consisting of individual rungs that are attached to walls or conical manhold sections shall . . .

Alternative Provision (f) Individual rung ladders: Ladders installed after (effective date of final standard) consisting of individual rungs that are attached to walls or conical manhold sections or river cells shall . . .

§ 1918a.120 Portable ladders.

Proposed Provision (b) Standards for existing manufactured portable ladders. (4): Width between side rails at the base of the ladder shall be at least 15 inches (38 cm) for ladders 10 feet (3.05 m) or less in overall length, and shall increase at least ¼ inch (0.6 cm) for each additional 2 feet (0.61 m) of ladder length.

Alternative Provision (b) Standards for existing manufactured portable ladders. (4): Width between side rails at the base of the ladder shall be at least 12 inches (30 cm) for ladders 10 feet (3,05 m) or less in overall length, and shall increase at least ¼ inch (0.6 cm) for each additional 2 feet (0.61 m) of ladder length.

Proposed Provision (c) Standards for manufactured portable ladders: The employer shall ensure that portable manufactured ladders obtained after (effective date of final standard) bear identifying labels indicating that they meet the appropriate ladder construction requirements of the following standards.

ANSI A14–1975 Safety Requirements for Portable Wood Ladders
ANSI A14.2–1972 Safety Requirements for Portable Metal Ladders
ANSI A14.5–1974 Safety Requirements for Portable Reinforced Plastic Ladders

Comment indicates that updated ANSI standards are in place and suggests the following:

Alternative Provision (c) Standards for manufactured portable ladders: Portable manufactured ladders obtained after (effective date of final standard) shall bear identification indicating that they meet the appropriate ladder construction requirements of the following standards.

ANSI A14.1–1980 Safety Requirements for Portable Wood Ladders
ANSI A14.2–1980 Safety Requirements for Portable Metal Ladders
ANSI A14.5–1980 Safety Requirements for Portable Reinforced Plastic Ladders

Proposed Provision (d) Standards for job-made portable ladders. (3): Have a minimum width between side rails of 15 inches (38 cm) for ladders 10 feet (3.05 m) in height. Width between rails shall increase at least ¼ inch (0.6 cm) for each additional 2 feet (0.61 m) of ladder length.

Alternative Provision (d) Standards for job-made portable ladders. (3): Have a minimum width between side rails of 12 inches (30 cm) for ladders 10 feet (3.05 m) in height. Width between rails shall increase at least ¼ inch (0.6 cm) for each additional 2 feet (0.61 m) of ladder length.

Proposed Provision (f) Ladder usage. (3): Metal and wire-reinforced ladders with wooden side rails shall not be used when employees on the ladder might come into contact with electrical conductors.

Alternative Provision (f) Ladder usage. (3): Metal and wire-reinforced ladders with wooden side rails shall not be used when employees on the ladder might come into contact with energized electrical conductors.

Proposed Provision (f)(9): Ladders shall be fitted with slip-resistant bases and lashed, blocked or otherwise

secured at top or bottom to prevent the ladder from slipping.

Alternative Provision (f)(9): Ladders shall be fitted with slip-resistant bases and secured at top or bottom to prevent the ladder from slipping.

Proposed Provision (f)(10): Ladders shall be placed so that employees climbing are not exposed to injury from projecting objects or doors that open toward the ladder.

Comments suggest that this paragraph be deleted because ladder placement is the employee's responsibility.

§ 1918a.121 Fixed stairways.

Proposed Provision (b) New installations. (1): The employer shall ensure that fixed stairs installed after *(effective date of final standard)* are positioned within the range of 30° to 50° to the horizontal with uniform riser height and tread width throughout each run and be capable of a minimum loading of 100 pounds per square foot (448 N) and a minimum concentrated load of 300 pounds (1344 N) at the center of any treadspan. Riser height shall be from 6 to 7.5 inches (15.2 to 19.9 cm), stair width a minimum of 22 inches (56 cm) between vertical barriers, tread depth a minimum of 12 ± 2 inches (30.48 ± 5.08 cm), and tread nosing shall be straight leading edges.

Alternative Provision (b) New installations. (1): Fixed stairs installed after *(effective date of final standard)* shall be positioned within the range of 30° to 50° to the horizontal with uniform riser height and tread width throughout each run and all parts of the stairs shall be designed to carry a load of five times the normal load anticipated. Riser height shall be from 6 to 7.5 inches (15.2 to 19.0 cm), stair width a minimum of 22 inches (56 cm) between vertical barriers, tread depth a minimum of 12 ± 2 inches (30.40 ± 5.08 cm), and tread nosing shall be straight leading edges.

Proposed Provision (c) Restricted areas: When physical features require stairs steeper than those provided for by paragraph (b)(1) of this section, stairs at angles of 50° to 75° from the horizontal may be used if they:

(1) Are capable of a single concentrated load of 200 pounds (890 N) at the tread center;

(2) Have open treads at lest 4 inches (10.2 cm) in depth and 18 inches (45.7 cm) in width with a uniformly spaced vertical rise between treads of 6 to 9.5 inches (15.2 to 24.1 cm); and

(3) Have handrails that meet the requirements of § 1918a.112(c)(1) on both edges and that are not less than 30 inches (76.2 cm) in height from the tread surface at the riser face.

Alternative Provision (c) Restricted Areas: When physical features require stairs steeper than those provided for by paragraph (b)(1) of this section, stairs at angles of 50° to 75° from the horizontal may be used if they:

(1) Are designed so that all parts of the stairs can carry a load of five times the normal live load anticipated;

(2) Have open treads at least 4 inches (10.2 cm) in depth and 18 inches (45.7 cm) in width with a uniformly spaced vertical use between treads of 6 to 9.5 inches (15.2 to 24.1 cm); and

(3) Have handrails that meet the requirements of § 1918a.112(c)(1) on both sides and that are not less than 30 inches (76.2 cm) in height from the tread surface to the riser face.

§ 1918a.112 Spiral stairways.

Proposed Provision (b) Requirements: The employer shall ensure that spiral stairways meet the following requirements:

Alternative Provision (b) Requirements: Spiral stairways installed after (effective date of final standard) shall meet the following requirements.

Proposed Provision (b)(3): Minimum loading capability shall be 100 pounds per square foot (448 N), a minimum tread center concentrated loading shall be 300 pounds (1344 N);

Alternative Provision (b)(3): All parts of the spiral stairway shall be designed to carry a load of five times the normal live load anticipated.

§ 1918a.124 Illumination.

Proposed Provision: Except where the regulations of the United States Coast Guard (33 CFR 126.15(1) and (n), and 33 CFR 154.570) apply, the employer shall ensure that active work areas (for example, cargo transfer points) are illuminated at an average minimum light intensity of 10 foot-candles. Other work areas (for example, open storage areas) shall be illuminated at an average minimum light intensity of 5 foot-candles. Light intensity shall be measured on a horizontal plane at the work or walking surface.

Extensive comments were received on this provision. Among the contentions argued most frequently were the following (1) Costs to comply would be prohibitive; (2) the provision would require major modifications to existing facilities; (3) the requirements would conflict with national and local efforts to conserve energy; and (4) the increased lighting would increase present light pollution complaints from surrounding residential areas. It was futher suggested that OSHA should use the new ANSI/IES 1979 standard rather than the 1973 version. It was generally suggested that the section be revised to read as follows.

Alternative Provision: (a) Working and walking areas shall be illuminated during hours of darkness. Unless conditions described in the regulations of the United States Coast Guard (33 CFR 126.15(1) and (n), and 33 CFR 154.570) exist in the case of specific operations, illumination in active work areas (for example, cargo transfer points) shall be of an average minimum light intensity of 5 foot-candles. The illumination in other work areas (for example, farm areas) shall be of an average minimum light itensity of 1 foot-candle except for security purposes when a minimum light intensity of 1/2 foot-condle shall be maintained. Where occasional work tasks require more light than that which is consistently and permanently provided, supplemental lighting shall be used.

(b) The lighting intensity shall be measured on a horizontal plane 3 feet (.91 m) above the work surface.

(c) Lights shall, as far as possible, be placed so that they will not shine in the eyes of employees.

§ 1918a.125 Passage between levels and across openings.

Proposed Provision (b) Dockboards (car and bridge plates) and ramps: Dockboards and ramps shall:

(1) Not be subjected to loads exceeding the manufacture's recommended load ratings, which shall be marked on the dockboard or ramp or available at the terminal;

(2) Have sufficient edge contact with pier, dock and loading platforms and carriers or vessels to prevent rocking or sliding;

(3) Not be used when loading dock or platform surfaces slope so that substantial contact cannot be maintained;

(4) Be so secured, constructed and used as to prevent the dockboard or ramp from slipping;

(5) Have effective means for safe handling;

(6) Have a safety factor of at least four;

(7) Be equipped with a guardrail meeting the requirements of § 1918a.112(c)(1) if the slope is more than 20 degrees to the horizontal or if employees could fall more than 4 feet (1.2 m);

(8) Be equipped with sideboards or be designed so that trucks are prevented from running over the edge; and

(9) Have slip-resistant surfaces.

Commenters asked that this entire section be rewritten so that dockboards (car and bridge plates) and ramps are

covered in separate sections and that definitions of dockboards and ramps be included. The following was suggested:

Alternative Position (b) Definitions: "Dockboards (car and bridge plates)" mean devices for spanning short distances between rail cars or highway vehicles and loading platforms which do not expose employees to falls greater than 4 feet (1.2 m).

"Ramps" means other flat-surface devices for passage between levels and across openings not covered under "dockboards."

(c) *Dockboards (car and bridge plates).* (1) Dockboards shall be strong enough to support the loads imposed on them.

(2) Portable dockboards shall be anchored in position or be equipped with devices to prevent their movement.

(3) Hand holds or other effective means shall be provided on portable dockboards to permit safe handling.

(4) Positive means shall be used to prevent railcars or highway vehicles from being moved while dockboards or bridge plates are in position.

(d) *Ramps.* (1) Ramps shall be of adequate strength, provided with sideboards, properly secured and well maintained.

(2) Ramps shall be equipped with a guardrail meeting the requirement of § 1918a.112(c)(1) if the slope is more than 20 degrees to the horizontal or if employees could fall more than 4 feet (1.2 m).

(3) Ramps shall have slip-resistant surfaces.

Proposed Provision (c) Other temporary surfacing: When steel plates or similar means are used temporarily to bridge or cover uneven surfaces or tracks, such temporary surfacing shall be secured or built to prevent displacement by vehicle wheels.

Commenters contended that large, heavy, steel plates do not have to be anchored because of their weight. The following was suggested.

Alternative Provision Other temporary surfacing: When necessary to prevent displacement by vehicle wheels, steel plates or similar devices used to temporarily bridge or cover uneven surfaces or tracks, shall be anchored.

§ 1918a.126 Guarding temporary hazards.

Proposed Provision: The employer shall ensure that ditches, pits excavations, other subsidence areas, and surface areas in poor repair are guarded by barricades, railings, roping off or by other equally effective means. The employer shall provide sufficient illumination so that employees can see and avoid the hazardous areas.

Several commenters indicated that they preferred a rule more performance-oriented than the proposal, and so offered the following language as a suggestion:

Alternative Provision: Ditches, pits, excavations and surfaces in poor repair shall be guarded by readily visible barricades, rails or other equally effective means.

§ 1918a.128 Sanitation.

Proposed Provision (a) Washing and toilet facilities. (1)(i): Running water, including hot and cold or tepid water at a minimum of one accessible location (when cargo handling is conducted at locations without permanent facilities, potable water may be provided in lieu of running water);

Alternative Provision (a) Washing and toilet facilities. (1)(i): Sufficient quantities of potable water for washing shall be available at a minimum of one accessible location.

§ 1918a.151 Machine guarding.

Proposed Provision (b) General. (2): During operations that produce chips or dust, the employer shall provide an effective exhaust system at the point of origin of chips and dust.

Alternative Provision (b) General. (2): In operations that produce chips or dust in hazardous quantities, the machinery shall be equipped with an effective exhaust system at the point of origin, or other equally effective means shall be taken to protect the operator.

Proposed Provision (b)(6): Motors shall be wired to prevent automatic restart after loss of power.

Alternative Provision (b)(6): In operations where injury to the operator might result if motors were to restart after power failures, provisions shall be made to prevent machines from automatically restarting upon restoration of power.

Proposed Provision (b)(7): The employer shall ensure that the power supply to machines and equipment is turned off and locked out during repair, adjustment, or servicing.

Alternative Provision (b)(7): The power supply to machines shall be turned off and locked out or tagged out during repair, adjustment, or servicing.

Proposed Provision (b)(8): The employer shall maintain machines and equipment in accordance with the manufacturer's instructions, which shall be available at the terminal.

Alternative Provision (b)(8): Machines shall be maintained in a safe working condition.

Proposed Provision (b)(10): Machines and equipment with operational defects shall not be used.

Alternative Provision (b)(10): Machines with defects that affect the safety of operation shall not be used.

Proposed Provision (c) Hand-fed circular ripsaws and hand-fed circular crosscut table saws: Unless fixed or manually adjustable enclosures or guarding provides equivalent protection, the employer shall ensure that hand-fed circular crosscut table saws are guarded as follows to keep employees clear of any danger zones. . .

Alternative Provision (c) Hand-fed circular ripsaws and hand-fed circular crosscut table saws: Unless fixed or manually adjusted enclosures or guarding provides equivalent protection, hand-fed circular saws manufactured after (effective date of final standard) shall be equipped with guards to keep employees clear of any danger zones as follows. . .

Proposed Provision (g) Abrasive wheels and machinery. (1): Except as provided in paragraphs (g)(2) and (g)(3) of this section, the employer shall ensure that abrasive wheels are used only on machines having enclosure guards to restrain pieces of grinding wheels and to protect employees if the wheels break. Guards shall be aligned with the wheel, and the strength of fastenings shall be greater than the strength of the guard.

Alternative Provision (g) Abrasive wheels and machinery. (1): Except as provided in paragraphs (g)(2) and (g)(3) of this section, abrasive wheels shall be used only on machines having enclosure guards to restrain pieces of grinding wheels and to protect employees if the wheel breaks. Were the operator must stand in front of the safety guard opening, the safety guard shall be adjustable or have and adjustable tongue or piece at the top of the opening. The safety guard or the tongue shall be adjusted so that they are always close to the periphery of the wheel. Guards shall be aligned with the wheel and the strength of fastenings shall be greater than the strength of the guard.

Proposed Provision (h) Rotating parts, drives and connections (1): The employer shall ensure that rotating parts, such as gears and pulleys, that are located 8 feet (2.4 m) or less above working surfaces are guarded to prevent employee contact with moving parts.

Alternative Provision (h) Rotating parts, drives and connections. (1): Rotating parts, such as gears and pulleys, that are located 7 feet (2.1 m) or less above working surfaces shall be guarded to prevent employee contact with moving parts.

§ 1918a.152 Welding, cutting and heating (hot work).

Proposed Provision (c) Fire protection. (4): Additional employees shall be assigned to guard against fire during hot work and for a sufficient time after completion of work to ensure that no fire hazard remains. The employer shall instruct all employees involved in hot work operations as to potential fire hazards and the use of firefighting equipment.

Alternative Provision (c) Fire protection. (4): When the hot work operation is such that normal fire prevention precautions are not sufficient, additional personnel shall be assigned to guard against fire during hot work and for a sufficient time after completion of the work to ensure that no fire hazard remains. The employer shall instruct all employees involved in hot work operations as to potential fire hazards and the use of firefighting equipment.

Proposed Provision (c)(7)(iii): Near any area in which exposed readily ignitable materials such as bulk sulphur, baled paper or cotton are stored.

Alternative Provision (c)(7)(iii): Near exposed, readily ignited materials such as bulk sulphur, baled paper or cotton, unless the immediate area where the welding is to be performed is free of these readily ignitable materials and requirements of paragraphs (c)(3) and (c)(4) of this section are met.

Proposed Provision (f) Ventilation and employee protection in welding, cutting and heating. (3): Welding, cutting or heating of toxic metals. (i) In confined or enclosed spaces, hot work involving the following metals shall only be performed with general mechanical or local exhaust ventilation that ensures that employees are not exposed to hazardous levels of fumes:

Alternative Provision (f) Ventilation and employee protection in welding, cutting and heating. (3): Welding, cutting or heating of toxic metals. (i) In confined or enclosed spaces, hot work involving the following metals shall only be performed with local or general mechanical exhaust ventilation or with employees wearing supplied-air respirators in accordance with § 1918a.92.

§ 1918a.153 Spray painting.

Proposed Provision (d) Additional requirements for spraying areas and spray booths. (8): Piping systems conveying flammable or combustible liquids to the spraying booth or area shall be made of metal or bonded and grounded.

Alternative Provision (d) Additional requirements for spraying areas and spray booths. (8): Piping systems conveying flammable or combustible liquids to the spraying booth or area shall be made of metal and be both bonded and grounded.

§ 1918a.154 Compressed air.

Proposed Provision: The employer shall ensure that employees are protected by chip guarding and personal protective equipment complying with the provisions of Subpart E of this Part during cleaning with compressed air. Compressed air used for cleaning shall not exceed a pressure of 30 psi. Compressed air shall not be used to clean employees.

Alternative Provision: Employees shall be protected by chip guarding and personal protective equipment complying with the provisions of Subpart E of this Part during cleaning with compressed air. Compressed air used for cleaning shall be reduced to less than 30 psi. Employees shall be instructed regarding the hazards associated with compressed air.

§ 1918a.156 Fuel handling and storage.

Proposed Provision (b) Liquid fuel. (6)(ii): Any powered dispensing nozzles used are of the automatic-closing type without latch-open devices.

Alternative Provision (b) Liquid fuel. (6)(ii): Any powered dispensing nozzles used are of the automatic-closing type.

4. Public Participation

Written comments on the proposal or on the alternative provisions must be submitted by May 3, 1982. These comments should be submitted to the Docket Office, Docket No. S–506, Room S–6212, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20210, Telephone: (202) 523–7894. All materials submitted will be available for inspection and copying at this address. Under section 6(b)(3) of the Occupational Safety and Health Act and 29 CFR Part 1911, an opportunity to testify orally concerning the proposal and alternative provisions will be provided at informal public hearings. The hearings are scheduled to begin at 9:30 a.m., on May 25, 1982, in the Auditorium, Frances Perkins Department of Labor Building, 200 Constitution Avenue, NW., Washington, D.C., 20210. (The Washington hearing is scheduled to run through May 27, 1982.) The hearing will continue at regional locations as follows: 9:30 a.m. on June 8, 1982, in the Riviera Room, Bellevue Hotel, Geary and Taylor Streets, San Francisco, California 94102, Telephone (415) 474–3600, and 9:30 a.m., on June 22, 1982, in the Terrace Ballroom, University of Houston, Downtown College Center, 101 Main Street, Houston, Texas 77002, Telephone (713) 225–1781.

Notice of Intention To Appear

Persons desiring to participate at the hearing, including those who previously requested that a public hearing be held, must file a notice of intenion to appear with Tom Hall, OSHA Division of Consumer Affairs, Room N–3635, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20210, Telephone (202) 523–8024. This notice must be filed by May 3, 1982.

The notice of intention to appear which will be available for inspection and copying at the OSHA Division of Consumer Affairs, must contain the following information:

1. The name, address and telephone number of each person to appear;
2. The capacity in which the person will appear;
3. The city where the person intends to appear;
4. The approximate amount of time required for the presentation;
5. The specific issues that will be addressed;
6. A detailed statement of the position that will be taken with respect to each issue addressed; and
7. Whether the party intends to submit documentary evidence, and if so, a detailed summary of the evidence.

Filing of Testimony and Evidence Before the Hearing

Any party requesting more than 15 minutes for presentation at the hearing or who will submit documentary evidence, must provide in quadruplicate, the complete text of its testimony, including all documentary evidence to be presented at the hearing, to the OSHA Division of Consumer Affairs, where they will be available for inspection and copying. This material must be received by May 10, 1982. Each submission will be reviewed in light of the amount of time requested in the notice of intention to appear. In instances where the information contained in the submission does not justify the amount of time requested, a more appropriate amount of time will be allocated and the participant will be notified of that fact.

Any party who has not substantially complied with the above requirement may be limited to a 15 minute presentation, and may be requested to return for questioning at a later time. Any party who has not filed a notice of intention to appear may be allowed to

testify, as time permits, at the discretion of the Administrative Law Judge.

Conduct of the Hearings

The hearing will commence at 9:30 a.m. on May 25, 1982, in the Auditorium of the Frances Perkins Department of Labor Building, 200 Constitution Avenue, NW., Washington, D.C. 20210, with the resolution of any procedural matters relating to the proceeding. The hearing will be presided over by an Administrative Law Judge who will have all the powers necessary or appropriate to conduct a full and fair informal hearing as provided in 29 CFR Part 1911, including the powers:

1. To regulate the course of the proceedings;

2. To dispose of procedural requests, objections and comparable matters;

3. To confine the presentation to the matters pertinent to the issues raised;

4. To regulate the conduct of those present at the hearing by appropriate means;

5. In the Judge's discretion, to question and permit questioning of any witness; and

6. In the Judge's discretion, to keep the record open for a reasonable stated time to receive written information and additional data, views, and arguments from any person who has participated in the oral proceedings.

Following the close of the hearing, the presiding Administrative Law Judge will certify the record of the hearing to the Assistant Secretary of Labor for Occupational Safety and Health. Proposed Part 1918a will be reviewed in light of all testimony and written submissions received as part of the record, and a standard will be issued or a determination will be made not to issue a rule, based on the entire record of the proceeding, including the earlier written comments and evidence received through the public hearing.

Authority

This hearing notice for proposed Part 1918a was prepared under the direction of Thorne G. Auchter, Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

It is issued pursuant to Sec. 6 of the Occupational Safety and Health Act, Pub. L. 91–596, 84 Stat. 1593 (29 U.S.C. 655); Section 41 of the Longshoremen's and Harbor Workers' Compensation Act, 44 Stat. 1444, as amended, (33 U.S.C. 941); 29 CFR Part 1911; and Secretary of Labor's Order No. 8–76 (41 FR 25059).

Signed at Washington, D.C. this 30th day of March 1982.

Thorne G. Auchter,

Assistant Secretary of Labor.

[FR Doc. 82-9025 Filed 4-1-82; 8:45 am]

BILLING CODE 4510-26-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

45 CFR Ch. XI

Semiannual Agenda of Regulations

AGENCY: National Endowment for the Humanities.

ACTION: Publication of the Semiannual Agenda of Regulations.

SUMMARY: Pursuant to the Regulatory Flexibility Act, Pub. L. 96–354, and Executive Order 12291 "Federal Regulation" dated February 17, 1981 the National Endowment for the Humanities is required to publish in April and October of each year an agenda of proposed regulations that the Endowment has issued or expects to issue and currently effective rules that are under agency review.

FOR FURTHER INFORMATION CONTACT: Mr. Stephen J. McCleary, Deputy General Counsel, National Endowment for the Humanities, 806 15th Street, N.W., Washington, D.C. 20506, 202–724–0367.

Semiannual Agenda of Regulations:

Regulations to be issued:

Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance from NEH;

Nondiscrimination of the Basis of Sex;

Regulations under review:

Nondiscrimination on the Basis of Race, Color, or National Origin Within NEH-Funded Programs;

Statement for the Guidance of the Public—Organization, Procedure and Availability of Information.

None of the above regulations is a "major rule" within the meaning of Executive Order 12291, nor would any of the regulations have a significant economic impact on a substantial number of small entities.

Dated: March 30, 1982.

William Bennett,

Chairman.

[FR Doc. 82-9203 Filed 4-5-82; 8:45 am]

BILLING CODE 7536-01-M

FEDERAL MARITIME COMMISSION

46 CFR Part 502

[General Order 16; Docket No. 82-21]

Improvements in Prehearing and Discovery Procedures

AGENCY: Federal Maritime Commission.

ACTION: Proposed rulemaking.

SUMMARY: The rules of procedure relating to discovery are proposed to be revised to require more prompt commencement and completion of discovery, encourage the establishment of reasonable discovery plans and schedules, secure prompt rulings in case of disputes, provide for protective orders and supplementary responses, eliminate time-consuming procedural formalities, and otherwise simplify procedures. The rules are also rearranged to promote ease of usage. The purpose of this action is to simplify and expedite the discovery phase of Commission proceedings.

DATES: Comments due within or before June 7, 1982.

ADDRESSES: Comments (original and 15 copies) to: Francis C. Hurney, Secretary, Federal Maritime Commission, 1100 L Street, N.W., Washington, D.C. 20573, (201) 523–5725.

FOR FURTHER INFORMATION CONTACT: Francis C. Hurney, Secretary, Federal Maritime Commission, 1100 L Street, N.W., Washington, D.C. 20573, (201) 523–5725.

SUPPLEMENTARY INFORMATION: The Federal Maritime Commission proposes to revise its rules of procedure relating to prehearing discovery promulgated in Subpart L of Part 502 of Title 46 of the Code of Federal Regulations. Those proposed revisions would simplify discovery procedures and assist parties in formal Commission proceedings to complete discovery with minimal delay. The major changes from the present rules are as follows.

The provisions of the present rules which permit commencement of discovery in complaint cases within 30 days of notice of the filing of the complaint and do not fix a date certain for completion of discovery have been revised. Instead, parties in complaint cases must commence discovery with the filing of their initial pleadings and parties in all proceedings must complete discovery within 120 days of commencement of the proceeding.

The present system of permitting "waves" of discovery and formal motions seeking orders to compel answers has been replaced by providing for discovery conferences with the presiding officer to resolve disputes and

by requiring parties to meet and provide for completion of discovery within the new time periods required or to propose alternative schedules if the parties are unable to agree.

Provision is now expressly made for depositions to be taken by telephone or other reliable device which will enable parties to save time and travel expense. Provisions in the federal rules regarding the issuance of protective orders for all types of discovery and requiring supplementary responses under certain circumstances have been adopted. The present system by which discovery requests directed to persons or documents located in foreign countries must be presented to the Commission has been simplified by allowing initial rulings by the presiding officer subject to appeal to or review by the Commission. The rules have also been rearranged and simplified in other respects to facilitate their usage.

Pursuant to the Regulatory Flexibility Act (5 U.S.C. 601 et seq.), the Commission certifies that the proposed rulemaking will not, if adopted, have a significant impact on a substantial number of small entities.

List of Subjects in 46 CFR Part 502

Administrative practice and procedure, claims.

Therefore, pursuant to the Administrative Procedure Act (5 U.S.C. 553), sections 22, 27, and 43 of the Shipping Act, 1916 (46 U.S.C. 821, 826, and 841a), the Commission proposes to revise Subpart L of Part 502 of Title 46 CFR to read as follows:

PART 502—RULES OF PRACTICE AND PROCEDURE

* * * * *

Subpart L—Depositions, Written Interrogatories, and Discovery

Sec.

502.201 General provisions governing discovery.
502.202 Persons before whom depositions may be taken.
502.203 Depositions upon oral examination.
502.204 Depositions upon written interrogatories.
502.205 Interrogatories to parties.
502.206 Production of documents and things and entry upon land for inspection and other purposes.
502.207 Request for admission.
502.208 Use of discovery procedures directed to Commission staff personnel.
502.209 Use of depositions at hearings.
502.210 Refusal to comply with orders to answer or produce documents; sanctions; enforcement.

* * * * *

Subpart L—Depositions, Written Interrogatories, and Discovery

§ 502.201 General provisions governing discovery.

(a) *Applicability.* The procedures described in this subpart are available in all adjudicatory proceedings under section 22 of the Shipping Act, 1916. Unless otherwise ordered by the presiding officer, the copy requirements of § 502.118(b)(3)(i) shall be observed.

(b) *Schedule for use.* (1) *Complaint proceedings.* Any party desiring to use the procedures provided in this subpart shall commence doing so at the time it files its initial pleading, e.g., complaint, answer or petition for leave to intervene. Discovery matters accompanying complaints shall be filed with the Secretary of the Commission for service pursuant to § 502.113 of this part.

(2) *Commission instituted proceedings.* All parties desiring to use the procedures provided in this subpart shall commence to do so within 30 days of the service of the Commission's order initiating the proceeding.

(c) *Completion of discovery.* Discovery shall be completed within 120 days of the service of the complaint or the Commission's order initiating the proceeding.

(d) *Duty of the parties.* In all proceedings in which the procedures of this subpart are used, it shall be the duty of the parties or their attorneys to meet or confer as soon as possible (1) after service of the answer to a complaint or (2) after service of the discovery requests provided in subsection (b)(2) of this section to provide for the completion of discovery within the time prescribed in subsection (c) of this section.

(e) *Proposals to alter schedule.* If any party cannot complete discovery within the time specified in subsection (c), the party, after conferring with other parties, may propose a reasonable schedule which shall be presented to the presiding officer for consideration. All such proposals shall state clearly and in detail the reasons why discovery cannot be completed within the time limits required by subsection (c) and shall be submitted within 60 days of the service of the complaint or the order instituting the proceeding.

(f) *Conferences.* The presiding officer may at any time order the parties or their attorneys to participate in a conference at which the presiding officer may direct the proper use of the procedures of this subpart or make such orders as may be necessary to resolve disputes with respect to discovery and to prevent delay or undue inconvenience.

(g) *Resolution of disputes.* After making every reasonable effort to resolve discovery disputes, a party may request a conference or rulings from the presiding officer on such disputes. Such rulings shall be made orally upon the record when feasible or by subsequent ruling in writing. If necessary to prevent undue delay or otherwise facilitate conclusion of the proceeding, the presiding officer may order a hearing to commence before the completion of discovery.

(h) *Scope of examination.* Persons and parties may be examined regarding any matter, not privileged, which is relevant to the subject matter involved in the proceeding, whether it relates to the claim or defense of the examining party or to the claim or defense of any other party, including the existence, description, nature, custody, condition, and location of any books, documents, or other tangible things, and the identity and location of persons having knowledge of relevant facts. It is not ground for objection that the testimony will be inadmissible at the hearing if the testimony sought appears reasonably calculated to lead to the discovery of admissible evidence.

(i) *Protective orders.* Upon motion by a party or by the person from whom discovery is sought, and for good cause shown, the presiding officer may make any order which justice requires to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense, including one or more of the following: (1) That the discovery not be had; (2) that the discovery may be had only on specified terms and conditions, including a designation of the time or place; (3) that the discovery may be had only by a method of discovery other than that selected by the party seeking discovery; (4) that certain matters not be inquired into, or that the scope of the discovery be limited to certain matters; (5) that discovery may be conducted with no one present except persons designated by the presiding officer; (6) that a deposition after being sealed be opened only by order of the presiding officer; (7) that a trade secret or other confidential research, development, or commercial information not be disclosed or be disclosed only in a designated way; (8) that the parties simultaneously file specified documents or information enclosed in sealed envelopes to be opened as directed by the presiding officer. If the motion for a protective order is denied in whole or in part, the presiding officer may, on such terms and

conditions as are just, order that any party or person provide or permit discovery. Rulings under this paragraph shall be issued by the presiding officer at a discovery conference called under § 502.201(f) or, if circumstances warrant, under such other procedure as the presiding officer may establish.

(j) *Supplementation of responses.* A party who has responded to a request for discovery with a response that was complete when made is under no duty to supplement the party's responses to include information thereafter acquired, except as follows:

(1) A party is under a duty seasonably to supplement responses with respect to any question directly addressed to (i) the identity and location of persons having knowledge of discoverable matters, and (ii) the identity of each person expected to be called as an expert witness at a hearing, the subject matter on which such person is expected to testify, and the substance of the testimony.

(2) A party is under a duty seasonably to amend a prior response if the party obtains information upon the basis of which (i) the party knows that the response was incorrect when made, or (ii) the party knows that the response though correct when made is no longer true and the circumstances are such that a failure to amend the response is in substance a knowing concealment.

(3) A duty to supplement responses may be imposed by order of the presiding officer or by agreement of the parties, subject to the time limitations set forth in § 502.201(c) or established under § 502.201(e). (Rule 201.)

§ 502.202 Persons before whom depositions may be taken.

(a) *Within the United States.* Within the United States or within a territory or insular possession subject to the jurisdiction of the United States, depositions shall be taken before an officer authorized to administer oaths under the laws of the United States or of the place where the examination is held.

(b) *In foreign countries.* In a foreign country, depositions may be taken (1) on notice, before a person authorized to administer oaths in the place in which the examination is held, either under the law thereof or under the law of the United States, or (2) before a person commissioned by the Commission, and a person so commissioned shall have the power by virtue of his commission to administer any necessary oath and take testimony, or (3) pursuant to a letter rogatory. A commission or a letter rogatory shall be issued on application and notice and on terms that are just and appropriate. It is not requisite to the issuance of a commission or a letter rogatory that the taking of the deposition in any other manner is impracticable or inconvenient; and both a commission and a letter rogatory may be issued in proper cases. A notice or commission may designate the person before whom the deposition is to be taken either by name or descriptive title. A letter rogatory may be addressed "To the Appropriate Authority in (here name the country)." Evidence obtained in response to a letter rogatory need not be excluded merely for the reason that it is not a verbatim transcript or that the testimony was not taken under oath or for any similar departure from the requirements for depositions taken within the United States under the rules in this subpart. (See 22 CFR 92.49–92.66.)

(c) *Disqualification for interest.* No desposition shall be taken before a person who is a relative or employee or attorney or counsel of any of the parties, or is a relative or employee of such attorney or counsel, or is financially interested in the action.

(d) *Waiver of objection.* Objection to taking a deposition because of disqualification of the officer before whom it is to be taken is waived unless made before the deposition begins or as soon thereafter as the disqualification becomes known or could be discovered with reasonable diligence.

(e) *Stipulations.* If the parties so stipulate in writing, depositions may be taken before any person, at any time or place, upon any notice, and in any manner and when so taken may be used like other depositions. (Rule 202.)

§ 502.203 Deposition upon oral examination.

(a) *Notice of examination.* A party desiring to take the deposition of any person upon oral examination shall give reasonable notice in writing to such person and to every other party to the action. The notice shall state the time and place for the taking of the deposition and the name and address of each person to be examined if known, or if the name is not known, a general description sufficient to identify the person or the particular class or group to which the person belongs. The notice shall also contain a statement of the matters concerning which each witness will testify. The attendance of witnesses may be compelled by subpena as provided in Subpart I of this part. If a subpena duces tecum is to be served on the person to be examined, the designation of the materials to be produced as set forth in the subpena shall be attached to or included in the notice. All errors and irregularities in the notice or subpena for taking of a deposition are waived unless written objection is promptly served upon the party giving the notice. Examination and cross-examination of deponents may proceed as permitted at the hearing under the provisions of § 502.154.

(b) *Record of examination; oath; objections.* The officer before whom the deposition is to be taken shall put the witness on oath and shall personally, or by someone acting under his direction and in his presence, record the testimony of the witness. The testimony shall be taken stenographically and transcribed unless the parties agree otherwise. All objections made at the time of the examination to the qualifications of the officer taking the deposition, or to the manner of taking it, or to the evidence presented, or to the conduct of any party, and any other objection to the proceedings, shall be noted by the officer upon the deposition. Evidence objected to shall be taken subject to the objections. Objections shall be resolved at a discovery conference called under § 502.201(f) or, if circumstances warrant, by such other procedure as the presiding officer may establish. In lieu of participating in the oral examination, parties served with notice of taking a deposition may transmit written interrogatories to the officer, who shall propound them to the witness and record the answers verbatim. The parties may stipulate or the presiding officer may upon motion order that a deposition be taken by telephone or other reliable device.

(c) *Motion to terminate or limit examination.* At any time during the taking of the deposition, on motion of any party or of the deponent and upon a showing that the examination is being conducted in bad faith or in such manner as unreasonably to annoy, embarrass, or oppress the deponent or party, the presiding officer may order the officer conducting the examination to cease forthwith from taking the deposition, or may limit the scope and manner of the taking of the deposition as provided in paragraph (b) of this section. If the order made terminates the examination, it shall be resumed thereafter only upon the order of the presiding officer. Upon demand of the objecting party or deponent, the taking of the deposition shall be suspended for the time necessary to make a motion for an order. Rulings under this paragraph shall be issued by the presiding officer at a discovery conference called under § 502.201(f) or, if circumstances warrant, by such other procedure as the presiding officer may establish.

(d) *Submission to witness; changes; signing.* When the testimony is fully

transcribed, the deposition shall be submitted to the witness for examination and shall be read to or by the witness, unless such examination and reading are waived by the witness and by the parties. Any changes in form or substance which the witness desires to make shall be entered upon the deposition by the officer with a statement of the reasons given by the witness for making them. The deposition shall then be signed by the witness unless the parties by stipulation waive the signing or the wtiness is ill or cannot be found or refuses to sign. If the deposition is not signed by the witness, the officer shall sign it and state on the record the fact of the wavier or of the illness or absence of the witness or the fact of the refusal to sign together with the reason, if any, given therefor; and the deposition may then be used as fully as though signed, unless upon objection, the presiding officer holds that the reasons given for the refusal to sign require rejection of the deposition in whole or in part.

(e) *Certification and filing by officer; copies, notice of filing.* (1) The officer taking the deposition shall certify on the deposition that the witness was duly sworn by the officer and that the deposition is a true record of the testimony given by the witness. The officer shall then securely seal the deposition in an envelope indorsed with the title of the action and marked "Deposition of [here insert name of witness]" and shall promptly file it with the Secretary of the Commission by hand or registered or certified mail.

(2) Interested parties shall make their own arrangements with the officer taking the deposition for copies of the testimony and the exhibits.

(3) The party taking the deposition shall give prompt notice of its filing to all other parties.

(f) *Effect of errors and irregularities.* Errors and irregularities in the manner in which the testimony is transcribed or the deposition is prepared, signed, certified, sealed, indorsed, transmitted, filed, or otherwise dealt with by the officer under this § 502.203 and § 502.204 are waived unless a motion to suppress the deposition or some part thereof is made within ten (10) days of filing. (Rule 203.)

§ 502.204 Depositions upon written interrogatories.

(a) *Serving interrogatories; notice.* A party desiring to take the deposition of any person upon written interrogatories shall serve them upon every other party with a notice stating the name and address of the person who is to answer them and the name or descriptive title and address of the officer before whom the deposition is to be taken. Within 10 days thereafter, a party so served may serve cross interrogatories upon the party proposing to take the deposition. All errors and irregularities in the notice are waived unless written objection is promptly served upon the party giving the notice.

(b) *Officer to take responses and prepare record.* A copy of the notice and copies of all interrogatories served shall be delivered by the party taking the deposition to the officer designated in the notice, who shall proceed promptly in the manner provided by § 502.205 (c), (e), and (f), to take the testimony of the witness in response to the interrogatories and to prepare, certify, and file or mail the deposition, attaching thereto the copy of the notice and the interrogatories received by him.

(c) *Notice of filing.* When the deposition is filed, the party taking it shall promptly give notice thereof to all other parties. (Rule 204.)

§ 502.205 Interrogatories to parties.

(a) Any party may serve upon any other party written interrogatories to be answered by the party served or, if the party served is a public or private corporation or a partnership or association, by any officer or agent, who shall furnish such information as is available to the party. Any party desiring to serve interrogatories as provided by this section must comply with the applicable provisions of § 502.201 and make service thereof on all parties to the proceeding. Each interrogatory shall be answered separately and fully in writing under oath, unless it is objected to, in which event the reasons for objection shall be stated in lieu of an answer. The answers are to be signed by the person making them, and the objections signed by the attorney making them. The party upon whom the interrogatories have been served shall serve a copy of the answers, and objections if any, on all parties to the proceeding under the schedule established pursuant to § 502.201. The presiding officer, for good cause, may limit service of answers.

(b) *Objections to interrogatories.* All objections to interrogatories shall be resolved at the conference or meeting provided for under § 502.201(f) or, if circumstances warrant, by such other procedure as the presiding officer may establish.

(c) *Scope, time, number and use.* Interrogatories may relate to any matters which can be inquired into under § 502.201(h), and the answers may be used to the same extent as provided in § 502.209 for the use of the deposition of a party. Interrogatories may be sought after interrogatories have been answered, but the presiding officer, on motion of the dependent or the party interrogated, may make such protective order as justice may require. The number of interrogatories or of sets of interrogatories to be served is not limited except as justice requires to protect the party from annoyance, expense, embarrassment, or oppression. An interrogatory otherwise proper is not necessarily objectionable merely because an answer to the interrogatory involves an opinion or contention that relates to fact or the application of law to fact, but the presiding officer may order that such an interrogatory need not be answered until after designated discovery has been completed or until a prehearing conference or other later time.

(d) *Option to produce business records.* Where the answer to an interrogatory may be derived or ascertained from the business records of the party upon whom the interrogatory has been served or from an examination, audit or inspection of such business records, or from a compilation, abstract or summary based thereon, and the burden of deriving or ascertaining the answer is substantially the same for the party serving the interrogatory as for the party served, it is a sufficient answer to such interrogatory to specify the records from which the answer may be derived or ascertained and to afford to the party serving the interrogatory reasonable opportunity to examine, audit or inspect such records and to make copies, compilations, abstracts or summaries. (Rule 205.)

§ 502.206 Production of documents and things and entry upon land for inspection and other purposes.

(a) *Scope.* Any party may serve on any other party a request (1) to produce and permit the party making the request, or someone acting on his behalf, to inspect and copy any designated documents (including writings, drawings, graphs, charts, photographs, sound or video recordings, and other data compilations from which information can be obtained, translated, if necessary, by the respondent through detection devices into reasonably usable form), or to inspect and copy, test, or sample any tangible things which constitute or contain matters within the scope of § 502.203(a) and which are in the possession, custody or control of the party upon whom the request is served; or (2) to permit entry upon designated land or other property in the possession or control of the party

upon whom the request is served for the purpose of inspection and measuring, surveying, photographing, testing, or sampling the property of any designated object or operation thereon, within the scope of § 502.203(a).

(b) *Procedure.* The request shall set forth the items to be inspected either by individual item or by category, and describe each item and category with reasonable particularity. The request shall specify a reasonable time, place, and manner of making the inspection and performing the related acts. Responses shall be served under the schedule established pursuant to § 502.201. The response shall state, with respect to each item or category, that inspection and related activities will be permitted as requested, unless the request is objected to, in which event the reasons for objection shall be stated. Objections to requests for production of documents shall be resolved at the conference or meeting required under § 502.201(f) or, if circumstances warrant, by such other procedure as the presiding officer may establish. (Rule 206.)

§ 502.207 Requests for admission.

(a)(1) A party may serve upon any other party a written request for the admission, for purposes of the pending action only, of the truth of any matters within the scope of § 502.203(a) set forth in the request that relate to statements or opinions of fact or of the application of law to fact, including the genuineness of any documents described in the request. Copies of documents shall be served with the request unless they have been or are otherwise furnished or made available for inspection and copying. Any party desiring to serve a request as provided by this section must comply with the applicable provisions of § 502.201.

(2) Each matter of which an admission is requested shall be separately set forth. The matter is admitted unless, within 30 days after service of the request, or within such shorter or longer time as the presiding officer may allow pursuant to § 502.201, the party to whom the request is directed serves upon the party requesting the admission a written answer or objection addressed to the matter, signed by the party or the party's attorney. If objection is made, the reasons therefor shall be stated. The answer shall specifically deny the matter or set forth in detail the reasons why the answering party cannot truthfully admit or deny the matter. A denial shall fairly meet the substance of the requested admission, and when good faith requires that a party qualify the answer or deny only a part of the matter of which an admission is requested, the party shall specify so much of it as is true and qualify or deny the remainder. An answering party may not give lack of information or knowledge as a reason for failure to admit or deny unless the party states that reasonable inquiry has been made and that the information known or readily obtainable is insufficient to enable the party to admit or deny. A party who considers that a matter of which an admission has been requested presents a genuine issue for trial may not, on that ground alone, object to the request; a party may, subject to the provisions of § 502.207(c), deny the matter or set forth reasons why it cannot be admitted or denied.

(3) The party who has requested the admissions may request rulings on the sufficiency of the answers or objections. Rulings on such requests shall be issued at a conference called under § 502.201(f) or, if circumstances warrant, by such other procedure as the presiding officer may establish. Unless the presiding officer determines that an objection is justified, the presiding officer shall order that an answer be served. If the presiding officer determines that an answer does not comply with the requirements of this rule, the presiding officer may order either that the matter is admitted or that an amended answer be served. The presiding officer may, in lieu of these orders, determine that final disposition of the request be made at a prehearing conference or at a designated time prior to hearing.

(b) *Effect of admission.* Any matter admitted under this rule is conclusively established unless the presiding officer on motion permits withdrawal or amendment of the admission. The presiding officer may permit withdrawal or amendment when the presentation of the merits of the action will be subserved thereby and the party who obtained the admission fails to satisfy the presiding officer that withdrawal or amendment will be prejudicial in maintaining the party's action or defense on the merits. Any admission made by a party under this rule is for the purpose of the pending proceeding only and is not an admission for any other purpose nor may it be used against the party in any other proceeding.

(c) *Expenses on failure to admit.* If a party fails to admit the genuineness of any document or the truth of any matter as requested under § 502.207(a), and if the party requesting the admission thereafter proves the genuineness of the document or the truth of the matter, that party may apply to the presiding officer for an order requiring the other party to pay the reasonable expenses incurred in making that proof, including reasonable attorney's fees. Such application must be made to the presiding officer before issuance of the initial decision in the proceeding. The presiding officer shall make the order unless it is found that (1) the request was held objectionable pursuant to § 502.207(a), or (2) the admission sought was of no substantial importance, or (3) the party failing to admit had reasonable ground to believe that it might prevail on the matter, or (4) there was other good reason for the failure to admit. (Rule 207.)

§ 502.208 Use of discovery procedures directed to Commission staff personnel.

(a) Discovery procedures described in §§ 502.202, 502.203, 502.204, 502.205, 502.206, and 502.207, directed to Commission staff personnel shall be permitted and shall be governed by the procedures set forth in those sections except as modified by paragraphs (b), and (c) of this section. All notices to take depositions, written interrogatories, requests for production of documents and other things, requests for admissions, and any motions in connection with the foregoing, shall be served on the Secretary of the Commission.

(b) The General Counsel shall designate an attorney to represent any Commission staff personnel to whom any discovery requests or motions are directed. The attorney so designated shall not thereafter participate in the Commission's decision-making process concerning any issue in the proceeding.

(c) Rulings of the presiding officer issued under § 502.208(a) shall become final rulings of the Commission unless an appeal is filed within ten (10) days after date of issuance of such rulings or unless the Commission on its own motion reverses, modifies, or stays such rulings within twenty (20) days of their issuance. Replies to appeals may be filed within ten (10) days. No motion for leave to appeal is necessary in such instances and no ruling of the presiding officer shall be effective until twenty (20) days from date of issuance unless the Commission otherwise directs. (Rule 208.)

§ 502.209 Use of depositions at hearings.

(a) *General.* At the hearing, any part or all of a deposition, so far as admissible under the rules of evidence, may be used against any party who was present or represented at the taking of the deposition or who had due notice thereof in accordance with any one of the following provisions:

(1) Any deposition may be used by any party for the purpose of

contradicting or impeaching the testimony of deponent as a witness.

(2) The deposition of a party or of anyone who at the time of taking the deposition was an officer, director, or duly authorized agent of a public or private corporation, partnership, or association which is a party, may be used by any other party for any purpose.

(3) The deposition of a witness, whether or not a party, may be used by any party for any purpose if the presiding officer finds: (i) That the witness is dead; or (ii) that the witness is out of the United States unless it appears that the absence of the witness was procured by the party offering the depositions; or (iii) that the witness is unable to attend or testify because of age, sickness, infirmity, or imprisonment; or (iv) that the party offering the deposition has been unable to procure the attendance of the witness by subpoena; or (v) upon application and notice, that such exceptional circumstances exist as to make it desirable, in the interest of justice and with due regard to the importance of presenting the testimony of witnesses orally in open hearing, to allow the deposition to be used.

(4) If only part of a deposition is offered in evidence by a party, any other party may require introduction of all of it which is relevant to the part introduced, and any party may introduce any other parts.

(5) Substitution of parties does not affect the right to use depositions previously taken; and, when a proceeding in any hearing has been dismissed and another proceeding involving the same subject matter is afterward brought between the same parties or their representatives or successors in interest, all depositions lawfully taken and duly filed in the former proceeding may be used in the latter as if originally taken therefor.

(b) *Objections to admissibility.* Except as provided in this paragraph, objection may be made at the hearing to receiving in evidence any deposition or part thereof for any reason which would require the exclusion of the evidence if the witness were then present and testifying.

(1) Objections to the competency of a witness or to the competency, relevancy, or materiality of testimony are not waived by failure to make then before or during the taking of the deposition, unless the ground of the objection is one which might have been obviated or removed if presented at that time.

(2) Errors and irregularities occurring at the oral examination in the manner of taking the deposition, in the form of the questions or answers, in the oath or affirmation, or in the conduct of parties and errors of any kind which might be obviated, removed, or cured if promptly presented, are waived unless reasonable objection thereto is made at the taking of the deposition.

(3) Objections to the form of written interrogatories submitted under § 502.204 are waived unless served in writing upon the party propounding them within the time allowed for serving the succeeding cross interrogatories.

(c) *Effect of taking or using depositions.* A party shall not be deemed to make a person its own witness for any purpose by taking such person's deposition. The introduction in evidence of the deposition or any part thereof for any purpose other than that of contradicting or impeaching the deponent makes the deponent the witness of the party introducing the deposition, but this shall not apply to the use by any other party of a deposition as described in paragraph (a)(2) of this section. At the hearing, any party may rebut any relevant evidence contained in a deposition whether introduced by him or by any other party. (Rule 209.)

§ 502.210 Refusal to comply with orders to answer or produce documents; sanctions; enforcement.

(a) *Sanctions for failure to comply with order.* If a party or an officer or duly authorized agent of a party refuses to obey an order requiring such party to answer designated questions or to produce any document or other thing for inspection, copying or photographing or to permit it to be done, the presiding officer may make such orders in regard to the refusal as are just, and among others the following:

(1) An order that the matters regarding which the order was made or any other designated facts shall be taken to be established for the purposes of the action in accordance with the claim of the party obtaining the order;

(2) An order refusing to allow the disobedient party to support or oppose designated claims or defenses, or prohibiting the disobedient party from introducing designated matters in evidence or an order that with respect to matters regarding which the order was made or any other designated fact, inferences will be drawn adverse to the person or party refusing to obey such order;

(3) An order striking out pleadings or parts thereof, or staying further proceedings until the order is obeyed, or dismissing the action or proceeding or any party thereof, or rendering a judgment by default against the disobedient party.

(b) *Enforcement of orders.* In the event of refusal to obey an order, the affected party or the Commission may apply for enforcement to a district court having jurisdiction of the parties, provided that the affected party seeks court enforcement within 20 days of the date of refusal to obey the order in question. Failure to seek enforcement in timely fashion will result in a waiver of the affected party's rights to enforcement of the subject order.

(c) *Persons and documents located in a foreign country.* Orders of the presiding officer directed to persons or documents located in a foreign country shall become final orders of the Commission unless an appeal to the Commission is filed within ten (10) days after date of issuance of such orders or unless the Commission on its own motion reverses, modifies, or stays such rulings within twenty (20) days of their issuance. Replies to appeals may be filed within ten (10) days. No motion for leave to appeal is necessary in such instances and no orders of the presiding officer shall be effective until twenty (20) days from date of issuance unless the Commission otherwise directs. (Rule 210.)

By the Commission.

Francis C. Hurney,

Secretary.

[FR Doc. 82-9257 Filed 4-5-82; 8:45 am]

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 83

Proposed Rule Implementing the Fish and Wildlife Conservation Act of 1980

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: This proposed rule would implement the Fish and Wildlife Conservation Act of 1980 which provides for Federal funds to States for developing, revising and implementing, in consultation with appropriate Federal, State and local and regional agencies, plans for the conservation of fish and wildlife. It seeks to clarify requirements set forth in the Act and to merge with them other requirements placed on grantees and grant-administering agencies by other laws, Executive orders and policies such as Office of Management and Budget (OMB) Circular A-102.

DATES: Comments must be received by May 21, 1982.

ADDRESSES: Any comments on the proposed requirements should be submitted to the Chief, Division of Federal Aid, U.S. Fish and Wildlife Service, Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Charles K. Phenicie, Chief, Division of Federal Aid, U.S. Fish and Wildlife Service, Washington, D.C. 20240, telephone 703/235–1526.

SUPPLEMENTARY INFORMATION: The Fish and Wildlife Conservation Act of 1980 (16 U.S.C. 2901) was passed in September 1980 to become operational October 1, 1981. It provides for a system of grants to the 50 States, Guam, Puerto Rico, the Virgin Islands, American Samoa, the Northern Mariana Islands, the Trust Territories of the Pacific Islands, and the District of Columbia to encourage the preparation of and implementation of plans for the conservation of fish and wildlife, with emphasis on nongame species. It is intended that this grant program will function in concert with the existing Federal Aid in Fish Restoration and Federal Aid in Wildlife Restoration programs which place emphasis on sport fish and hunted wildlife respectively. This proposed rule is written to be compatible with the rule pertaining to these Acts (50 CFR Part 80).

The grant program will be referenced in the *Catalog of Federal Domestic Assistance* as Program number 15.614, Fish and Wildlife Planning and Nongame Assistance. This program will require compliance with the notification requirements of OMB Circular A–95.

This proposed rule serves almost entirely to interpret, clarify and consolidate requirements imposed by the Act and pertinent Executive orders, other laws, and policies. Consistent with the National Environmental Policy Act, examination of environmental impacts has been completed and a Finding of No Significant Impact has been issued.

Further, it has been determined that this proposed rule is not a major rule under Executive Order 12291 and will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act.

Information Collection: The information collection requirement contained in this Part 83 has been approved by the Office of Management and Budget under 44 U.S.C. 3507 and assigned clearance number 1018–0048.

The principal author of this rule is C. Phillip Agee, U.S. Fish and Wildlife Service, Division of Federal Aid, Washington, D.C. 20240, telephone 703/235–1526.

List of Subjects in 50 CFR Part 83

Fish
Grant programs—natural resources
Grants administration
Wildlife

Accordingly, the Service proposes to amend 50 CFR by adding a new Part 83 as follows:

PART 83—RULES IMPLEMENTING THE FISH AND WILDLIFE CONSERVATION ACT OF 1980

Sec.
83.1 Definitions.
83.2 Participant eligibility.
83.3 Allocation of funds.
83.4 Eligible undertakings.
83.5 Limitations.
83.6 Appeals.
83.7 Availability of funds.
83.8 Submission of proposals for funding.
83.9 Conservation plans.
83.10 Costing sharing.
83.11 Cooperation between States.
83.12 Project requirements.
83.13 Application of funds provided under the act.
83.14 Allowable costs.
83.15 Payments.
83.16 Maintenance.
83.17 Responsibilities.
83.18 Records.
83.19 Land control.
83.20 Assurances.

Authority: The Fish and Wildlife Conservation Act of 1980, 16 U.S.C. 2901.

The information collection requirement contained in this Part 83 has been approved by the Office of Management and Budget under 44 U.S.C. 3507 and assigned clearance number 1018–0048.

§ 83.1 Definitions.

As used in this part, the following terms mean:

(a) *Act.* The Fish and Wildlife Conservation Act of 1980, Pub. L. 96–366 (16 U.S.C. 2901).

(b) *Conservation plan.* A plan for the conservation of fish and wildlife within a State which meets the requirements set forth in this part.

(c) *Designated State agency* or *State agency.* The commission, department, division or other agency of a State which has the primary legal authority for the conservation of fish and wildlife. If more than one agency is designated by the State to exercise such authority, the term means each such agency acting with respect to its assigned responsibilities.

(d) *Director.* The Director of the U.S. Fish and Wildlife Service or his/her designee.

(e) *Federal Aid Manual.* The publication of the U.S. Fish and Wildlife Service which contains policies, standards and procedures required for participation in the benefits of the Act.

(f) *Fish and wildlife.* Wild vertebrate animals that are in an unconfined state.

(g) *Nongame fish and wildlife.* Fish and wildlife that:

(1) Are not ordinarily taken for sport, fur, food, or commerce within the State except that any species legally taken for sport, fur, food, or commerce in some but not all parts of a State may be deemed nongame within any area where such taking is prohibited;

(2) Are not listed as indangered or threatened species under Endangered Species Act of 1973 (16 U.S.C. 1531–1543);

(3) Are not marine mammals within the meaning of section 3(5) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1362(5));

(4) Are not domesticated species that have reverted to a feral existence.

(h) *Plan species.* Any species or subspecies or ecologic association of species and subspecies which is designated to be addressed through actions set forth in an approved conservation plan.

(i) *Project.* A definitive proposal submitted by a State and approved by the regional director for funding under this Act.

(j) *Regional Director.* The regional director of the U.S. Fish and Wildlife Service or his/her designee.

(k) *Secretary.* The Secretary of the Interior or his/her designee.

(l) *State.* Any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the Virgin Islands, Guam, the trust Territories of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands.

§ 83.2 Participant eligibility.

Participation is limited to designated State agencies. The governor or chief executive of each State shall designate the State agency which will serve to coordinate the State actions under this Act. The director of each designated State agency shall notify the regional director, in writing, of the official(s) authorized to sign Federal Aid documents and of any changes in such authorizations.

§ 83.3 Allocation of funds.

(a) In accordance with the provisions of the Act, the allocation of funds to the States shall take into account the area and population of each State.

(1) Area of the land and water of each State shall be as determined by the Department of Commerce and shall

include the area of coastal and Great Lakes waters within each State.

(2) Population of each State shall be the most recent population estimates, as determined by the Department of Commerce.

(b) Funds which have been allocated to any State and which have not been used by that State during the period of availability, as specified in § 83.7, shall revert to the Secretary and be added to the amount to be allocated among the States in a subsequent year.

§ 83.4 Eligible undertakings.

Funding under this Act may be approved by the regional director to carry out projects which meet the standards of substantially as defined in § 83.12 and which comform to one of the following:

(a) A proposal to implement a nongame action in lieu of an approved conservation plan. Upon a showing of need, a State may request funding under this Act before a conservation plan is approved. Such a proposal must:

(1) Be for the purpose of conserving, restoring, or otherwise benefitting nongame fish and wildlife, its habitats or its users;

(2) Comply with standards contained in the Federal Aid Manual; and

(3) Consist of work to be accomplished before October 1, 1985.

(b) A proposal to develop or maintain a conservation plan. A State may apply for funding of a project for developing a conservation plan, coordinating or consolidating a conservation plan with other plans, or maintaining a previously approved conservation plan. State costs incurred later than September 30, 1991, for the development of a conservation plan cannot be approved for funding.

(c) A proposal to implement actions described in an approved conservation plan. Such a proposal specifies and requests funding to cover one or more of the nongame actions described in the approved conservation plan.

§ 83.5 Limitations.

The following limitations shall apply to the eligibility of projects for funding under the Act:

(a) Of the total estimated costs for any project proposed under this Act, not less than 80 percent shall be for work or activities for the principal benefit of nongame fish and wildlife resources or of the public use of these resources.

(b) Upon approval of a conservation plan, all projects must be limited to actions required for implementing or revising the plan or for coordinating or consolidating the plan with other plans.

(c) Not more than 10 percent of the costs of any project which is carried out in lieu of an approved conservation plan, or which is carried out under an approved conservation plan covering only nongame fish and wildlife resources, may be derived from the sale of hunting, fishing, and trapping licenses and from penalties (including forfeitures) for violations of hunting, fishing, and trapping laws of the State.

(d) Not more than 10 percent of the estimated costs for projects to be funded shall be for law enforcement activities.

(e) Not more than 10 percent of the cost of implementing any project under this Act shall be funded by in-kind contributions.

§ 83.6 Appeals.

Any difference of opinion over the eligibility of proposed activities or differences arising over the conduct of work may be appealed to the Director. Final determination rests with the Secretary.

§ 83.7 Availability of funds.

Funds allocated to a State shall be available for disbursement during the fiscal year for which they were allocated and until the close of the succeeding fiscal year. For the purpose of this section, disbursement of funds allocated to a State occurs when a project agreement is signed by the regional director.

§ 83.8 Submission of proposals for funding.

To make application for funds allocated under this Act, the State shall submit to the regional director and Application for Federal Assistance.

(a) Each application shall contain such information as the regional director may require to determine if the proposed activities are in accordance with the Act, the provisions of this part, and the standards contained in the Federal Aid Manual.

(b) Each application and amendments of scope shall be submitted to the State Clearinghouse as required by Office of Management and Budget (OMB) Circular A-95 and by State Clearinghouse requirements.

(c) Applications must be signed by the director of the designated State agency or the official(s) delegated to exercise the authority and responsibilities of such director in committing the State to participation under the Act.

§ 83.9 Conservation plans.

A conservation plan submitted to the regional director for approval shall meet the requirements for substantiality set forth in § 83.12(a) and the standards prescribed in the Federal Aid Manual, and shall:

(a) Identify the species of nongame fish and wildlife, and other fish and wildlife deemed appropriate by the designated State agency which are within the State and are valued for ecological, educational, aesthetic, cultural, recreational, economic, or scientific benefits by the public;

(b) Provide for inventory(ies) of the identified species (plan species) to determine:

(1) Their population size, distribution, and range; and

(2) The extent, condition, and location of their significant habitats.

(c) Identify the significant problems which may adversely affect the plan species;

(d) Determine actions which should be taken to conserve the plan species and their significant habitats. Actions proposed will seek to optimize population levels, population distributions, and human benefits while taking fully into account the effects on non-target species and user groups. The actions will utilize methods and procedures which will, to the maximum extent practicable, ensure the well-being and enhancement of the plan species;

(e) Establish priorities for implementing the actions proposed in (d);

(f) Provide for regular monitoring of the plan species and the effectiveness of the actions implemented;

(g) Provide for the review of the plan and revision, if appropriate, at intervals of not more than 3 years.

(h) Describe procedures by which inputs will be solicited from the public during the development, revision, and implementation of the plan;

(i) Indicate State and Federal agencies which were consulted during plan development and which will be consulted during plan implementation.

§ 83.10 Cost sharing.

Federal and State participation in the costs incurred in completion of approved work funded by this Act shall be limited as follows:

(a) The Federal share may not exceed:

(1) Ninety percent of the costs for development of conservation plans, except after September 30, 1984, the Federal share may not exceed 75 percent of the cost for development of conservation plans, and after September 30, 1991, no reimbursement may be paid under this Act for development of a conservation plan;

(2) Seventy-five percent of the costs for implementing and revising an approved conservation plan, except the Federal share may be increased to 90 percent if two or more States have

mutually agreed to cooperate in implementation projects, provided, however, that after September 30, 1991, the Federal share may not exceed 50 percent if the conservation plan covers only nongame species;

(3) Seventy-five percent of the costs incurred prior to October 1, 1986, for projects which are not covered by an approved conservation plan, except the Federal share may be increased to 90 percent if two or more States have mutually agreed to cooperate in projects.

(b) The State share of project costs:

(1) May be in the form of cash or in-kind contributions, subject to the limitations described in § 83.5 and the following conditions:

(i) The allowability and valuation of in-kind contributions shall be in accordance with the provisions of OMB Circular A–102 and the policies and standards of the Director.

(ii) Volunteers proposed by the State to provide personal services to be claimed as in-kind contributions must possess qualifications appropriate to the service to be performed. The State must attest to such qualifications of all such volunteers based on the volunteers' training, experience or employment status, or upon an endorsement provided by a recognized institution, agency, or professional society.

(2) May not be derived from other Federal funds.

§ 83.11 Cooperation between States.

Whenever two or more States propose to cooperate in the revision of a conservation plan or in a conservation action which will result in a higher rate of Federal costsharing, such States shall describe in documentation the plan or action to be jointly undertaken. The proposed cooperation shall:

(a) Require each cooperating State to accept and carry out a substantial share of the described undertaking;

(b) Enhance the effectiveness of or reduce the total cost to the States in accomplishing the project purpose;

(c) Be supported by a memorandum of understanding executed by the cooperating States.

§ 83.12 Project requirements.

Each project proposed for funding under the Act shall be substantial in character and design and shall be in conformance with the policies and standards contained in the Federal Aid Manual.

(a) A substantial project for plan development or plan maintenance is one which:

(1) Provides defined objectives related to completion or revision of the plan, with schedules for completion;

(2) Utilizes accepted planning techniques and appropriate procedures;

(3) Provides for public involvement;

(4) Accomplishes its purpose at a reasonable cost;

(5) Provides assurance that, upon completion of the plan, the State intends to be guided by the conservation plan being developed or maintained.

(b) A substantial project for implementation of approved conservation plans is one which:

(1) Identifies specific conservation actions contained in the plan;

(2) Identifies the objectives to be accomplished related to the needs described in the plan;

(3) Utilizes accepted conservation and management principles, sound design, and appropriate procedures.

(c) A substantial project for actions in lieu of an approved conservation plan is one which:

(1) Identifies and describes a need within the purposes of the Act;

(2) Identifies the objectives to be accomplished based on the stated need;

(3) Utilizes accepted conservation and management principles, sound design, and appropriate procedures;

(4) Will yield benefits which are pertinent to the identified need at a level commensurate with project costs.

§ 83.13 Application of funds provided under the Act.

(a) Funds provided under this Act shall be applied only to activities or purposes approved by the regional director or contained in a conservation plan approved by the regional director. If otherwise applied, such funds must be replaced by the State to maintain eligibility.

(b) Real property acquired or constructed with Federal Aid funds must continue to serve the purpose for which acquired or constructed.

(1) When such property passes from management control of the designated State agency, either the control must be fully restored to the designated State agency or the real property must be replaced using non-Federal Aid funds. Replacement property must be of equal value at current market prices and with equal benefits as the original property. The State may be granted up to 3 years from the date of notification by the regional director, to acquire replacement property before becoming ineligible.

(2) When such property is used for purposes which interfere with the accomplishment of approved purposes, the violating activities must cease and any adverse effects resulting must be remedied.

(3) When such property is no longer needed or useful for its original purpose, and with prior approval of the regional director, the property shall be used or disposed of as provided in Attachment N of OMB Circular A–102.

(c) Federal Aid funds shall not be used for the purpose of producing income. However, income producing activities incidental to accomplishment of approved purposes are allowable. Income derived from such activities shall be accounted for in the project records and its disposition shall be in accordance with Attachment E of OMB Circular A–102.

§ 83.14 Allowable costs.

Allowable costs are limited to those which are necessary and reasonable for accomplishment of the approved project or action and are in accordance with the cost principles of OMB Circular A–87.

(a) All costs must be supported by source documents or other records as necessary to substantiate the application of funds. Such documentation and records are subject to review by the Secretary to determine the allowability of costs.

(b) Costs incurred prior to the effective date of the project agreement are allowable only when specifically provided for in the project agreement.

(c) Projects or facilities designated to include purposes other than those eligible under the Act shall provide for the allocation of costs among the various purposes. The method used to allocate costs shall produce an equitable distribution of costs based on the relative uses or benefits provided.

§ 83.15 Payments.

Payments to the State shall be made for the Federal share of allowable costs incurred by the State in accomplishing approved projects.

(a) Requests for payments shall be submitted on forms furnished by the regional director.

(b) Payments shall be made only to the office or official specified by the designated State agency and authorized under the laws of the State to receive public funds for the State.

(c) All payments are subject to final determination of allowability based on audit. Any overpayments made to the State shall be recovered as directed by the regional director.

§ 83.16 Maintenance.

The State is responsible for maintenance of all capital improvements acquired or constructed with Federal Aid funds throughout the useful like of each improvement. Costs for such maintenance are allowable when provided for in approved projects. The

maintenance of improvements acquired or constructed with non-Federal Aid funds are allowable costs when such improvements are necessary to accomplishment of project purposes as approved by the regional director, and when such costs are otherwise allowable by law.

§ 83.17 Responsibilities.

In the conduct of activities funded under the Act, the State is responsible for:

(a) The supervision of each project to assure that it is conducted consistent with the project documents and that it provides:

(1) Proper and effective use of funds;

(2) Maintenance of project records;

(3) Timely submission of reports;

(4) Regular inspection and monitoring of work in progress.

(b) The selection and supervision of project personnel to assure that:

(1) Adequate and competent personnel are available to carry the project through to a satisfactory and timely completion;

(2) Project personnel perform the work to ensure that time schedules are met, projected work units are accomplished, other performance objectives are achieved, and reports are submitted as required.

(c) The accountability and control of all assets to assure that they serve the purposes for which acquired throughout their useful life.

(d) The compliance with all applicable Federal, State, and local laws.

(e) The settlement and satisfaction of all contractual and administrative issues arising out of procurement entered into.

§ 83.18 Records.

The State shall maintain current and complete financial, property and procurement records in accordance with requirements contained in the Federal Aid Manual and OMB Circular A–102.

(a) Financial, supporting documents, and all other records pertinent to a project shall be retained for a period of 3 years after submission of the final expenditure report on the project. If any litigation, claim, or audit was started before the expiration of the 3-year period, the records shall be retained until the resolution is completed. Records for nonexpendable property shall be retained for a period of 3 years following final disposition of the property.

(b) The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any pertinent books, documents, papers and records of the State.

§ 83.19 Land control.

The State must control lands or waters on which capital improvements are made with Federal Aid funds. Controls may be exercised through fee title, lease, easement, or agreement. Control must be adequate for protection, maintenance, and use of the improvement throughout its useful life.

§ 83.20 Assurances.

The State must agree to and certify that it will comply with all applicable Federal laws, regulations, and requirements as they relate to the application, acceptance, and use of Federal funds under the Act. The Secretary shall have the right to review or inspect for compliance at any time. Upon determination of noncompliance, the Secretary may terminate or suspend any actions or projects in noncompliance, or may declare the State ineligible for further participation in program benefits until compliance is achieved.

Dated: June 2, 1981.

C. F. Layton,

Acting Deputy, Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 82-9180 Filed 4-5-82; 8:45 am]

BILLING CODE 4310-55-M

Notices

Federal Register
Vol. 47, No. 66
Tuesday, April 6, 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

Joint Council on Food and Agricultural Sciences Executive Committee; Meeting

Pursuant to section 1407 of the National Agricultural Research, Extension, and Teaching Act of 1977, as amended, Science and Education announces the following meeting:

Name: Executive Committee of the Joint Council on Food and Agricultural Sciences
Date: April 14, 1982
Time and Place: 8:30 a.m.–12:00 noon; Lounge, Olde Colony Motor Lodge, Corner North Washington and First Streets, Alexandria, Virginia

Type of meeting: Open to the public. Persons may particiapte in the meeting as time and space permit.

Comments: The public may file written comments before or after the meeting with the contact person below.

Purpose: Plan for agricultural research and education needs assessment mandated by the 1981 Agriculture and Food Act; review plans for preparation of the Council's priorities report due to the Secretary by June 30; review April Joint Council meeting agenda.

Contact person: Susan G. Schram, Executive Secretary, Joint Council on Food and Agricultural Sciences, U.S. Department of Agriculture, Room 351–A, Administration Building, Washington, D.C. 20250, telephone (202) 447–6651.

Done at Washington, D.C., this 29th day of March 1982.

John G. Stovall,

Executive Director, Joint Council on Food and Agricultural Sciences.

[FR Doc. 82–9152 Filed 4–5–82; 8:45 am]

BILLING CODE 3410–03–M

Joint Council on Food and Agricultural Sciences

Pursuant to section 1407 of the National Agricultural Research, Extension, and Teaching Act of 1977, as amended, Science and Education announces the following meeting:

Name: Joint Council on Food and Agricultural Sciences
Date: April 14, 15, 16, 1982
Time and place: Olde Colony Motor Lodge, North Washington and First Streets, Alexandria, Virginia; Wednesday, April 14—1:00–5:00 p.m.; Thursday, April 15—8:00 a.m.–5:15 p.m.; Friday, April 16—8:30 a.m.–12:15 p.m.

Type of meeting: Open to the public. Persons may participate in the meeting as time and space permit.

Comments: The public may file written comments before or after the meeting with the contact person below.

Purpose: To discuss public and private sector roles and responsibilities and potential for coordination in agricultural research and education; identify science and education program priorities to address in the Council's annual priorities report; hear presentations on food and fiber needs in the 21st century, projections on the quality and quantity of the resource base, a U.S. and global assessment of the land base, and a world assessment of supply and demand for food.

Contact person: Susan G. Schram, Executive Secretary, Joint Council on Food and Agricultural Sciences, U.S. Department of Agriculture, Room 351–A, Administration Building, Washington, D.C. 20250, telephone (202) 447–6651.

Done at Washington, D.C., this 29th day of March 1982.

John G. Stovall,

Executive Director, Joint Council on Food and Agricultural Sciences.

[FR Doc. 82–9153 Filed 4–5–82; 8:45 am]

BILLING CODE 3410–03–M

Cooperative State Research Service

Committee of Nine; Meeting

In accordance with the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92–463, Stat. 770–776), the Cooperative State Research Service, announces the following meeting:

Name: Committee of Nine.
Date: May 19–20, 1982.
Time: 8:00 a.m.
Place: Room 128, Commonwealth Building, 1300 Wilson Boulevard, Rosslyn, Virginia

Type of meeting: Open to the public. Persons may participate in the meeting as time and space permit.

Comments: The public may file written comments before or after the meeting with the contact person listed below.

Purpose: To evaluate and recommend proposals for cooperative research on problems that concern agriculture in two or more States, and to make recommendations for allocation of regional research funds appropriated by Congreass under the Hatch Act for research at the State agricultural experiment stations.

Contact person for agenda and more information: Dr. Estel H. Cobb, Recording Secretary, U.S. Department of Agriculture, Cooperative State Research Service, Washington, D.C. 20250; telephone 202/447–4329.

Done at Washington, D.C., this 1st day of April 1982.

W. I. Thomas,

Administrator, Cooperative State Research Service.

[FR Doc. 82–9151 Filed 4–5–82; 8:45 am]

BILLING CODE 3410–03–M

Rural Electrification Administration

Plains Electric Generation and Transmission Cooperative, Inc.; Finding of no Significant Impact

The Rural Electrification Administration (REA) has prepared a Finding of No Significant Impact in connection with proposed financing assistance by REA for Plains Electric Generation and Transmission Cooperative, Inc., (Plains) of Albuquerque, New Mexico, to rebuild and reconductor 98.2 km (61.35 mi) of 115kV transmission line from the Taos to Black Lake to Springer Substations in Taos and Colfax Counties, New Mexico. Rebuilding the line will increase capacity, reduce line losses and increase Plains' ability to support the rest of its system during outages.

Plains has prepared a Borrower's Environmental Report (BER) concerning the proposed project. An Environmental Assessement (EA) was prepared by REA. Threatened and endangered species, important farmlands and forestlands, archaeological and historic sites, wetlands and floodplains, and other potential impacts of the proposed project are adequately considered in the EA.

The floodplain of the Rio Fernando de Taos is crossed by the existing transmission line. REA determined that there are no practical alternatives to the continued crossing of this floodplain. However, there will be no effect on the floodplain because no transmission structures will be located within the floodplain.

Alternatives evaluated include no action, new transmission line, reconductoring on existing structures and complete line rebuild. The proposed

transmission line rebuild is an acceptable alternative to provide power to all existing and projected loads of Plains within the project area.

Copies of the Finding of No Significant Impact, the EA and Plains' BER may be obtained from the office of the Director, Power Supply Division, Room 0230, South Agriculture Building, Rural Electrification Administration, Washington, D.C. 20250 or reviewed at the office of Plains Electric Generation and Transmission Cooperative, Inc., 2401 Aztec Road, NE, Albuquerque, New Mexico 87107.

This Program is listed in the Catalog of Federal Domestic Assistance as 10.850—Rural Electrification Loans and Loan Guarantees.

Dated at Washington, D.C., this 30th day of March 1982.

Harold V. Hunter,

Administrator.

[FR Doc. 82-9209 Filed 4-5-82; 8:45 am]

BILLING CODE 3410-15-M

Soil Conservation Service

Altus Roadside Erosion Control, Oklahoma; Finding of no Significant Impact

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of a finding of no significant impact.

FOR FURTHER INFORMATION CONTACT: Mr. Roland R. Willis, State Conservationist, Agricultural Center Building, Stillwater, Oklahoma 74074, telephone number (405) 624–4360.

Notice

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Altus Roadside Erosion Control RC&D project, Jackson County, Oklahoma.

The environmental assessment of this federally assisted action indicates that the action will not cause significant impacts to the human environment. As a result of these findings, Mr. Roland R. Willis, State Conservationist, has determined that the preparation and review of an environmental impact statement is not needed for this action.

The project objectives are to reduce erosion along the roadsides, sedimentation into Stinking Creek which is a tributary of the North Fork of Red River, and improve safety for motorists who use the roadway.

The Notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency. Basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Roland R. Willis. The FONSI has been sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register.**

(Catalog of Federal Domestic Assistance Program No. 10–901, Resource Conservation and Development Program. Office of Management and Budget Circular No. A–05 regarding State and local Clearinghouse review of Federal and federally assisted programs and projects is applicable)

Dated: March 23, 1982.

Billy R. Littlefield,

Assistant State Conservationist (Programs).

[FR Doc. 82-9164 Filed 4-5-82; 8:45 am]

BILLING CODE 3410-16-M

Village of Breedsville Historical Park, Michigan; Finding of No Significant Impact

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of finding of no significant impact.

FOR FURTHER INFORMATION CONTACT: Mr. Homer R. Hilner, State Conservationist, Soil Conservation Service, 1405 South Harrison Road, East Lansing, Michigan 48823, telephone 517–337–6702.

Notice

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines, (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Village of Breedsville Historical Park, RC&D Measure, Van Buren County, Michigan.

The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Homer R. Hilner, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

This measure concerns a plan for the installation of practices for public water-based recreation. Planned development includes installation of 10 picnic sites, playground equipment, parking area for 20 vehicles, 1 well, 600 ft. of recreation walkways with one foot bridge, 400 feet of fencing, vault type toilets, park entrance and trail signs, canoe landing, 2 mercury vapor security lights, seeding, fertilizing and mulching of disturbed areas. Total construction cost is estimated to be $24,200; $12,100 RC&D funds and $12,100 local funds.

The Notice of a Finding of No Significant Impact (FNSI) has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Homer R. Hilner. The FNSI has been sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the FNSI are available to fill single copy requests at the above address.

Implementation of the proposal will not be initiated until 30 days after the date of this publication in the **Federal Register.**

(Catalog of Federal Domestic Assistance Program No. 10.901, Watershed Protection and Flood Prevention Program. Office of Management and Budget Circular A–95 regarding state and local clearinghouse review of federal and federally assisted programs and projects is applicable)

Dated: March 20, 1982.

Homer R. Hilner,

State Conservationist.

[FR Doc. 82-9165 Filed 4-5-82; 8:45 am]

BILLING CODE 3410-16-M

DEPARTMENT OF COMMERCE

International Trade Administration

Certain Steel Wire Nails From the Republic of Korea; Antidumping Investigation; Extension of Period for Final Determination

AGENCY: International Trade Administration, Commerce.

ACTION: Extension of period for final determination.

SUMMARY: The Department of Commerce hereby extends the period for its final determination with respect to the anitdumping investigation of certain steel wire nails from Korea. The final determination will be made no later than June 18, 1982,

EFFECTIVE DATE: April 5, 1982.

FOR FURTHER INFORMATION CONTACT: Steven Lim or Richard Rimlinger, Office of Investigations, Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230 (202)–377–1279).

SUPPLEMENTARY INFORMATION: On January 28, 1982, the Department of Commerce determined preliminarily that certain steel wire nails from the Republic of Korea (Korea) were being, or were likely to be, sold at less than fair value within the meaning of section 731 of the Tariff Act of 1930, as amended (19 U.S.C. 1673) ("the Act"). We announced our determination in the Federal Register on February 3, 1982 (47 FR 5028).

On February 25, 1982, counsel for the United States producers of the merchandise requested that the Department extend the period for final determination until 135 days after the date of the preliminary determination in accordance with section 735(a)(2)(B) of the Act (19 U.S.C. 1673d(a)(2)(B)). This section allows the Department of Commerce to postpone its final determination if a written request is received from the petitioner in a proceeding in which the preliminary determination was negative. Although our preliminary determinations was affirmative with respect to some manufacturers and exporters, we did make negative determinations with respect to Samchok Ind., Co. Ltd. and, through a subsequent amendment, with respect to Jin Heung Iron and Steel Co., Ltd. who together represent in excess of 12% of the imported merchandise. For the purpose of section 735(a)(2)(B) the Commerce Department has determined that the administering authority may be considered to be the petitioner where the investigation involved was self-initiated.

We have determined that additional time is needed in order to ensure that a proper analysis may be completed with regard to this investigation. Accordingly, the period for determination in this case is hereby extended. A final determination will be made not later than June 18, 1982.

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

March 30, 1982.

[FR Doc. 82–9198 Filed 4–5–82; 8:45 am]

BILLING CODE 3510–25–M

Computer Peripherals, Components and Related Test Equipment Technical Advisory Committee; Partially Closed Meeting

AGENCY: International Trade Administration, Commerce.

SUMMARY: The Computer Peripherals, Components, and Related Test Equipment Technical Advisory Committee was initially established on January 3, 1973, and rechartered on September 18, 1981, in accordance with the Export Administration Act of 1979 and the Federal Advisory Committee Act.

The Committee advises the Office of Export Administration with respect to questions involving (A) technical specifications and policy issues relating to those specifications which are of concern to the Department, (B) worldwide availability of products and systems, including quantity and quality, and actual utilization of production technology, (C) licensing procedures which affect the level of export controls applicable to computer peripherals, components and related test equipment, or technology, and (D) exports of the aforementioned commodities subject to unilateral and multilateral controls which the United States establishes or in which it participates including proposed revisions of any such controls.

TIME AND PLACE: May 20, 1982, at 9:30 a.m. The meeting will take place at the Main Commerce Building Room 3708, 14th Street and Constitution Avenue, NW., Washington, D.C.

AGENDA: General Session:

(1) Opening remarks by the Chairman.

(2) Presentation of papers or comments by the public.

(3) A review of subcommittee activities:

a. Memory and Media,

b. Foreign Availability,

c. Display and Terminals, and

d. Export Regulations.

(4) New Business.

Executive Session

(5) Discussion of matters properly classified under Executive Order 12065, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

PUBLIC PARTICIPATION: The General Session of the meeting will be open to the public and a limited number of seats will be available. To the extent time permits members of the public may present oral statements to the Committee. Written statements may be submitted at any time before or after the meeting.

SUPPLEMENTARY INFORMATION: The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on September 29, 1981, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended by section 5(c) of the Government In The Sunshine Act, Pub. L. 94–409, that the matters to be discussed in the Executive Session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because the Executive Session will be concerned with matters listed in 5 U.S.C. 552b(c)(1) and are properly classified under Executive Order 12065.

A copy of the Notice of Determination to close meetings or portions thereof is available for pubic inspection and copying in the Central Reference and Records Inspection Facility, Room 5317, U.S. Department of Commerce, telephone: 202–377–4217.

FOR FURTHER INFORMATION OR COPIES OF THE MINUTES CONTACT: Mrs. Margaret Cornejo, Committee Control Officer, Office of Export Administration, Room 1609, U.S. Department of Commerce, Washington, D.C. 20230, Telephone: 202–377–2583.

Dated: March 31, 1982.

Vincent F. DeCain,

Acting Director, Office of Export Administration.

[FR Doc. 82–9199 Filed 4–5–82; 8:45 am]

BILLING CODE 3510–25–M

Polychloroprene Rubber 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 January 15, 1982, the Department of Commerce published the preliminary results of its administrative review of the antidumping finding or polychloroprene rubber from Japan. The review covered the three known exporters of this merchandise to the United States and various periods from July 1, 1973 through November 30, 1980.

Interested parties were given an opportunity to submit oral or written comments on these preliminary results. The Department received no comments.

EFFECTIVE DATE: April 5, 1982.

FOR FURTHER INFORMATION CONTACT: Arthur N. DuBois or John R. Kugelman, Office of Compliance, International

Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230 (202–377–3814/5289).

SUPPLEMENTARY INFORMATION:

Background

On December 6, 1973, a dumping finding with respect to polychloroprene rubber from Japan was published in the **Federal Register** as Treasury Decision 73–333 (38 FR 33593). On January 15, 1982, the Department of Commerce ("the Department") published in the **Federal Register** a notice of the preliminary results of its administrative review of that finding (47 FR 2389–90). The Department has now completed that administrative review.

Scope of the Review

The review covers imports of polychloroprene rubber from Japan, which is an oil resistant synthetic rubber also known as polymerized chlorôbutadiene or neoprene and is currently classifiable under items 446.1521 and 446.2000 of the Tariff Schedules of the United States Annotated (TSUSA).

The Department knows of a total of 3 exporters of Japanese polychloroprene rubber to the United States. This review covers all three for all time periods through November 30, 1980, not previously reviewed by the Treasury Department.

Final Results of the Review

The Department received no written comments or requests for disclosure or a hearing. Therefore, the final results are the same as the preliminary results, and we determine that the following weighted-average margins exist:

Manufacturer/exporter	Time period	Margin (percent)
Denki	Apr. 1979 to Nov. 1980.	[1] 0
Denki Hoei Sangyo	July 1973 to Nov. 1980	55
Suzugo Corporation	July 1973 to Nov. 1980	55

[1] No shipments during the period.

The Department shall determine, and the U.S. Customs Service shall assess, dumping duties on all entries with purchase dates during the time periods involved. The Department will issue appraisement instructions on each exporter directly to the Customs Service.

Further, as provided for in § 353.48(b) of the Commerce Regulations, a cash deposit based on the margins above shall be required on all shipments by these firms of polychloroprene rubber entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice. 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 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 § 353.53 of the Commerce regulations (19 CFR 353.53).

Gary N. Horlick,

Deputy Assistant Secretary, Import Administration.

April 1, 1982.

[FR Doc. 82–9197 Filed 4–5–82; 8:45 am]

BILLING CODE 3510–25–M

COMMODITY FUTURES TRADING COMMISSION

Chicago Board of Trade: Proposed Amendment Relating to the Billing Requirements for Chicago Grain Delivery

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of proposed contract market rule change.

SUMMARY: The Chicago Board of Trade ("CBOT" or "Exchange") has submitted a proposal to amend its billing requirements for Chicago grain delivery. The Commodity Futures Trading Commission ("Commission") has determined that the proposal is of major economic significance and that, accordingly, publication of that provision is in the public interest, will assist the Commission in considering the views of interested persons, and is consistent with the purposes of the Commodity Exchange Act.

DATE: Comments should be received on or before April 20, 1982.

ADDRESS: Interested persons should submit their views and comments to Jane K. Stuckey, Secretary, Commodity Futures Trading Commission, 2033 K Street, N.W., Washington, D.C. 20581. Reference should be made to the Chicago Board of Trade Rule 1081.01(14)(A).

FOR FURTHER INFORMATION CONTACT: Nicholas Memoli, Division of Economics and Education, Commodity Futures Trading Commission, 2033 K Street, N.W., Washington, D.C., (202) 254–6990.

SUPPLEMENTARY INFORMATION: The Chicago Board of Trade ("CBOT") is proposing to amend Regulation 1081.01(14)(A) pertaining to its billing requirements for Chicago grain delivery. The Exchange proposes to delete the existing transit billing requirements and proportional rate structure for a Chicago grain delivery. Regulation 1081.01(14)(A) is based upon what is known as the traditional railroad grain rate structure for single car shipments. However, CBOT notes that, with the recent enactment of legislation deregulating railroad rates and rate making procedures, the provisions of Regulation 1081.01(14)(A) are becoming obsolete and are no longer applicable for single car shipments to the majority of Eastern Truck Line basing points. The new rail rate structure for single car shipments in the east is flat, based upon mileage for a point to point move via a single carrier with no transit privileges allowed. The proposed change in CBOT Regulation 1081.01(14)(A) will conform with the newly enacted railroad rate making procedures. The Exchange intends to make the amendment effective for all contract months shortly after Commission approval.

In accordance with Section 5a(12) of the Commodity Exchange Act (the "Act"), 7 U.S.C. 7a(12) (Supp. IV 1980), the Commission has determined that the proposal submitted by the CBOT concerning its billing requirements for Chicago grain delivery is of major economic significance. Accordingly, the CBOT's proposed Rule 1081.01(14)(A) is printed below:

Wheat, Corn, Soybean and Oats (Chicago Delivery). The Chicago Warehouseman is not required to furnish transit billing on grain represented by warehouse receipt deliveries in Chicago, Illinois. Delivery shall be flat.

Other materials submitted by the CBOT is support of the proposed rule may be available upon request pursuant to the Freedom of Information Act (5 U.S.C. 552) and the Commission's regulations thereunder (17 CFR Part 145 (1981)). Requests for copies of such materials should be made to the FOIA, Privacy and Sunshine Acts Compliance staff of the Office of the Secretariat at the Commission's headquarters in accordance with 17 CFR 145.7 and 145.8.

Any person interested in submitting written data, views or arguments on the proposed amendments should send such comments to Jane K. Stuckey, Secretary, Commodity Futures Trading Commission, 2033 K Street, N.W., Washington, D.C. 20581, by April 21, 1982. Such comment letters will be publicly available except to the extent

they are entitled to confidential treatment as set forth in 17 CFR 145.5 and 145.9.

Issued in Washington, D.C. on April 1, 1982.

Jane K. Stuckey,

Secretary of the Commission.

[FR Doc. 82-9202 Filed 4-5-82; 8:45 am]

BILLING CODE 6351-01-M

DEPARTMENT OF DEFENSE

Department of the Army

Board of Visitors, U.S. Military Academy

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following meeting:

Name of Committee: Board of Visitors, United States Military Academy
Date of Meeting: 26 April 1982
Place of Meeting: Room EF100, U.S. Capital, Washington, D.C.
Time: 9:30 A.M.
Proposed Agenda: Election of officers, selection of Executive Committee, scheduling of meetings for remainder of year, and identification of areas of interest for 1982

All proceedings are open. For further information contact Colonel D. P. Tillar, Jr., United States Military Academy, West Point, NY 10996, telephone (914) 938-4723/2785.

For the Board of Visitors.

D. P. Tillar, Jr.,

Col., GS, Executive Secretary, USMA Board of Visitors.

[FR Doc. 82-9347 Filed 4-5-82; 8:45 am]

BILLING CODE 3710-08-M

DEPARTMENT OF EDUCATION

Discretionary Grant Programs Under the Rehabilitation Act of 1973, as Amended; Application Notice Establishing Closing Dates for Transmittal of Fiscal Year 1982 Applications

AGENCY: Department of Education.

ACTION: Application notice establishing closing dates for transmittal of fiscal year 1982 applications.

SUMMARY: The purpose of these applications notices is to inform potential applicants of fiscal and programmatic information and closing dates for transmittal of applications for both *new* and *noncompeting continuation* grants awarded by the Department of Education under Titles I, III, VI, and VII of the Rehabilitation Act of 1973, as amended.

Organization of Notice

This notice covers all discretionary grant programs administered by the Rehabilitation Services Administration within the Department of Education that are expected to be funded in Fiscal Year 1982.

This notice contains two parts. Part I includes, in chronological order, the list of all closing dates covered by this notice. Part II consists of the individual application announcements for each program. These announcements are in the same order as the closing dates listed in Part I.

The budget estimates in the individual application notices are based on the Third Continuing Resolution request and are subject to change by the Congress.

Instructions for Transmittal of Applications

Applicants should note specifically the instructions for the transmittal of applications included below:

Transmittal of Applications: Applications for all *new* grants must be mailed or hand delivered on or before the closing date given in the individual program announcements included in this document.

In order to be assured of consideration for funding, applications for *noncompeting continuation projects,* should be mailed or hand delivered on or before the closing date given in the individual program announcements included in this document. If a noncompeting continuation application is late, the U.S. Department of Education may lack sufficient time to review it with other noncompeting continuation applications and may decline to accept it.

Applications Delivered by Mail. Except where specified otherwise immediately below and in the individual program announcements, applications for both *new* and *noncompeting continuation projects* must be addressed to the Department of Education Application Control Center, *Attention:* (Appropriate CFDA No.), Washington, D.C. 20202.

Note.—Applicants for programs under 84.128F (Client Assistance Projects, noncompeting continuations), 84.128G (Handicapped Migratory Agriculture Service Projects, noncompeting continuations), 84.129 (Rehabilitation Long-Term Training Projects, only noncompeting continuations except for prosthetics-orthotics and projects of national scope), 84.129D (Rehabilitation Continuing Educatin, new projects), and 84.129Z (In-service training, new projects) are required to send applications to the Regional Offices of the U.S. Department of Education. The individual program announcements for these programs specifically direct applicants to transmit applications to the appropriate Regional Office. In these cases applications must be mailed or hand delivered to the appropriate address below.

Region I

RSA Regional Commissioner, Department of Education, OSERS, John F. Kennedy Federal Building, Room E-400, Government Center, Boston, Massachusetts 02203

Region II

RSA Regional Commissioner, Department of Education, OSERS, 26 Federal Plaza, Room 4106, New York, New York 10278

Region III

RSA Regional Commissioner, Department of Education, OSERS, 3535 Market Street, P.O. Box 13716, Philadelphia, Pennsylvania 19101

Region IV

RSA Regional Commissioner, Department of Education, OSERS, 101 Marietta Street, N.W., Suite 903, Atlanta, Georgia 30323

Region V

RSA Regional Commissioner, Department of Education, OSERS, 300 South Wacker Drive, 15th Floor, Chicago, Illinois 60606

Region VI

RSA Regional Commissioner, Department of Education, OSERS, 1200 Main Tower Building, Room 2040, Dallas, Texas 75202

Region VII

RSA Regional Commissioner, Department of Education, OSERS, 10th Floor West, 11 Oak Building, Kansas City, Missouri 64106

Region VIII

RSA Regional Commissioner, Department of Education, OSERS, Federal Office Building, Room 978, 1961 Stout Street, Denver, Colorado 80294

Region IX

RSA Regional Commissioner, Department of Education, OSERS, Federal Office Building, 50 United Nations Plaza, San Francisco, California 94102

Region X

RSA Regional Commissioner, Department of Education, OSERS, Arcade Buiding, 1321 Second Avenue (MS 533), Seattle, Washington 98101

An applicant must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other evidence of mailing acceptable to the U.S. Secretary of Education.

If an application is sent through the U.S. Postal Service, the Secretary does

not accept either of the following as proof of mailing: (1) A private metered postmark, or (2) mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail.

Each late applicant for a *new* award will be notified that its application will not considered.

Applications Delivered by Hand: Applications for *new* and *noncompeting continuation grants* must be taken to the U.S. Department of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, S.W., Washington, D.C. To the appropriate Regional Office at the address given above.

The Application Control Center will accept hand-deliverd applications between 8:30 a.m. and 4:30 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays.

The Regional Offices will accept hand delivered applications between 8:30 a.m. and 4:30 p.m. (local time) daily, except Saturdays, Sundays, and Federal holidays.

An application that is hand delivered for a *new* grant will not be accepted by the Application Control Center nor the Regional Office after 4:30 p.m. on the closing date.

PART I.—PROGRAMS LISTED IN CHRONOLOGICAL ORDER

CFDA No.	Program	Closing date
84.128F	Client Assistance Projects (Noncompeting Continuations).	May 14, 1982.
84.128G	Handicapped Migratory Agricultural and Seasonal Farmworker Vocational Rehabilitation Service Projects (Noncompeting Continuations).	May 14, 1982.
84.132	Centers for Independent Living (Noncompeting Continuations).	May 14, 1982.
	(New Projects)	June 30, 1982.
84.128A	Service Projects and Demonstrations for providing Vocational Rehabilitation Services to Severely Handicapped Individuals (Noncompeting Continuations).	May 14, 1982.
84.128B	Projects With Industry (Noncompeting Continuations).	May 14, 1982.
	(New Projects)	May 28, 1982.
84.129	Rehabilitation Long-Term Training Projects (Noncompeting Continuations).	May 17, 1982.
	(New Projects)	May 24, 1982.
84.129Y	Experimental and Innovative Training Projects (Noncompeting Continuations).	May 17, 1982.

PART I.—PROGRAMS LISTED IN CHRONOLOGICAL ORDER—Continued

CFDA No.	Program	Closing date
84.129D	Rehabilitation Continuing Education Programs (New Projects).	May 24, 1982.
84.129Z	State Vocational Rehabilitation Unit In-Service Training Program (New Projects).	May 24, 1982.
84.128J	Projects for Initiating Special Recreation Programs for Handicapped Individuals (New Projects)..	June 23, 1982.
84.128E	Special Projects and Demonstration for Providing Vocational Rehabilitation Services to Severely Handicapped Individuals (Spinal Cord Injury System Projects) (New Projects).	June 23, 1982.

Part II—Application Announcements for Each Program

84.128F—Client Assistance Projects

Closing date: May 14, 1982—Noncompeting Continuations.

Authority for this program is contained in section 112 of the Rehabilitation Act of 1973, as amended. (29 U.S.C. 732)

Awards are made under this program to State vocational rehabilitation agencies.

The purpose of this program is to support projects designed to inform and advise all clients and client applicants in the project area of all available benefits and their rights in seeking these benefits under the Rehabilitation Act.

Available funds: The total amount of funds awarded under this grant program for Fiscal year 1981 was $2,800,000. At this time the Fiscal Year 1982 appropriation is undetermined. It is estimated that $942,000 will be available for Fiscal Year 1982. An estimated 16 noncompeting continuation projects will be awarded with the average grant totalling $59,000. These estimates do not bind the Department of Education to a specific number of grants or to the amount of any grant unless that amount is otherwise specified by statue or regulations.

Application forms: Application forms and program information packages will be mailed to grantees who are eligible to apply for noncompeting continuation grant support under this notice.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. The Secretary urges that applicants not submit information that is not requested.

Applicants applying for assistance under this program must submit their applications to the appropriate Regional Office.

Applicable regulations: Regulations applicable to this program include the following:

(a) Regulations governing the Client Assistance Projects Program (34 CFR Parts 369 and 370); and

(b) Education department General Administrative Regulations (EDGAR) (34 CFR Parts 74, 75, 77, and 78).

Futher information: Leslie B. Cole, Division of Special Projects, Rehabilitation Services Administration, U.S. Department of Education, Room 3516, Mary E. Switzer Building, 400 Maryland Avenue SW., Washington, D.C. 20202, Telephone: (202) 245-3187.

84.129D—Rehabilitation Continuing Education Programs

Closing date: May 24, 1982—New Projects.

Authority for this program is contained in section 304 of the Rehabilitation Act of 1973, as amended. (29 U.S.C. 774)

Awards are made under this program to State vocational rehabilitation agencies, and other public or nonprofit agencies and organizations, includig institutions of higher education.

The purpose of this program is to support training centers that serve either a Federal region or another multi-State geographical area and provide for a broad integrated sequence of training activities that focus on meeting recurrent training needs of rehabilitation personnel employed in public and nonprofit programs providing rehabilitation services to severly physically and mentally disabled individuals.

Available funds: At this time the Fiscal Year 1982 appropriation is undetermined. Approximately $2,000,000 is expected to be available for Rehabilitation Continuing Education Programs in Fiscal Year 1982. Funds are available within each Federal Region as follows:

Region I	$168,346
Region II	$194,853
Region III	$234,404
Region VI	$285,093
Region V	$227,001
Region VI	$230,738
Region VII	$164,045
Region VIII	$150,439
Region IX	$192,598
Region X	$152,483

These estimates do not bind the Department of Education to a specified number of grants or to the amount of any grant unless that amount is otherwise specified by statute or regulations.

Application forms: Application forms and program information packages will be mailed to grantees who have been conducting Rehabilitation Continuing Education Programs in Fiscal Year 1981. Additional forms and instructions may be obtained by writing to the Division of Resource Development, Rehabilitation Services Administration, Office of Special Educational and Rehabilitative Services, U.S. Department of Education, Room 3321, Mary E. Switzer Building, 400 Maryland Avenue SW., Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. The Secretary urges that the narrative portion of the application not exceed 25 pages in length. The Secretary further urges that applicants not submit information that is not requested.

Applicants applying for assistance under this program must submit their applications to the appropriate Regional Office.

Applicable regulations: Regulations applicable to this program include the following:

(a) Regulations governing the Rehabilitation Continuing Education Programs (34 CFR Parts 385 and 389); and

(b) Education Department General Administrative Regulations (EDGAR) (34 CFR Parts 74, 75, 77, and 78).

Further information: Martin W. Spickler, Ph.D., Director, Division of Resource Development, Rehabilitation Services Administration, Office of Special Education and Rehabilitative Services, U.S. Department of Education, Room 3321, Mary E. Switzer Building, 400 Maryland Avenue, S.W., Washington, D.C. 20202, Telephone: (202) 245–0075.

84.129Z—State Vocational Rehabilitation Unit In-Service Training Program

Closing date: May 24, 1982—New Projects.

Authority for this program is contained in section 304 of the Rehabilitation Act of 1973, as amended. (29 U.S.C. 774)

Awards may be made under this program to State vocational rehabilitation agencies and other public or nonprofit agencies or organizations, including institutions of higher education.

The purpose of this program is to support special projects for training personnel employed by State vocational rehabilitation units in program areas essential to the effective management of the State unit program of vocational rehabilitation services or in skill areas which will enable State unit personnel to improve their ability to provide vocational rehabilitation services to severely handicapped individuals.

Available funds: At this time the Fiscal Year 1982 appropriation is undetermined. Approximately $2,800,000 is expected to be available for State Vocational Rehabilitation Unit In-Service Training in Fiscal Year 1982. The allowance for each Federal Region is as follows:

Region I	$224,469
Region II	$236,212
Region III	$370,917
Region IV	$558,653
Region V	$339,975
Region VI	$335,932
Region VII	$187,951
Region VIII	$155,095
Region IX	$243,831
Region X	$146,965

These estimates do not bind the Department of Education to a specific number of grants or to the amount of any grant unless that amount is otherwise specified by statute or regulations.

Application forms: Application forms and program information packages will be mailed to grantees who have been conducting State vocational rehabilitation unit in-service training projects during Fiscal Year 1981. Additional forms and instructions may be obtained by writing to the Division of Resource Development, Rehabilitation Services Administration, Office of Special Education and Rehabilitative Services, U.S. Department of Education, Room 3321, Mary E. Switzer Building, 400 Maryland Avenue, S.W., Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package.

Applicants applying for assistance under this program must submit their applications to the appropriate Regional Office.

The Secretary urges that the narrative portion of the application not exceed 25 pages in length. The Secretary further urges that applicants not submit information that is not requested.

Applicable regulations: Regulations applicable to this program included the following:

(a) Regulations governing the State Vocational Rehabilitation Unit In-Service Training Program (34 CFR Parts 385 and 386); and

(b) Education Department General Administrative Regulations (EDGAR) (34 CFR Parts 74, 75, 77, and 78).

Further information: Martin W. Spickler, Ph.D., Director, Division of Resource Development, Rehabilitation Services Administration, U.S. Department of Education, Room 3321, Mary E. Switzer Building, 400 Maryland Avenue, S.W., Washington, D.C. 20202, Telephone: (202) 245–0075.

84.128G—Handicapped Migratory Agricultural and Seasonal Farmworker Vocational Rehabilitation Service Projects

Closing date: May 14, 1982—Noncompeting Continuations.

Authority for this program is contained in section 312 of the Rehabilitation Act of 1973, as amended. (29 U.S.C. 777b)

Awards are made under this program to State vocational rehabilitation agencies or local agencies administering a vocational rehabilitation program under written agreements with State agencies.

The purpose of this program is to support projects for providing vocational rehabilitation services to handicapped migratory agricultural workers or handicapped seasonal farmworkers.

Available funds: The total amount of funds awarded under this grant program for Fiscal year 1981 was $1,325,000. At this time the Fiscal Year 1982 appropriation is undetermined. It is estimated that $942,000 will be available for Fiscal Year 1982. An estimated 9 noncompeting continuation projects will be awarded with the average grant totalling $105,000. These estimates do not bind the Department of Education to a specific number of grants or to the amount of any grant unless that amount is otherwise specified by statute or regulations.

Application forms: Application forms and program information packages will be mailed to grantees who are eligible to apply for noncompeting continuation grant support under this notice.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. The Secretary urges that applicants not submit information that is not requested.

Applicants applying for assistance under this program must submit their applications to the appropriate Regional Office.

Applicable regulations: Regulations applicable to this program include the following:

(a) Regulations governing the Handicapped Migratory Agricultural Farmworkers Vocational Rehabilitation

Service Projects Program (34 CFR Parts 369 and 375); and

(b) Education Department General Administrative Regulations (EDGAR) (34 CFR Parts 74, 75, 77, and 78).

Further information: Leslie B. Cole, Division of Special Projects, Rehabilitation Services Administration, U.S. Department of Education, Room 3516, Mary E. Switzer Building, 400 Maryland Avenue, S.W., Washington, D.C. 20202, Telephone: (202) 245–3187.

84.129—Rehabilitation Long-Term Training Projects

Closing date: May 17, 1982—Noncompeting Continuations; May 24, 1982—New Projects.

Authority for this program is contained in section 304 of the Rehabilitation Act of 1973, as amended. (29 U.S.C. 774)

Awards are made under this program to State vocational rehabilitation agencies and other public or nonprofit agencies or organizations, including institutions of higher education.

The purpose of the Rehabilitation Long-Term Training Program is to support projects designed for training personnel available for employment in public or private agencies involved in the rehabilitation of physically and mentally handicapped individuals, especially those who are the most severely handicapped. Historically Black colleges and universities are encouraged to participate in this program.

Available funds: The total amount of funds awarded in rehabilitation training for Fiscal Year 1981 was $21,594,071, including $13,982,367 in rehabilitation long-term training. All rehabilitation long-term training funds were awarded for noncompeting continuation projects. No new projects were funded. At this time the Fiscal Year 1982 appropriation is undetermined. It is estimated that $19,200,000 will be available for all rehabilitation training programs for Fiscal Year 1982. Of this amount approximately $12,700,000 is expected to be available for the support of new and noncompeting continuation projects in rehabilitation long-term training, including an estimated $5,947,000 for new projects alone. The range of funded projects is expected to be from $15,000 to $175,000. These estimates do not bind the Department of Education to a specific number of grants or to the amount of any grant unless that amount is other wise specified by statute or regulations.

It is estimated that the following funds will be available for new projects in these Long-Term Training categories:

Rehabilitation counseling	$781,000
Rehabilitation medicine	457,000
Rehabilitation facility Administration	456,000
Prosthetics and orthotics	1,151,000
Allied health professions:	
Speech pathology and audiology	100,000
Occupational therapy	69,000
Physical therapy	75,000
Nursing	75,000
Psychology	100,000
Therapeutic recreation	50,000
Job development and placement	1,000,000
Blind	353,000
Deaf	276,000
Mentally ill	113,000
Undergraduate education	145,000
Vocational evaluation	512,000
Other	232,000
	5,947,000

These long-term training categories are included in the list of training fields set forth in the program regulations in 34 CFR 386.1 and are considered annual funding priorities in accordance with 34 CFR 75.105(b)(2)(ii).

In Fiscal Year 1982 an application for a new award may be approved for a one to three year project period.

Application forms: Application forms and program information packages for *new awards* are available and may be obtained by writing to the Division of Resource Development, Rehabilitation Services Administration, Office of Special Education and Rehabilitative Services, U.S. Department of Education, Room 3321, Mary E. Switzer Building, 400 Maryland Avenue, S.W., Washington, D.C. 20202.

Application forms and program information packages will be mailed to grantees who had been conducting rehabilitation long-term training projects during the 1980–81 academic year, the last academic year for which new awards for rehabilitation long-term training projects were made, and to grantees who are eligible for noncompeting continuation grant support under this notice.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. The Secretary urges that the narrative portion of applications for (1) *new awards* not exceed 25 pages in length, and (2) *noncompeting continuation awards* not exceed 15 pages in length. The Secretary further urges that applicants not submit information that is not requested.

Applicants applying for noncompeting continuation assistance under this program must submit their applications to the appropriate Regional Office, except for projects in the field of prosthetics-orthotics and projects of national scope.

All applicants for new projects and for noncompeting continuation assistance in prosthetics-orthotics and in projects of national scope must submit their applications to the Department of Education, Application Control Center, as noted earlier.

Applicable regulations: Regulations applicable to this program include the following:

(a) Regulations governing the Rehabilitation Long-Term Training Program (34 CFR Parts 385 and 386); and

(b) Education Department General Administrative Regulations (EDGAR) (34 CFR Parts 74, 75, 77, and 78).

Further information: Martin W. Spickler, Ph. D., Director, Division of Resource Development, Rehabilitation Services Administration, Office of Special Education and Rehabilitative Services, U.S. Department of Education, Room 3321, Mary E. Switzer Building, 400 Maryland Avenue, S.W., Washington, D.C. 20202. Telephone: (202) 245–0075.

84.129Y—Experimental and Innovative Training Projects

Closing date: May 17, 1982—Noncompeting Continuations.

Authority for this program is contained in section 304 of the Rehabilitation Act of 1973, as amended. (29 U.S.C. 774).

Awards are made under this program to State vocational rehabilitation agencies and other public or nonprofit agencies or organizations, including institutions of higher education.

The purpose of the Experimental and Innovative Training Program is to train new types of rehabilitation personnel and to demonstrate new and improved methods of training rehabilitation personnel.

Available funds: The total amount of funds awarded in rehabilitation training for Fiscal Year 1981 was $21,594,071 including $1,290,899 in experimental and innovative training. All experimental and innovative training funds were awarded for noncompeting continuation projects. No new projects were funded. At this time the Fiscal Year 1982 appropriate is undetermined. It is estimated $19,200,000 will be available for all rehabilitation training programs for Fiscal Year 1982. Of this amount approximately $740,000 is expected to be available for the support of noncompeting continuation projects for experimental and innovative training. The range of funded projects is expected to be from $50,000 to $135,000. These estimates do not bind the Department of Education to a specific number of grants or to the amount of any grant unless that amount is otherwise specified by statute or regulations.

Application forms: Application forms and program information packages will be mailed to September cycle grantees who have been conducting experimental and innovative training projects during the 1981–1982 academic year and who are eligible for noncompeting continuation grant support under this notice.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. The Secretary urges that the narrative portion of applications not exceed 15 pages in length. The Secretary further urges that applicants not submit information that is not requested.

Applicable regulations: Regulations applicable to this program include the following:

(a) Regulations governing the Experimental and Innovative Training Program (34 CFR Parts 385 and 387); and

(b) Education Department General Administrative Regulations (EDGAR) (34 CFR Parts 74, 75, 77, and 78)

Further information: Martin W. Spickler, Ph. D., Director, Division of Resource Development, Rehabilitation Services Administration, Office of Special Education and Rehabilitative Services, U.S. Department of Education, Room 3321, Mary E. Switzer Building, 400 Maryland Avenue, S.W., Washington, D.C. 20202; Telephone: (202) 245–0075.

84.132—Centers for Independent Living

Closing date: May 14, 1982—Noncompeting Continuations; June 30, 1982—New Projects.

Authority for this program is contained in section 711 of the Rehabilitation Act of 1973, as amended. (29 U.S.C. 796e)

The purpose of this program is to establish and operate centers for independent living which offer a combination of independent living services for severely handicapped individuals or groups of severely handicapped individuals so that they may live more independently in family and community, or secure and maintain employment, with the maximum degree of self-direction.

Awards are made under this program to the designated State vocational rehabilitation unit. Awards may also be made to local public agencies or private nonprofit organizations within a State, if the designated State unit has not submitted an application within six months after the Secretary begins accepting *new* applications in any fiscal year. October 1, 1981 has been established as the date in Fiscal Year 1982 on which the Secretary began to accept *new* applications.

Section 711(a) of the Rehabilitation Act of 1973, as amended, authorizes the award of grants to "any designated State unit which administers the State plan under Section 705", which by definition is the same unit which administers the State plan under section 110 of the Title I State Vocational Rehabilitation Services Program. The Act states in section 711(d), however, that "If, within six months after the date in each fiscal year on which the Secretary begins to accept *new* applications from designated State units under the Section, a designated State unit has not submitted such an application, the Secretary may accept applications for grants under this Section from local public agencies or private nonprofit organizations within the state".

The effect of section 711(d) is to give designated State units priority if the designated State unit elects to apply in any fiscal year. All *new* applications, including those submitted in accordance with section 711(d), are evaluated on the basis of the selection criteria established in the regulations for the Centers for Independent Living Program (34 CFR Part 366).

In those States with two designated State units, one serving the visually impaired or blind, and another State unit serving all other disabilities, if either or both fail to apply within six months after the Secretary begins to accept *new* applications, the Secretary may accept applications from local public agencies or private nonprofit organizations within that State. In order to be advised of the possibility of participation in a timely manner, interested public agencies or private nonprofit organizations should contact the State rehabilitation unit(s) in their respective State to determine if the State unit(s) intends to apply during Fiscal Year 1982.

If any designated State unit submits an application after May 7, 1982, but before the closing date of June 30, 1982, the application will not preempt applications from local public agencies or private nonprofit organizations within the respective State.

Special procedures: Every *new* applicant is subject to the State and area-wide clearinghouse review procedures under OMB Circular A–95.

An applicant should check with its appropriate Federal regional office to obtain name(s) and address(s) of the clearinghouse(s) in its State. OMB Circular A–95 requires an applicant to give the clearinghouse(s) sufficient time for review, consultation, and comments on the application.

In its application, each *new* application must provide—

(a) The comments of each clearinghouse commenting on the application; or

(b) A statement that the applicant used the procedures of Part I of OMB Circular A–95, but did not receive clearinghouse comments.

Available funds: The total amount of funds awarded under this grant program for Fiscal Year 1981 was $18,000,000 of which approximately $14,600,000 was used for noncompeting continuation applications and approximately $3,400,000 for new applications. At time the Fiscal Year 1982 appropriation is undetermined. It is estimated that $17,280,000 will be available for Fiscal Year 1982. Of that amount $14,280,000 will be available for noncompeting continuation awards and $3,000,000 will be available for new projects. Based on an average grant amount of approximately $200,000, it is expected that 15 new grants will be awarded. *Continuation* awards will be made at approximately the same funding level as awarded in Fiscal Year 1981. These estimates do not bind the Department of Education to a specific number of grants or to the amount of any grant unless that amount is otherwise specified by statute or regulations. The Secretary encourages applications from all parts of the country with a view toward realizing geographic diversity.

Application forms: Application forms and program information packages for *new awards* may be obtained by writing to the Acting Chief, Independent Living Projects Branch, Rehabilitation Services Administration, U.S. Department of Education, Room 3216, Mary E. Switzer Building, 400 Maryland Avenue, S.W., Washington, D.C. 20202.

Application forms and program information packages will be mailed to grantees who are eligible to apply for noncompeting continuation grant support, and who currently have grants with project periods ending in calendar years 1983 or 1984.

Applications must be prepared and submitted in accordance with regulations, instructions, and forms included in the program information packages. The Secretary strongly urges that the narrative portion of applications for new awards not exceed 25 pages in length. The Secretary further urges that only the information required be submitted. All supporting documentation must accompany the application.

Applicable regulations: Regulations governing this program include the following:

(a) Regulations governing the Centers for Independent Living Program (34 CFR Part 366); and

(b) Education Department General Administrative Regulations (EDGAR) (34 CFR Parts 74, 75, 77, and 78).

Further information: Elizabeth A. Arroyo, Acting Chief, Independent Living Projects Branch, Division of Special Projects, Rehabilitation Services Administration, U.S. Department of Education, Room 3216, Mary E. Switzer Building, 400 Maryland Avenue, S.W., Washington, D.C. 20202, Telephone: (202) 245-0890.

84.128J—Projects for Initiating Special Recreation Programs for Handicapped Individuals

Closing date: June 23, 1982—New Projects.

Authority for this program is contained in section 316 of the Rehabilitation Act of 1973, as amended. (29 U.S.C. 777(f))

Awards are made under this program to States and public and other nonprofit agencies and organizations.

The purpose of this program is to support projects which initiate programs of recreational services for handicapped individuals.

Special procedures: Every applicant for new projects is subject to the State and areawide clearinghouse review procedures under OMB Circular A-95.

An applicant should check with its appropriate Federal regional office to obtain the name(s) and address(es) of the clearinghouse(s) in its State. OMB Circular A-95 requires the applicant to give the clearinghouse(s) sufficient time for review, consultation, and comments on the applications.

In its application each applicant must provide—

(a) The comments of each clearinghouse that commented on the application; orf

(b) A statement that the applicant used the procedures of Part I of OMB Circular A-95 but did not receive any clearinghouse comments.

Available funds: The total amount of funds awarded under this grant program for Fiscal Year 1981, the first year of support for this program, was $2,000,000. At this time the Fiscal Year 1982 appropriation is undetermined.

It is estimated that $1,684,000 will be available for Fiscal Year 1982. An estimated 23 grants will be awarded with an average grant totalling about $82,000. These estimates do not bind the Department of Education to a specific number of grants or to the amount of any grant unless that amount is otherwise specified by statute or regulations. The Secretary encourages applications from all parts of the country with a view toward realizing geographic diversity.

Application forms: Application forms and program information packages are available and may be obtained by writing to the Division of Special Projects, Rehabilitation Services Administration, U.S. Department of Education, 400 Maryland Avenue, S.W., Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. The Secretary strongly urges that the narrative portion of the application not exceed 25 pages in length. The Secretary further urges that applicants not submit information that is not requested.

Applicable regulations: Regulations applicable to this program include the following:

(a) Regulations governing the Projects for Initiating Special Recreation Programs for Handicapped Individuals (34 CFR Part 369, and 378); and

(b) Education Department General Administrative Regulations (EDGAR) (34 CFR Parts 74, 75, 77, and 78).

Further information: Frank S. Caracciolo, Division of Special Projects, Rehabilitation Services Administration, Department of Education, 400 Maryland Avenue, S.W., Room 3516, Mary E. Switzer Building, Washington, D.C. 20202, Telephone: (202) 245-3186.

84.128A—Service Projects and Demonstrations for Providing Vocational Rehabilitation Services to Severely Handicapped Individuals

Closing date: May 14, 1982—Noncompeting Continuations.

Authority for this program is contained in section 311(a)(1) of the Rehabilitation Act of 1973, as amended. (29 U.S.C. 777(a)(1))

Awards are made under this program to States and public and other nonprofit agencies and organizations.

The purpose of this program is to support projects designed to expand or otherwise imporve vocational rehabilitation services and other services for severely handicapped individuals.

Available funds: The amount total of funds awarded under this grant program in Fiscal Year 1981 (excluding spinal cord injury projects) was $4,521,000; of this amount $3,710,000 was for noncompeting continuation projects and $811,000 was for new projects. At this time the Fiscal Year 1982 appropriation is undetermined. It is estimated that $4,093,000 will be available for Fiscal Year 1982. An estimated 35 noncompeting continuation projects will be awarded at an average project cost of about $117,000. These estimates do not bind the Department of Education to a specific number of grants or to the amount of any grant unless that amount is otherwise specified by statute or regulations.

Application forms: Application forms and program information packages will be mailed to grantees who are eligible to apply for noncompeting continuation grant support under this announcement.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. The Secretary urges that applicants not submit *noncompeting continuation* project information that is not requested.

Applicable regulations: The following regulations are applicable to this program:

(a) Regulations governing Special Projects and Demonstrations for Providing Vocational Rehabilitation Services to Severely Handicapped Individuals (34 CFR Parts 369 and 373); and

(b) Education Department General Administrative Regulations (EDGAR) (34 CFR Parts 74, 75, 77, and 78).

Further information: Leo J. Eger, Division of Sepcial Projects, Rehabilitation Services Administration, Department of Education, 400 Maryland Avenue, S.W., Room 3221, Mary E. Switzer Building, Washington, D.C. 20202, Telephone: (202) 245-0474.

84.128E—Special Projects and Demonstrations For Providing Vocational Rehabilitation Services to Severely Handicapped Individuals (Spinal Cord Injury System Projects)

Closing date: June 23, 1982—New Projects.

Authority for this program is contained in section 311(a)(1) of the Rehabilitation Act of 1973, as amended. (29 U.S.C. 777(a)(1))

Awards are made under this program to States and public and other nonprofit agencies and organizations.

The purpose of this program is to support projects designed to expand or otherwise improve vocational rehabilitation services and other rehabilitation services for severely handicapped individuals including individuals with spinal cord injuries. Projects serving exclusively individuals with spinal cord injuries are included in the list of authorized project activities set forth in the program regulations in 34 CFR 373.10. The Secretary may select an annual funding priority form this list in

accordance with 34 CFR 75.105(b)(2)(ii) by reserving funds for projects designed to benefit a particular group of severely handicapped individuals.

Special procedures: Every applicant for a new project is subject to the State and areawide clearinghouse review procedures under OMB Circular A–95.

An applicant should check with its appropriate Federal regional office to obtain the name(s) and address(es) of the clearinghouse(s) in its State. OMB Circular A–95 requires the applicant to give the clearinghouse(s) sufficient time for review, consulation, and comments on the application.

In its application each applicant must provide—

(a) The comments of each clearinghouse that commented on the application; or

(b) A statement that the applicant used the procedures of Part I of OMB Circular A–95 but did not receive any clearinghouse comments.

Available funds: The total amount of funds awarded under this grant program for spinal cord injury projects in Fiscal Year 1981 was $5,250,000 of which $4,500,000 was for noncompeting continuation projects and $750,000 was for new applications. At this time the Fiscal Year 1982 appropriation for spinal cord injury projects is undetermined. It is estimated that $4,762,000 will be available for Fiscal Year 1982. Of this amount $285,000 was used to fund two noncompeting continuation project extensions.

An estimated 17 new grants for spinal cord injury projects will be awarded with an average grant totalling $263,000. These estimates do not bind the Department of Education to a specific number of grants or to the amount of any grant unless that amount is otherwise specified by statute or regulations.

The Secretary encourages application from all parts of the country with a view towards realizing geographical diversity.

Application forms: Application forms and program information packages are available and may be obtained by writing to the Division of Special Projects, Rehabilitation Service Administration, Department of Education, 400 Maryland Avenue, S.W., Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information packages. The Secretary strongly urges that the narrative portion of the application not exceed 25 pages in length. The Secretary further urges that applicants not submit information that is not requested.

Applicable regulations: The following regulations are applicable to this program:

(a) Regulations governing Special Projects and Demonstrations for Providing Vocational Rehabilitation Services to Severely Handicapped Individuals (34 CFR Parts 369 and 373); and

(b) Education Department General Administrative Regulations (EDGAR) (34 CFR Parts 74, 75, 77, and 78).

Further information: J. Paul Thomas, Project Manager, Model Spinal Cord Injury System Program, Rehabilitation Services Administration, Department of Education, 400 Maryland Avenue, S.W., Room 3430, Mary E. Switzer Building, Washington, D.C. 20202, Telephone: (202) 245–0515.

84.128B—Projects With Industry

Closing Date: May 14, 1982—Noncompeting Continuations; May 28, 1982—New Projects.

Authority for this program is contained in section 621 of the Rehabilitation Act of 1973, as amended. (29 U.S.C. 795g)

Agreements are made under this program with employers and profit-making and nonprofit organizations, including any industrial, business or commercial enterprise; labor organization; community trade association; rehabilitation facility; or any other agency or organization with the capacity to arrange, coordinate or conduct training and other employment programs and provide supportive services and assistance to handicapped individuals in a realistic work setting.

The purpose of this program is to provide handicapped individuals with training, employment, and supportive services and assistance within business, industry, or other realistic work settings in order to prepare them for competitive employment and permit them to maintain their employment.

Special procedures: Every applicant for *new awards* is subject to the State and areawide clearinghouse review procedures under OMB Circular A–95.

An applicant should check with its appropriate Federal regional office to obtain the name(s) and address(es) of the clearinghouse(s) in its State. OMB Circular A–95 requires the applicant to give the clearinghouse(s) sufficient time for review, consultation, and comments on the application.

In its application each applicant must provide—

(a) The comments of each clearinghouse that commented on the application; or

(b) A statement that the applicant used the procedures of Part I of OMB Circular A–95 but did not receive any clearinghouse comments.

Available funds: The total amount of funds available under this program in Fiscal Year 1981 was $5,250,000 for noncompeting continuation projects. No new projects were funded. At this time, the Fiscal Year 1982 appropriation is undetermined. It is estimated that $7,510,000 will be available for Fiscal Year 1982. As estimated 65 projects (approximately 50 noncompeting and 15 new) will be awarded with an average project totalling $115,000. These estimates do not bind the Department of Education to a specific number of grants or to the amount of any grant unless that amount is otherwise specified by statute or regulations.

The Secretary encourages applications for projects of national scope which include a wide area of service. A comprehensive program of services for mentally and physically handicapped persons including Supplemental Security Income (SSI) and Social Security Disability Insurance (SSDI) beneficiaries, and linkages with major industries, associations, and other Projects with Industry (PWI) projects and unions.

The Secretary also encourages applications from all parts of the country with a view towards realizing geogrphical diversity.

Application forms: Application forms and program information packages are available and may be obtianed by writing to the Division of Special Projects, Rehabilitation Services Administration, U.S. Department of Education, 400 Maryland Avenue, S.W., Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. The Secretary urges that the narrative portion of applications for *new awards* not exceed 25 pages in length. The Secretary further urges that applicants not submit information that is not requested.

Applicable regulations: Regulations applicable to this program include the following:

(a) Regulations governing the Projects with Industry Program (34 CFR Part 369 and 379); and

(b) Education Department General Administrative Regulations (EDGAR) (34 CFR Parts 74, 75, 77, and 78).

Further information: Thomas J. Fleming, Division of Special Projects, Rehabilitation Services Administration, U.S. Department of Education, Room 3518, Mary E. Switzer Building, 4090

Maryland Avenue, S.W., Washington, D.C. 20202, Telephone: (202) 245–3189.

Dated: March 31, 1982.

T. H. Bell,

Secretary of Education.

[FR Doc. 82-9201 Filed 4-5-82; 8:45 am]

BILLING CODE 4000-01-M

Office of Postsecondary Education

Undergraduate International Studies and Foreign Language Program; Application Notice for New Projects for Fiscal Year 1982

Applications are invited for new projects under the Undergraduate International Studies and Foreign Language Program.

Authority for these programs is contained in section 604 of the Higher Education Act of 1965, as amended. (20 U.S.C. 1124)

The Undergraduate International Studies and Foreign Language Program issues awards to institutions of higher education and public and non-profit private agencies and organizations, including professional and scholarly associations. The purpose of the awards is to:

(a) Assist institutions of higher education to plan, development, and carry out a comprehensive program to strengthen and improve undergraduate instruction in international studies and foreign languages, and

(b) Assist associations and organizations to develop projects that will make an especially significant contribution to strengthening and improving undergraduate instruction in international studies and foreign languages.

Closing date for transmittal or applications: An application for a grant must be mailed or hand delivered by May 21, 1982.

Applications delivered by mail: An application sent by mail must be addressed to the U.S. Department of Education, Application Control Center, Attention: 84.016 (Undergraduate International Studies Program), Washington, D.C. 20202.

An applicant must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark,

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the Secretary of Education.

If an application is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (1) A private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service. An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail. Each late applicant will be notified that its application will not be considered.

Applications delivered by hand: An application that is hand-delivered should be taken to the U.S. Department of Eduaction, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Street SW., Washingtion, D.C. 20202.

The Application Control Center will accept a hand-delivered application between 8:00 a.m. and 4:30 p.m. (Washington, D.C. time) daily except Saturdays, Sundays, and Federal holidays.

An application that is hand-delivered will not be accepted after 4:30 p.m. on the closing date.

Program information: Specific information about this program is contained in the program regulations (34 CFR Parts 655 and 658) that were published in the **Federal Register** on April 1, 1982.

Available funds: There is authorized $1,940,000 for new and continuation awards under the Undergraduate International Studies and Foreign Language Program in Fiscal Year 1982. However, the President has proposed budget rescissions to the Congress that may reduce the funds for this program. The deadline in this notice will not be extended, and applicants should prepare and submit applications pending further notification. Applications must be submitted to the Application Control Center at the address in this notice. If Congress approves the proposed rescission, $1,016,500 will be available for continuation awards, and no funds will be available for new awards. If Congress disapproves the proposed rescission, it is estimated that $1,440,000 will be available for continuation awards, and $500,000 for new awards. The closing date for the continuation awards was January 5, 1982. If Congress makes funds available for new awards in Fiscal Year 1982, it is estimated that 10 to 12 new grants will be awarded. Awards to a single institution will average around $38,000, and consortia awards will average about $60,000.

In addition, although the Department of Education is accepting applications for project periods of up to two years for a single institution and for up to three years for consortia, the President's budget proposes no funding for the Undergraduate International Studies and Foreign Language Program in Fiscal Year 1983. It is recommended that applicants seek other sources of funding for subsequent budget periods.

These estimates do not bind the Department of Education to a specific number of grants or to the amount of any grant unless that amont is otherwise specified by statute or regulations.

Application forms: Application forms and program information packages are expected to be ready for mailing by April 6, 1982. They may be obtained by writing to the International Studies Branch, International Education Programs, U.S. Department of Education (Room 3916, Regional Office Building 3), 7th and D Streets SW., Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions and forms included in the program information package. The Secretary urges that applicants not submit information that is not requested.

Applicable regulations: Regulations applicable to this program include the following:

(a) Regulations governing the Undergraduate International Studies and Foreign Language Program (34 CFR Parts 655 and 658) that were published in the **Federal Register** on April 1, 1982; and

(b) Education Department General Administrative Regulations (EDGAR) (34 CFR Parts 74, 75, 77 and 78). These parts were previously codified as 45 CFR Parts 74, 100a, 100c, and 100d respectively.

Further information: For further information, contact Mrs. Susanna Easton, International Studies Branch, International Education Programs, U.S. Department of Education (Room 3916, Regional Office Building 3), 7th & D Streets SW., Washington, D.C. 20202, telephone (202) 245–2794.

(20 U.S.C. 1124)

(Catalog of Federal Domestic Assistance Number 84.016—Undergraduate International Studies and Foreign Language Program)

Dated: March 31, 1982.

Thomas P. Melady,

Assistant Secretary for Postsecondary Education.

[FR Doc. 82-9200 Filed 4-5-82; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Bonneville Power Administration

Change in Date of Portland Public Comment Forum on Proposed Billing Credits Policy

AGENCY: Bonneville Power Administration (BPA), DOE.

ACTION: Notice of change in date of Portland public comment forum on proposed billing credits policy.

SUMMARY: On March 5, 1982 (47 FR 9760), BPA announced its proposed Billing Credits Policy and the schedule for its public information and comment forums. BPA is rescheduling its Portland comment forum which was originally planned for April 19, 1982. This forum will be held Tuesday evening, April 20, 1982, in room 223 of the Federal Building, 1220 SW. Third Avenue, Portland, Oregon. A building official will admit people through the Madison Street entrance on the north side of the Federal Building. Registration will begin at 7 p.m. and the forum will start at 7:30 p.m.

FOR FURTHER INFORMATION CONTACT: Donna L. Geiger, Public Involvement Coordinator, P.O. Box 12999, Portland, Oregon 97212, 503–230–4261. Oregon callers outside of Portland may use the toll-free number 800–452–8429; callers in California, Idaho, Montana, Nevada, Utah, Wyoming, and Washington may use 800–547–6048.

Issued in Portland, Oregon, March 29, 1982.

Peter T. Johnson,

Administrator.

[FR Doc. 82–9205 Filed 4–5–82; 8:45 am]

BILLING CODE 6450–01–M

Economic Regulatory Administration

Application by San Diego Gas & Electric Company To Amend the Terms and Conditions of Presidential Permit PP–68

AGENCY: Economic Regulatory Administration, Energy.

ACTION: Notice of application by San Diego Gas & Electric Company (SDG&E) to amend the terms and conditions of Presidential Permit PP–68.

SUMMARY: SDG&E has requested authorization to add a second set of conductors on the towers which will be constructed as part of the international transmission line authorized in DOE Docket No. PP–68.

FOR FURTHER INFORMATION CONTACT:

Garet A. Bornstein, EP–422, Presidential Permits, Office of Energy Emergency Operations, Department of Energy, Forrestal Building (Room GH–034–G), Washington, D.C. 20585, (202) 252–1714.

Lise Courtney M. Howe, GC–11, Office Of the General Counsel, Forrestal Building (Room 6A–141), Washington, D.C. 20585, (202) 252–2900.

SUPPLEMENTARY INFORMATION: SDG&E received Presidential Permit PP–68 authorizing the construction of an international transmission line from its Miguel substation to the U.S. Mexican international border, on January 12, 1981. Notice of the issuance of Presidential Permit PP–68 appeared in the **Federal Register** on January 19, 1981 (46 FR 5049).

On December 2, 1981, SDG&E requested that PP–68 be modified to include the addition of a second set of conductors on the same towers. According to the applicant:

> [A] second set of conductors on the same towers will be needed to provide sufficient capacity and reliability for presently contracted and potential future firm purchases of geothermal power from Mexico. To reduce costs, it would be advantageous to install the second set of conductors when the line is initially constructed rather than later.
>
> The three additional conductors would be installed on the opposite side of the towers, and would be tied together with the originally proposed conductors at each end of the line. Thus, the final configuration would still be a three-phase single circuit with the potential to change to a double circuit configuration sometime in 1986 if necessary. Aside from the altered conductor configuration, the project will be constructed in full compliance with all conditions of PP–68 and the associated 202(e) Permit issued July 27, 1981 (July 22, 1981).

Any person desiring to be heard, or to protest this application to amend the Presidential Permit PP–68, should file a petition to intervene or protest with the Director, Office of Energy Emergency Operations, Room GH–034–G, 1000 Independence Avenue, S.W., Washington, D.C. 20585, in accordance with § 1.8 or § 1.10 of the rules of practice and procedure (18 CFR 1.8 and 1.10).

Any such petitions and protests should be filed on or before April 30, 1982. Protests will be considered by the DOE in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with DOE and will, upon request, be made available by the Office of Energy Emergency Operations, Room GH–034–G, 1000 Independence Avenue, S.W., Washington D.C. 20585, for public inspection and copying.

Issued in Washington, D.C. on March 24, 1982.

Rayburn Hanzlik,[1]

Administrator, Economic Regulatory Administration.

[FR Doc. 82–9206 Filed 4–5–82; 8:45 am]

BILLING CODE 6450–01–M

[Docket Nos. ERA–FC–80–043 and ERA–FC–81–004, ERA Case Nos. 51209–1393–27, 28–22]

Gulf States Utilities Co.

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice and Proposed Modification of Orders Granting Permanent Peakload Exemptions for Roy S. Nelson Station Units No. 7 and No. 8, Gulf States Utilities Company.

On May 18, 1981 and July 16, 1981, the Economic Regulatory Administration (ERA) issued separate Orders granting permanent peakload powerplant exemptions to Gulf States Utilities Company (GSU) for its Roy S. Nelson Station Units No. 7 and No. 8, respectively. The Orders, published in the **Federal Register** on May 26, 1981, at 46 FR 28208 and July 24, 1981, at 46 FR 38123, exempt these units from the prohibitions of section 201 of the Powerplant and Industrial Fuel Use Act of 1978, 42 U.S.C. 8301 et seq. (FUA or the Act) against the use of natural gas or petroleum by a new powerplant.

ERA granted the permanent peakload powerplant exemptions to GSU subject to four terms and conditions as authorized by the final rule then in effect and published in the **Federal Register** on June 6, 1980 (45 FR 38276) (1980 rules). By letter dated January 25, 1982, GSU requested that ERA remove the conditions from the Orders pursuant to 10 CFR 501.100 *et seq.* as amended (46 FR 59872, December 7, 1981).

The conditions in the Order granting the exemption for Roy S. Nelson Unit No. 7 read as follows:

A. GSU shall not produce more than 172,243,000 Kwh during any 12-month period with the proposed unit. GSU shall provide annual estimates of the expected periods (hours during specific months) of operation of Roy S. Nelson Unit No. 7 for peakload purposes (e.g., 8:00–10:00 a.m. and 3:00–6:00 p.m. during the June–September period, etc.). Estimates of the hours during which GSU expects to operate Roy S. Nelson

[1] In the recent reorganization of DOE, resonsibility for Presidential Permits was transferred from ERA to the Office of Environmental Protection, Safety, and Emergency Preparedness. DOE is in the process of redelegating that authority.

Unit No. 7 during the first 12-month period shall be furnished within 30 days from the date of this order.

B. GSU shall comply with the reporting requirements set forth in 10 CFR 503.41(d).

C. The quality of any petroleum to be burned in this unit will be the lowest grade available which is technically feasible and capable of being burned consistent with applicable environmental requirements.

D. GSU shall comply with any terms and conditions which may be imposed pursuant to the the environmental requirements set forth at 10 CFR 503.15(b).

The conditions in the Order for Roy S. Nelson Unit No. 8 were the same as those stated above except that in paragraph "A" GSU could not produce more than 125,205,000 Kwh during any 12-month period with the proposed unit.

The final amended rules published on December 7, 1981 (46 FR 59872) and effective on January 6, 1982 (final amended rules) deleted certain restrictive terms and conditions which attached to peakload powerplant exemption Orders pursuant to 10 CFR 503.41(e) of the 1980 rules, including those conditions stated under paragraphs "B" and "C" of the two Orders. Accordingly, paragraphs "B" and "C" in the two Orders are proposed to be deleted.

Paragraph "D" of the two Orders is proposed to be redesignated as paragraph "B" and modified to account for the transfer of environmental requirements from 10 CFR 503.15(b) of the 1980 rules to 10 CFR 503.13(b) of the final amended rules. This term and condition is being retained intact to ensure that GSU operates the units in accordance with its environmental certifications filed in conjunction with the peakload powerplant exemption under 10 CFR 503.41(b)(3) and 503.13(b).

Paragraph "A" of the Order for the Roy S. Nelson Unit No. 7 is proposed to be modified to read as follows:

A. GSU shall not produce more than 172,242,000 Kwh during any 12-month period with the proposed unit.

Paragraph "A" of the Order for the Roy S. Nelson Unit No. 8 is proposed to be modified to read as follows:

A. GSU shall not produce more than 125,205,000 Kwh during any 12-month period with the proposed unit.

To be included within the basic definition of "peakload powerplant" as established by section 103(a)(18) of FUA, the powerplant must be "a powerplant the electrical generation of which in kilowatt hours does not exceed, for any 12-calendar-month period, such powerplant's design capacity multiplied by 1500 hours." As stated in the original Order for Unit No. 7, its maximum design capacity is 114,828 KW and the product of 114,828 and 1500 is 172,242,000 Kwh. As stated in the original Order for Unit No. 8, its maximum design capacity is 83,470 KW and the product of 83,470 and 1500 is 125,205,000 Kwh. Thus, these restrictions must be retained in the two Orders. However, ERA considers the submission of the annual estimates of expected periods and hours of operation unnecessary in light of its attempts to streamline and simplify administrative procedures and exemption criteria under FUA. Therefore, these provisions of the former paragraph "A" are proposed to be deleted.

This Notice and Proposed Modification will serve as notice under 10 CFR 501.101(d) of ERA's proposed action with respect to the two Orders to each person upon whom the Orders were served in the original proceedings. A person who was a party to the original proceedings culminating in the two Orders may file a written response on or before May 6, 1982. If ERA receives no response, then the proposed modifications will become effective without further action on the part of ERA 30 days after the date of the publication in the **Federal Register.**

ADDRESS: All comments should be addressed to Public Hearing Management, Docket No. ERA-FC-82-007, Department of Energy, Room 7146, 12th Street and Pennsylvania Avenue, N.W., Washington, D.C. 20461.

Issued in Washington, D.C. March 31, 1982.

James W. Workman,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 82-8207 Filed 4-5-82; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[EL82-8-000 and Project Nos. 3752-000; 3973-000 and 4865-000]

Borough of Central City, PA and Mitchell Energy, Co., Allegheny County, PA; Notice Rejecting Filing and Cancelling Notice of Filing

March 31, 1982.

On February 23, 1982, Allengheny County, Pennsylvania ("Allegheny") filed a document styled "Complaint of Allegheny County, Pennsylvania". The filing raises objections to a preliminary permit issued on September 25, 1981 to the Borough of Central City, Pennsylvania ("Central City"). Those objections were the subject of Allengheny's Petition for Reconsideration filed November 17, 1981. That petition was rejected by the Secretary on January 11, 1982. On March 8, 1982, Central City surrendered its preliminary permit.

The Secretary issued, on March 10, 1982, (47 FR 11059, 3-15-82) a Notice of Filing of the Bedford Complaint docketed as EL82-8-000. Given the procedural facts described above, that notice was inadvertent and is cancelled. Furthermore, for the reasons stated above, the February 23, 1982 filing by Allegheny is rejected.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-9210 Filed 4-5-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-242-000]

Columbia Gas Transmission Corp.; Notice of Application

April 1, 1982.

Take notice that on March 17, 1982, Columbia Gas Transmission Corporation (Applicant), P.O. Box 1273, Charleston, West Virginia 24325, filed in Docket No. CP82-242-000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction of 34 interconnecting tap facilities to provide additional points of delivery to existing wholesale customers, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes the following new points of delivery for the following wholesale customers:

(1) Columbia Gas of Ohio, Inc., 17 taps for residential service, 2 taps for commercial service, 1 tap for industrial service—Estimated annual usage of 95,708 Mcf

(2) Columbia Gas of Pennsylvania, Inc., 3 taps for residential service, 3 taps for commercial service—Estimated annual usage of 5,810 Mcf

(3) Columbia Gas of West Virginia, Inc., 7 taps for residential service—Estimated annual usage of 1,050 Mcf

(4) The Dayton Power and Light Company, 1 tap for residential service—Estimated annual usage of 1,920 Mcf

It is estimated that the total cost of the interconnections proposed herein is $27,205 to be financed through internally generated funds.

Any person desiring to be heard or to make any protest with reference to said application should on or before April 22,

1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-9211 Filed 4-5-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-236-000]

Columbia Gulf Transmission Co. and Columbia Gas Transmission Corp.; Notice of Application

April 1, 1982.

Take notice that on March 15, 1982, Columbia Gulf Transmission Company (Columbia Gulf), P.O. Box 683, Houston, Texas 77001, and Columbia Gas Transmission Corporation (Columbia Gas), P.O. Box 1273, Charleston, West Virginia 25325, filed in Docket No. CP82-236-000 a joint application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation and exchange of natural gas on behalf of Trunkline Gas Company (Trunkline), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is submitted that Columbia Gas and Trunkline each has the right to purchase certain quantities of natural gas in Eugene Island Block 392 and in West Cameron Block 624, offshore Louisiana.

Pursuant to a transportation and exchange agreement with Trunkline dated December 29, 1981, Columbia Gulf and Columbia Gas propose to exchange up to 20,000 Mcf of gas per day which Trunkline has available in West Cameron Block 624 with thermally equivalent quantities of gas which Columbia Gas has available to deliver to Trunkline in Eugene Island Block 392. It is stated that gas which Trunkline would have available, if any, after the exchange has taken place would be transported by Columbia Gulf from the West Cameron 624 platform and redelivered to Trunkline at an existing interconnection between the facilities of Trunkline and Columbia Gulf located near Centerville, St. Mary Parish, Louisiana. Applicants further state that the volumes to be redelivered to Trunkline by Columbia Gulf on a daily basis would be the thermal equivalent of the volumes delivered by Trunkline less 1.65 percent reduction for fuel usage and unaccounted for gas. It is asserted that for any imbalance incurred on a monthly basis excess volumes would be charged a unit rate per Mcf.

Applicants state that for such transportation service Trunkline would pay a unit rate of 32.78 cents per Mcf of gas.

Any person desiring to be heard or to make any protest with reference to said application should on or before April 22, 1982, file with the Federal Energy Regulatory Commission, Washington D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-9212 Filed 4-5-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ES82-44-000]

Consumers Power Co.; Application

April 1, 1982.

Take notice that Consumers Power Company ("Consumers") on March 24, 1982, filed an application for authority under section 204 of the Federal Power Act, to enter into an Acceptance Facility Agreement with certain banks ("Banks") for the purpose of financing Consumers' acquisition and storage of a portion of its coal, fuel oil and gas ("Fuel"). Pursuant to the Agreement, the Banks will accept drafts of Consumers from time to time in aggregate amounts outstanding at any one time not to exceed the lesser of $200,000,000 or the cost of the Fuel stored at certain field warehouses, which Fuel will be subject to security interests granted by Consumers to the Banks.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protests 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 or 1.10). All such petitions or protests should be filed on or before April 22, 1982. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-9235 Filed 4-5-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 3395-000]

Continental Hydro Corp.; Notice of Surrender of Preliminary Permit

April 1, 1982.

Take notice that the Continental Hydro Corporation, Permittee for the proposed Hulah Project No. 3395, requested on February 18, 1982, that its preliminary permit be terminated. The preliminary permit was issued on February 6, 1981, and would have expired on August 1, 1982. The project would have been located at the existing Hulah Dam and Reservoir on the Caney River in Osage County, Oklahoma. Permittee cites that the project would not be an economic source of energy.

The surrender of the permit is in the public interest. Therefore, the surrender of the preliminary permit for Project No. 3395 is accepted as of the date of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-9225 Filed 4-5-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 3396-001]

Continental Hydro Corp.; Notice of Surrender of Preliminary Permit

April 1, 1982.

Take notice that Continental Hydro Corporation, Permittee for the proposed Pleasant Hill Lake Project No. 3396, has requested that its preliminary permit be terminated. The preliminary permit was issued on February 18, 1981, and would have expired on July 31, 1982. The project would have been located on the Clear Fork River in Ashland County, Ohio. Continental Hydro Corporation states that due to the high development costs and the unattractive power sale rates of the area, this site is not economically feasible.

Continental Hydro Corporation filed its request on March 12, 1982, and the surrender of its permit for Project No. 3396 is deemed effective as of the date of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-9226 Filed 4-5-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 3362-001]

Continental Hydro Corp.; Notice of Surrender of Preliminary Permit

April 1, 1982.

Take notice that Continental Hydro Corporation, Permittee for the U. S. Army Corps of Engineers' Dillon Dam, Project No. 3362, has requested that its preliminary permit be terminated. The preliminary permit was issued February 12, 1981, and would have expired on July 1, 1982. The project would have been located on the Licking River in Muskingum County, Ohio. Continental Hydo Corporation cites that after conducting various engineering and financial evaluations on the site, "the energy output is insufficient * * * to make it economically feasible."

Continental Hydro Corporation filed its request on March 12, 1982, and the surrender of its permit for Project No. 3362 has been deemed accepted as of the date of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-9227 Filed 4-5-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ID-1547-001]

William E. Cornelius; Application

April 1, 1982.

The filing individual submits the following:

Take notice that on March 22, 1982, William E. Cornelius filed an application pursuant to section 305(b) of the Federal Power Act to hold the following positions:

Director—Missouri Edison Company
Director—Missouri Power & Light Company
Director—Missouri Utilities Company
Director and President—Union Electric Company
Director—Electric Energy, Inc.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before April 23, 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. 82-9236 Filed 4-5-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5854-000]

City of The Dalles, Oregon; Application for Preliminary Permit

April 1, 1982.

Take notice that City of The Dalles, Oregon (Applicant) filed on January 5, 1982, an application for preliminary permit (pursuant to the Federal Power Act, 16 U.S.C. sections 791(a)–825(r)) for Project No. 5854 to be known as the Crow Creek Project located on Crow, Alder, and South Fork Mill Creeks, near The Dalles, in Wasco County, Oregon. The project would affect U.S. lands within the Mount Hood National Forest. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Del Cesar, City Manager, 313 Court Street, The Dalles, Oregon 97058.

Project Description—The proposed project would consist of: 1) the 100-foot high earthfill Crow Creek Dam impounding a 31-acre reservoir; 2) a 45,000-foot long, 30-inch diameter iron penstock; 3) a powerhouse containing one generating unit rated at 3,000 kW; and 4) a 1,000-foot long transmission line. Applicant also proposes to study the feasibility of installing a 500-kW generator within an existing water supply conduit. The average annual enery generation is estimated to be 19 million kWh.

Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit for a period of 36 months, during which time it would conduct engineering, economic, environmental, and feasibility studies, and prepare an FERC license application. No new roads would be required to conduct the studies. The cost of the work to by done under the preliminary permit is estimated to be $100,000.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before July 12, 1982, the competing application itself (see: 18 CFR 4.30 et seq. (1981)). A notice of intent to file a competing application for preliminary permit will not be accepted for filing.

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before June 11, 1982, and should specify the type of application

forthcoming. Applications for licensing or exemption from licensing must be filed in accordance with the Commission's regulations (see: 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate).

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions to Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before June 11, 1982.

Filing and Service of Responsive Documents—Any filings, must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-9231 Filed 4-5-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-400-000]

Dayton Power & Light Co.; Filing

March 31, 1982.

Take notice that on March 25, 1982, The Dayton Power and Light Company (DP&L) tendered for filing an executed Service Agreement For Partial Requirements And/Or Transmission Wheeling Service To Municipalities For Resale (Service Agreement) between DP&L and the Village of Minster, Ohio.

The proposed Service Agreement permits the Village of Minster to receive partial requirements and transmission wheeling service from DP&L under its FERC Electric Tariff, Original Volume No. 2. The previous service agreement between DP&L and the Village of Minister, under which the Village of Minister received service pursuant to DP&L's FERC Electric Tariff Original Volume No. 1, is superseded.

DP&L requests the Commission waive its notice and filing requirements and permit the proposed Service Agreement to become effective April 1, 1982.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before April 16, 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. 82-9213 filed 4-5-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6074-000]

Energenics System Inc.; Application for Preliminary Permit

April 1, 1982.

Take notice that Energenics Systems Inc. (Applicant) filed on March 11, 1982, an application for preliminary permit (pursuant to the Federal Power Act, 16 U.S.C. §§ 791(a)-825(r)) for Project No. 6074 to be known as the Delaware Dam Project located on the Olentangy River in Delaware County, Ohio. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Thomas H. Clarke, Jr., Energenics Systems Inc., 1717 K Street, NW., Washington, D.C. 20006.

Project Description—The proposed project would utilized the existing Corps of Engineers' Delaware Flood Control Dam and would consist of: (1) a new 7-foot diameter penstock 10 feet long; (2) a new powerhouse built just below the dam; (3) one new 1.2-MW turbine generator unit operating under a head of 34 feet; (4) one 138-kV transmission line 5 miles long; and (5) appurtenant facilities.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit for a period of three years, during which time it would perform surveys and geological investigations, determine the economic feasibility of the project, reach final agreement on sale of project power, secure financing commitments, consult with Federal, State, and local government agencies concerning the potential environmental effects of the project, and prepare an application for FERC license, including an environmental report. Applicant estimates the cost of studies under the permit would be $30,000.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before July 12, 1982, the competing application itself (see: 18 CFR 4.30 et seq. (1981)). A notice of intent to file a competing application for preliminary permit will not be accepted for filing.

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before June 11, 1982, and should specify the type of application forthcoming. Applications for licensing or exemption from licensing must be filed in accordance with the Commission's regulations (see: 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate).

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but

only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before June 11, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS," "NOTICE OF INTENT TO FILE COMPETING APPLICATION," "COMPETING APPLICATION," "PROTEST," or "PETITION TO INTERVENE," as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB, at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Application specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-9237 Filed 4-5-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6081-000]

Energenics Systems, Inc.; Application for Preliminary Permit

April 1, 1982.

Take notice that Energenics Systems, Inc. (Applicant) filed on March 1, 1982, an application for preliminary permit (pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)) for Project No. 6081 to be known as the Green River Lock and Dam No. 4 located on the Green River in Butler County, Kentucky. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Thomas H. Clarke, Jr., President, Energenics Systems, Inc., 1717 K Street, NW., Suite 706, Washington, D.C. 20006.

Project Description—The proposed project would utilize the existing U.S. Army Corps of Engineers' Green River Lock and Dam No. 4. Project No. 6081 would consist of: (1) a proposed 10-foot diameter penstock; (2) a proposed powerhouse containing three (3) generating units rated at 1,650 kW each for a total installed capacity of 4,950 kW; (3) a proposed tailrace channel; (4) a proposed 161 KV transmission line; and (5) appurtenant facilities. The Applicant estimates that the average annual energy output would be 22.5 GWh.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit for a period of 36 months. During this time the following studies, among other things, will be performed: hydropower capacity; environmental impacts; marketing potential; annual operation and maintenance cost; project life; and assessment of safety hazard. In addition, Applicant would consult with Federal, State, and local agencies to determine the environmental effects of the project. Applicant estimates the cost of the studies would be $40,000.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before July 12, 1982, the competing application itself (see: 18 CFR 4.30 et seq. (1981)). A notice of intent to file a competing application for preliminary permit will not be accepted for filing.

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before June 11, 1982, and should specify the type of application forthcoming. Applications for licensing or exemption from licensing must be filed in accordance with the Commission's regulations (see: 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate).

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before June 11, 1982.

Filing and Service of Responsive Documents—Any filings, must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB, at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-9238 Filed 4-5-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-394-000]

Florida Power & Light Co.; Filing

March 31, 1982.

The filing Company submits the following:

Take notice that on March 22, 1982, Florida Power & Light Company (FP&L) tendered for filing five (5) Exhibits A which provide for the contract demands for the Utilities Commission, City of New Smyrna Beach; Fort Pierce Utilities Authority; Florida Keys Electric Cooperative, Inc.; City of Homestead; and City of Starke.

FP&L states that the proposed effective date for the contract demands for New Smyrna Beach, Florida Keys, and City of Starke is March 1, 1982; the proposed effective date for the contract demand for Fort Pierce is April 1, 1982; and the proposed effective date for the contract demand for Homestead is June 1, 1982. FP&L therefore requests waiver of the Commission's notice requirements.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before April 16,

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.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-9214 Filed 4-5-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-393-000]

Florida Power & Light Co.; Filing

March 31, 1982.

The filing Company submits the following:

Take notice that Florida Power & Light Company (FPL), on March 22, 1982, tendered for filing a contract executed by both parties entitled "Contract for Interchange Service Between Florida Power & Light Company and City of Vero Beach, Florida." FPL states that this Contract supersedes the existing contract which is on file with the Commission, designated FPL Rate Schedule FPC No. 6, as supplemented.

FPL respectfully requests that the proposed contract be made effective no later than 60 days from the date of filing. According to FPL, a copy of this filing was served upon the City of Vero Beach.

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, DC 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 April 15, 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. 82-9215 Filed 4-5-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5990-000]

City of Forsyth, Georgia; Application for Preliminary Permit

April 1, 1982.

Take notice that the City of Forsyth, Georgia (Applicant) filed on February 16, 1982 an application for preliminary permit (pursuant to the Federal Power Act, 16 U.S.C. sections 791(a)-825(r)) for Project No. 5990 to be known as the High Falls Hydroelectric Power Project located on the Towaliga River near Jackson, Georgia in Monroe County, Georgia. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Richard Truitt, Mayor, City of Forsyth, P.O. Box 676, Forsyth, Georgia 31029.

Project Description—The proposed project would consist of: (1) an existing masonary block dam 35 feet high and 606 feet long; (2) an existing impoundment with a surface area of 740 acres and a gross storage capacity of 8,600 acre-feet; (3) the rehabilitation of an existing powerhouse and penstock; (4) the proposed installation of a single turbine and generator with a total installed capacity of 1,580 kW; (5) the proposed erection of a 12 mile long transmission line, to be constructed from the project site to the City of Forsyth; and (6) appurtenant facilities. The Applicant estimates the annual energy production to be 6.97 Gwh.

Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a period of 36 months, during which time studies would be made to determine the engineering, environmental, and economic feasibility of the project. In addition, historic and recreational aspects of the project would be determined, along with the consultation with Federal, State, and local agencies for information, comments and recommendations relevant to the project. The Applicant estimates that the cost of the studies would be $14,000.

Competing Applications—This application was filed as a competing application to Oglethorpe Power Corporation's application for Project No. 5458 filed on October 6, 1981. Public notice of the filing of the initial application, which has already been given, established the due date for filing competing applications or notices of intent. In accordance with the Commission's regulations, no competing application for preliminary permit, or notices of intent to file an application for preliminary permit or license will be accepted for filing in response to this notice. Any application for license or exemption from licensing, or notice of intent to file an exemption application, must be filed in accordance with the Commission's regulations [see: 18 CFR 4.30 et. seq. or 4.101 et. seq. (1981), as appropriate].

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions to Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before May 21 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "PROTEST" or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydro-power Licensing, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Room 208 RB at the above address. A copy of any petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-9232 Filed 4-5-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5810-000]

City of Galion, Ohio; Application for Preliminary Permit

April 1, 1982.

Take notice that the City of Galion, Ohio (Applicant) filed on December 23, 1981, an application for preliminary permit (pursuant to the Federal Power Act, 16 U.S.C. 791(a)-825(r)) for Project No. 5810 to be known as the Philo Lock and Dam No. 9 Project located on the Muskingum River in Muskingum County, Ohio. The application is on file with the Commission and is available for public inspection. Correspondence with the

Applicant should be directed to: W. M. Lewis & Associates, Inc., 740 Fifth Street, P.O. Box 1383, Portsmouth, Ohio 45662. Attention: Mr. James S. Sigg, Manager—Studies and Planning.

Project Description—The proposed project would consist of: (1) the existing State of Ohio's Philco Lock and Dam No. 9; (2) an existing reservoir with a crest elevation of 672.12 ft. msl.; (3) a new powerhouse containing two generating units having a total rated capacity of 2.9 to 5.0 MW; (4) an existing 138-kV transmission line; and (5) appurtenant facilities. The applicant estimates that the average annual energy output would be between 17.5 and 30.2 GWh. The energy derived from the proposed project would be utilized by the Applicant.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit is 24 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on results of these studies Applicant would decide whether to proceed with more detailed studies, and the preparation of an application for license to construct and operate the project. Applicant estimates that the cost of the work to be performed under the preliminary permit would be $75,000.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before July 12, 1982, the competing application itself (see: 18 CFR 4.30 et seq. (1981)). A notice of intent to file a competing application for preliminary permit will not be accepted for filing.

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before June 11, 1982, and should specify the type of application forthcoming. Applications for licensing or exemption from licensing must be filed in accordance with the Commission's regulations (see: 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate).

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions to Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, a Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before June 11 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb

Secretary.

[FR Doc. 82-9253 Filed 4-5-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5813-000]

City of Galion, Ohio; Application for Preliminary Permit

April 1, 1982.

Take notice that the city of Galion, Ohio (Applicant) filed on December 23, 1981, an application for preliminary permit (pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)) for Project No. 5813 to be known as the McConnelsville Lock and Dam No. 7 located on the Muskingum River in Morgan County, Ohio. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: W. M. Lewis & Associates, Inc., 740 Fifth Street, P.O. Box 1383, Portmouth, Ohio 45662.

Project Description—The proposed project would consist of: (1) the existing State of Ohio's McConnelsville Lock and Dam No. 7; (2) the existing reservoir with a crest elevation of 650.15 ft. msl.; (3) a new powerhouse containing two generating units having a total rated capacity of 4.0 to 4.5 MW; (4) an existing 138-kV transmission line; and (5) appurtenant facilities. The applicant estimates that the average annual energy output would be between 24.2 and 27.2 GWh. The energy derived from the proposed project would be utilized by the Applicant.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit is 24 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on results of these studies Applicant would decide whether to proceed with more detailed studies, and the preparation of an applicatioin for license to construct and operate the project. Applicant estimates that the cost of the work to be performed under the proliminary permit would be $75,000.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before July 12, 1982, the competing application itself (see: 18 CFR 4.30 et seq. (1981)). A notice of intent to file a competing application for preliminary permit will not be accepted for filing.

The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before June 11, 1982, and should specify the type of application forthcoming. Applications for licensing or exemption from licensing must be filed in accordance with the Commission's regulations (see: 18 CFR 4.30 et seq. or 4.101 et seq. (1981), as appropriate).

Agency Comments—Federal, State, and local agencies are invited to submit comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the

requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before June 11, 1982.

Filing and Service of Responsive Documents—Any filings, must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB, at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-9234 Filed 4-5-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-257-000]

Kansas Gas & Electric Co.; Order Denying Motion To Reject Filing in Whole or in Part, Granting Waiver of Notice Requirements and Cost Support Requirements, Accepting for Filing and Suspending Revised Rates, Granting Interventions, and Establishing Procedures

Issued March 30, 1982.

On January 29, 1982, Kansas Gas and Electric Company (KGE) tendered for filing a proposed Transmission Agreement executed by Kansas Electric Power Cooperative (KEPCo) as well as three unexecuted service schedules. Service Schedule C provides for KGE to recover from KEPCo the cost of power purchased by KEPCo from the Southwestern Power Administration (SWPA) and delivered by KGE. Service Schedule A provides for partial requirements service to meet KEPCo's requirements which are not satisfied by the SWPA entitlement.[1] Service Schedule B provides for all of KEPCo's transmission requirements including the partial requirements service provided under Schedule A and the SWPA service provided under Schedule C.

KGE currently provides full requirements service under separate rate schedules to eight rural electric cooperatives in Kansas.[2] In late 1981, the eight cooperatives assigned their contracts to KEPCo in anticipation of KEPCo becoming their full requirements supplier. Toward that end, KEPCo has obtained an entitlement of hydro power from SWPA [3] and an entitlement in KGE's Wolf Creek nuclear generating station which is now under construction.

The company submitted the instant filing reflecting the new power supply arrangements as an initial rate filing under § 35.12 of the Commission's regulations, 18 CFR § 35.12. KGE requests that the Commission adopt the cost of service submitted in Docket No. ER80-239 in support of its proposed rates.[4] KGE also requests waiver of the notice requirements and an effective date of January 1, 1982.

Notice of KGE's filing was issued on February 8, 1982, with responses due by February 25, 1982; KEPCo and the eight cooperative customers of KGE filed a joint protest, petition to intervene, and motion to denominate the rate increase portion of the filing as a change in rate and to require the applicant to conform to Commission regulations. Specifically, the customers request that the Commission:

(1) Accept Schedule C (the SWPA pass-through) to be effective January 1, 1982, as requested by KGE;

(2) Reject Schedule A (partial requirements);[5]

(3) Accept Schedule B (transmission service to be applicable to the SWPA entitlement and to be effective January 1, 1982); as to all named services except;

(4) Reject Schedule B as to its applicability to partial requirements service under Schedule A.

In the alternative, should the Commission decline to partially accept and partially reject Schedule B (as requested above), the petitioners request that the entire Schedule B be rejected and that KGE be ordered to develop and file a transmission rate based on the transmission component as submitted in Docket No. ER77-578, KGE's present rate for full requirements service to its cooperative customers.

The gravamen of the petitioners's request for rejection is based on their belief that the instant submittal is not an initial filing but a change in rates and a change in service to the eight cooperative customers. The petitioners reject KGE's position that the change represents new service to KEPCo. If the Commission does not reject Service Schedules A and B as requested, the petitioner's request that the schedules be suspended for five months from 60 days after filing.

On March 15, 1982, the Kansas State Corporation Commission filed an untimely notice of intervention.

KGE responded to KEPCo's pleading on March 12, 1982. The company objects to the requests to treat individual elements of the filing differently and reiterates its belief that the submittal should be construed as an initial rate filing.

Discussion

Initially, we find that participation in this proceeding by the petitioners is in the public interest. We further find, as a matter of comity, that good cause exists to permit the Kansas Commission to intervene out of time. Accordingly, we shall grant the petitions to intervene.

We agree with the intervenors that KGE's submittal represents a change in rates as opposed to an initial filing. Although service will not be provided through KEPCo as a purchasing and coordination intermediary, the beneficiaries of that service (*i.e.*, the customers in fact) are the same member cooperatives that KGE previously served directly. The instant filing represents a change in rates and service to those cooperatives under section 205 of the Federal Power Act and section 35.1(c) of the Commission's regulations. *See, e.g., Central Telephone and Utilities Corporation*, Docket No. ER81-199-000 (February 27, 1981).

The Commission does not agree, however, that the filing, as it relates to partial requirements service (including transmission of that service) should be rejected. The request by KGE to utilize

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[1] The rate for this service is based only on KGE's production cost.

[2] *See* Attachment A for rate schedule designations. The REA cooperative customers of KG&E are as follows: Butler Rural Electric Cooperative Association, Inc.; Caney Valley Electric Cooperative Association, Inc.; Coffey County Rural Electric Cooperative Association, Inc.; Radiant Electric Cooperative, Inc.; Sedgwick County Electric Cooperative Association, Inc.; Sekan Electric Cooperative Association, Inc.; Summer-Cowley Electric Cooperative, Inc.; and United Electric Cooperative, Inc.

[3] The power comes from SWPA through the Empire Electric District Electric Company to KGE and then to KEPCo.

[4] Docket No. ER80-259 was the most recent rate increase filing for service by KGE to its municipal customers.

[5] KGE would then provide service to KEPCo under its present full requirements rate for service to the cooperatives.

the cost of service study submitted by the company in Docket No. ER82–259 appears reasonable. First, the nature of the service to the cooperative customers (through KEPCo) has changed from full requirements service to partial requirements service. That change in service is the result of a negotiated agreement between KGE and KEPCo. Indeed, in its pleading, KEPCo seeks to take advantage of its agreement with KGE by requesting that the Commission accept the proposed Schedule C providing for SWPA entitlements. Second, KGE has indicated that it will file in 1982 new rates for service to all of its customers including KEPCo. Consequently, the instant filing is designed to create the procedural framework for the new services at issue, while the rates essentially represent only "interim" rates, developed on the basis of readily available information in order to implement the new contractural arrangement. Third, by using the cost of service study submitted in Docket No. ER80–259, all of KGE's wholesale customers will be billed at rates based on the same costs.[6] For these reasons, we find that good cause exists to grant KGE's request to adopt the cost of service study in Docket No. ER80–259 as the basis for supporting the currently proposed rates, and to waive the provisions of section 35.13 of the regulations insofar as is necessary to achieve this result. Consequently, we shall deny the intervenors' request for rejection of Service Schedules A and B. The Commission also deems it appropriate to deny the alternative request that KGE be ordered to develop and file a transmission rate for SWPA power based on the transmission component of KGE's present full requirements rate for service to the cooperatives.

KGE has requested waiver of the notice requirements and an effective date of January 1, 1982. In support of its request, KGE states that successful execution of the basic agreement with KEPCo was contingent upon KEPCo's ability to purchase a portion of KGE's Wolf Creek generating station. That contingency was satisfied as of December 28, 1981, the time the basic agreement was executed, and the submittal was tendered approximately one month later. In view of the ongoing negotiations between KGE and KEPCo, it appears that KEPCo and its member cooperatives had ample notice of the instant filing. In fact, as to non-objectionable portions of the filing, the intervenors support KGE's request for a January 1, 1982 effective date. Furthermore, waiver of notice will enable KGE to bill on a basis consistent with the nature of the new services being renedered. Under these circumstances, the Commission finds good cause for waiver of the notice requirements.

The basic agreement between KGE and KEPCo has been executed by the parties and has not been challenged. Accordingly, that agreement will be accepted for filing as of the proposed effective date. However, considering the concerns raised by the intervenors with respect to Service Schedules A, B, and C, we find that those schedules have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful. Accordingly, we shall accept Schedules A, B, and C for filing, and suspend their operation as ordered below.

We recently addressed the Commission's suspension policy in *West Texas Utilities Company*, Docket No. ER82–23–000 (February 26, 1982). As explained there, where our preliminary examination indicates that revised rates may be unjust and unreasonable, but may not be substantially excessive as described in *West Texas*, we shall suspend the rates for one day. In the case of KGE's rates, preliminary review suggests that the proposed rates incorporated in Service Schedules A, B, and C may not produce excess revenues, much less substantially excessive revenues. Therefore, having found good cause to waive the notice requirements, we shall suspend KGE's proposed Service Schedules A, B, and C for one day from January 1, 1982, to become effective subject to refund, on January 2, 1982.

The Commission orders:

(A) The intervenors' request to reject KGE's submittal in whole or in part is hereby denied.

(B) KGE's request to utilize its cost of service study filed in Docket No. ER–80–259 in support of its currently proposed rates is hereby granted and the provisions of section 35.13 of the Commission's regulations are here by waived insofar as is necessary to accomplish that result.

(C) KGE's request for waiver of the notice requirements is hereby granted.

(D) The underlying Agreement entered into on December 28, 1981, between KGE and KEPCo is hereby accepted for filing to become effective on January 1, 1982.

(E) KGE's proposed Service Schedules A, B and C, appended to the December 28, 1981 Agreement, are hereby accepted for filing and suspended for one day to become effective subject to refund, on January 2, 1982.

(F) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(a) of the Department of Energy Organization Act and by the Federal Power Act, particularly sections 205 and 206 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act (18 CFR, Chapter I), a public hearing shall be held concerning the justness and reasonableness of KGE's rates.

(G) The petitions to intervene in this proceeding are hereby granted subject to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act; *Provided, however,* that participation by the intervenors shall be limited to the matters set forth in their petitions to intervene; and *provided, further,* that the admission of such intervenors shall not be construed as recognition that they might be aggrieved by any order of the Commission in this proceeding.

(H) A presiding administrative law judge, to be designated by the Chief Administrative Law Judge, shall convene a conference in this proceeding to be held within approximately fifteen (15) days of the issuance of this order, in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. Such conference shall be held for purposes of establishing procedural dates, including the submittal of testimony and exhibits by KGE. The presiding judge is authorized to establish procedural dates and to rule on all motions (except motions to consolidate or sever and motions to dismiss) as provided in the Commission's Rules of Practice and Procedure.

(I) The Secretary shall promptly publish this order in the **Federal Register.**

By the Commission.

Kenneth F. Plumb,
Secretary.

[6] It should be noted that if the Commission were to reject Service Schedule A, as requested by the petitioners, KGE would be required to provide partial requirements service under its existing full requirements rates.

KANSAS GAS & ELECTRIC COMPANY RATE SCHEDULE DESIGNATIONS

[Docket No. ER82-257-000]

Designation	Description
(1) Kansas Gas & Electric Company Rate Schedule FERC No. 151.	Transmission Agreement with Kansas Electirc Power Cooperative, Inc.
(2) Supplement No. 1 to Rate Schedule FERC No. 151.	Exhibit A—delivery point specifications.
(3) Supplement No. 2 to Rate Schedule FERC No. 151.	Exhibit B—interconnection point specifications.
(4) Supplement No. 3 to Rate Schedule FERC No. 151.	Exhibit C—Losses pursuant to Article 4.9.
(5) Supplement No. 4 to Rate Schedule FERC No. 151.	Exhibit D—Calculation of "Capacity Megawatt—Days Chargeable to KEPCO".
(6) Supplement No. 5 to Rate Schedule FERC No. 151.	Service Schedule A—Partial Requirements Capacity and Energy.
(7) Supplement No. 6 to Rate Schedule FERC No. 151.	Service Schedule B—Transmission and Distribution Service.
(8) Supplement No. 7 to Rate Schedule FERC No. 151.	Service Schedule C—Purchase of Peaking Power.
(9) Supplement No. 8 to Rate Schedule 137 (Cancels Rate Schedule 137).	Assignment of KGE contract to KEPCO by The Butler Rural Electric Cooperative Association, Inc.
(10) Supplement No. 8 to Rate Schedule 138 (Cancels Rate Schedule 138).	Assignment of KGE contract to KEPCO by The Caney Valley Electric Cooperative Association, Inc.
(11) Supplement No. 8 to Rate Schedule 143 (Cancels Rate Schedule 143).	Assignment of KGE contract to KEPCO by Coffey County Rural Electric Cooperative Association, Inc.
(12) Supplement No. 10 to Rate Schedule 139 (Cancels Rate Schedule 139).	Assignment of KGE contract to KEPCO by The Radiant Electric Cooperative, Inc.
(13) Supplement No. 9 to Rate Schedule 136 (Cancels Rate Schedule 136).	Assignment of KGE contract to KEPCO by The Sedgwick County Electric Cooperative Association, Inc.
(14) Supplement No. 9 to Rate Schedule 140 (Cancels Rate Schedule 140).	Assignment of KGE contract to KEPCO by Sekan Electric Cooperative Association, Inc.
(15) Supplement No. 7 to Rate Schedule 142 (Cancels Rate Schedule 142).	Assignment of KGE contract to KEPCO by Sumner-Cowley Electric Cooperative, Inc.
(16) Supplement No. 9 to Rate Schedule 141 (Cancels Rate Schedule 141).	Assignment of KGE contract to KEPCO by United Electric Cooperative, Inc.

[FR Doc. 82-9239 Filed 4-5-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-237-000]

Kansas-Nebraska Natural Gas Co., Inc.; Application

April 1, 1982.

Take notice that on March 15, 1982, Kansas-Nebraska Natural Gas Company, Inc. (Applicant), P.O. 15265, Lakewood, Colorado 80215, filed in Docket No. CP82-237-000 an application pursuant to Section 7 of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of 3.0 miles of pipeline and a pipeline tap and for permission and approval to abandon certain pipeline facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to enlarge 3.0 miles of its York Lateral near Giltner, Nebraska. Applicant asserts it would abandon the 3.0 miles of 4-inch pipeline replacing it with 3.0 miles of 8-inch pipeline. Applicant avers that the enlargement proposed is necessary in order to meet summer peak market demands of approximately 140 new irrigation customers.

Applicant further proposes to construct and operate a 2-inch tap on its 16-inch mainline near Franklin, Nebraska, in order to provide natural gas service to approximately 12 irrigation engines.

Applicant estimates the cost of the proposed facilities to be $246,000. Such costs, it is said, would be funded by advance payments to be collected from new irrigation customers that Applicant would be able to connect as a result of the proposal.

Any person desiring to be heard or to make any protest with reference to said application should on or before April 22, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein if the Commission on its own review of the matter finds that a grant of the certificate and permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or to be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-9240 Filed 4-5-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5123-001]

Mac Hydro-Power Co., Inc.; Application for Exemption for Small Hydroelectric Power Project Under 5 MW Capacity

April 1, 1982.

Take notice that on February 23, 1982, Mac Hydro-Power Company, Inc. (Applicant) filed an application, under Section 408 of the Energy Security Act of 1980 (Act) (16 U.S.C. 2705, and 2708 as amended), for exemption of a proposed hydroelectric project from licensing under Part I of the Federal Power Act. The proposed small hydroelectric project (Project No. 5123) would be located on Pauley Creek, near Downieville, in Sierra County, California. Correspondence with the Applicant should be directed to: H. L. Childers, President, Mac Hydro-Power Company, P.O. Box 5193, Auburn, California 95603.

Project Description—The proposed project would consist of: (1) A 2-foot high and 20-foot long concrete diversion structure; (2) a 16,200-foot long steel pipeline; (3) a 14,600-foot long, 48-inch diameter steel penstock; (4) a powerplant containing two generating units, one rated at 3,000 kW and one rated at 1,900 kW; and (5) a transmission line. The average annual energy generation is estimated to be 15.5 million kWh.

Purpose of Exemption—An exemption, if issued, gives the Exemptee priority of control, development, and operation of the project under the terms of the exemption from licensing, and protects the Exemptee from permit or license applicants that would seek to take or develop the project.

Agency Comments—The U.S. Fish and Wildlife Service, The National Marine Fisheries Service, and the California Department of Fish and Game are requested, for the purposes set forth in section 408 of the Act, to submit within 60 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or to otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an

agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide any comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 60 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Competing Applications—Any qualified license applicant desiring to file a competing application must submit to the Commission, on or before May 21, 1982, either the competing license application that proposes to develop at least 7.5 megawatts in that project, or a notice of intent to file such a license application. Submission of a timely notice of intent allows an interested person to file the competing license application no later than 120 days from the date that comments, protests, etc. are due. Applications for preliminary permit will not be accepted.

A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c) (1980). A competing license application must conform with the requirements of 18 CFR 4.33 (a) and (d) (1980).

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or petitions to intervene must be received on or before May 21, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS," "NOTICE OF INTENT TO FILE COMPETING APPLICATION," COMPETING APPLICATION," "PROTEST," or "PETITION TO INTERVENE," as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-9241 Filed 4-5-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. G-10632-004]

Northern Illinois Gas Co.; Petition for Declaratory Order

April 1, 1982.

Take notice that on March 10, 1982, Northern Illinois Gas Company (NI-Gas), P.O. Box 190, Aurora, Illinois 60507, filed in Docket No. G-10632 a petition pursuant to § 1.7(c) of the Commission's Rules of Practice and Procedure (18 CFR 1.7(c)) for an order declaring that NI-Gas' exemption from Commission jurisdiction under section 1(c) of the Natural Gas Act will not be affected if NI-Gas sells natural gas to customers which, in turn, convert such gas to compressed natural gas (CNG) and use it in their own motor vehicle fleet operations or sell it to others provided that the CNG is injected into the vehicle's fuel tanks from CNG facilities at a point in Illinois, all as more fully set forth in the petition which is on file with the Commission and open to public inspection.

It is submitted that NI-Gas is an intrastate gas distribution utility subject to the jurisdiction of the Illinois Commerce Commission and engaged in selling and distributing natural gas to customers in the State of Illinois.

NI-Gas states that it has been approached by customers who wish to purchase gas to convert to CNG which would then either be used solely as motor vehicle fuel by the purchasers' own fleets or sold, in whole or in part, as fuel to others including other fleet operators.

NI-Gas asserts that in both situations the CNG would be injected into the fuel tanks of the vehicles within Illinois, that natural gas used as CNG is "ultimately consumed" within the meaning of section 1(c) of the Natural Gas Act, when the CNG is delivered into the fuel tanks of the vehicles, and that no further resales could occur after that point. Therefore, it is stated, the fact that some of the fleet vehicles may travel outside of Illinois or that some of the CNG would be resold within Illinois should not affect NI-Gas' exemption provided that the CNG is injected into fuel tanks within Illinois. NI-Gas requests that the Commission issued a declaratory order stating that the proposed sales of natural gas by NI-Gas do not affect NI-Gas' exempt status.

Any person desiring to be heard or to make any protest with reference to said petition should on or before April 22, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-9218 Filed 4-5-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP81-529-001]

Montana-Dakota Utilities Co.; Amendment to Application

March 31, 1982.

Take notice that on February 9, 1982, Montana-Dakota Utilities Co. (Applicant), 400 North Fourth Street, Bismarck, North Dakota 58501, filed in Docket No. CP81-529-001 an amendment to its pending application in the instant docket filed pursuant to section 7(c) of the Natural Gas Act so as to reflect certain changes in its proposed transportation of natural gas for the account of Husky Oil Company (Husky), all as more fully set forth in the amendment which is on file with the Commission and open to public inspection.

Pursuant to a gas transportation and purchase agreement with Husky dated May 21, 1981, Applicant proposes in its original application to transport gas for Husky which is produced in the Garland Field, Park County, Wyoming, the Marianne Field, Sweetwater County, Wyoming, and any additional gas that may be produced by Husky in the future and conveniently received by Applicant's system. It is asserted that of the volumes delivered by Husky Applicant would have a continuing option to purchase up to 50 percent of the Garland Field volumes, up to 25

percent of the Marianne Field volumes, and up to 25 percent of any additional volumes produced by Husky in the future and delivered to Applicant. It is stated that the Garland Field volumes would be delivered by Husky into Applicant's system and that the Marianne Field volumes would be first transported by Colorado Interstate Gas Company and then delivered into Applicant's system. Applicant explains that it then propose to deliver the gas to a point of interconnection between its facilities and those belonging to Husky Pipeline Company (HPC) in Park County, Wyoming, for further transportation by HPC to Husky's refinery in Cody, Wyoming, where Husky would use the gas to displace No. 6 fuel oil both as boiler fuel and as process gas.

Applicant proposed herein to lease a certain 3-inch pipeline owned by HPC and to engage in the transportation of natural gas through this 3-inch pipeline which starts in Park County, Wyoming, extending a distance of approximately 34.6 miles into Montana and back into Wyoming terminating at the interconnection with HPC's 4-inch pipeline in Park County, Wyoming. Applicant further proposes the terminus of the 3-inch pipeline as the delivery point to HPC of Husky's gas. It is explained that HPC would then transport the gas to Husky's refinery. It is asserted that as a result of such lease agreement Husky and Applicant entered into an amendment to gas purchase and transportation agreement dated December 28, 1981.

It is stated that the amendment deletes Husky's interest in the natural gas produced in the Marianne Field, therefore, Applicant withdraws its request for authorization to transport the Marianne Field gas.

Applicant further requests authorization to transport on a best-efforts basis any additional gas which may be produced by Husky in the future and which can be conveniently received by Applicant's system.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before April 21, 1982, file with the Federal Energy Regulatory Commission, Washington D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules. All persons who have heretofore filed need not file again.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-9216 Filed 4-5-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-241-000]

Mountain Fuel Supply Co.; Notice of Application

April 1, 1982.

Take notice that on March 16, 1982, Mountain Fuel Supply Company (Applicant), 180 East First South Street, Salt Lake City, Utah 84139, filed in Docket No. CP82-241-000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of one main line distribution sales tap and related facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to construct and operate one main line distribution sales tap and appurtenant facilities including metering and regulation facilities on Applicant's Main Line No. 56 in Uinta County, Wyoming. It is asserted that such facilities would be used initially for the purpose of selling gas to Amoco Production Company (Amoco) which requires the gas for space heating, electricity generation and other various uses in the construction and initial operation of a nitrogen injection plant located at its Anschutz Ranch East Centeral Facility, Uinta County, Wyoming.

Applicant explains that such natural gas distribution service is authorized by the Wyoming Public Service Commission and would be provided to Amoco on a best-efforts, temporary basis under Applicant's Wyoming Rate Schedule T-1.

Applicant asserts that it is estimated that Amoco's maximum daily requirement for fuel gas is 1,000 Mcf and that such volumes are required through approximately September 1982. Applicant estimates the total cost for the proposed main line distribution sales tap and appurtenant facilities to be $69,100 which cost would be financed through funds on hand and/or short-term borrowing.

Any person desiring to be heard or to make any protest with reference to said application should on or before April 22, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.0) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to jurisidiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion beleives that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-9217 Filed 4-5-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. ER82-258-000 and ER82-300-000]

Northeast Utilities Co.; Connecticut Light and Power Co. and Hartford Electric Light Co.; Order Accepting for Filing and Suspending Rate Increases, Granting Intervention, Denying Motions for Summary Disposition, and Establishing Procedures

Issued: March 30, 1982.

On January 29, 1982, and February 8, 1982, Northeast Utilities Company (NU) on behalf of Connecticut Light and Power Company (CL&P) tendered for filing [1] proposed rate increases affecting services rendered to the Connecticut

[1] *See* attachment A for rate schedule designations and affected customers.

Municipal Electric Energy Cooperative (CMEEC).[2]

The first filing, docketed as ER82–258–000, is a proposed amendment to the Transmission Service Agreement, dated September 25, 1980, between CL&P, the Hartford Electric Light Company, Western Massachusetts Electric Company, Holyoke Water Power Company, Holyoke Power and Electric Company (all subsidiaries of NU), and CMEEC, under which the NU companies each provide transmission service on CMEEC's behalf. The proposed amendment reflects an increase in the return on equity incorporated in the existing cost of service rate for transmission service provided to CMEEC by CL&P and the other signatories to the agreement; based upon a Period I test year ending December 31, 1981, the amendment would increase revenues by approximately $131,000.[3] CL&P requests an effective date of April 1, 1982.

The second filing, tendered on behalf of Hartford Electric Light Company (HELCO) as well as CL&P, and docketed as ER82–300–000, proposes to amend nine unit sale contracts between CL&P, HELCO, and CMEEC. Based upon the twelve months ending December 31, 1982, the proposed rates would increase revenues by about $6,100,000. The companies request an effective date of April 10, 1982. However, in the event that the Commission specifies a later effective date for changes concurrently filed by CL&P with respect to its R–4 wholesale rate,[4] CL&P and HELCO request that the changes in the unit sales rates become effective coincident with the changes to the R–4 rate. To the extent that the instant submittal does not fully comply with the Commission's filing requirements, the companies request any necessary waivers.

The unit contracts consist of eight agreements between CL&P and CMEEC, and one between HELCO and CMEEC, relating to 30 generating units. These contracts, along with additional arrangements, provide CMEEC with a comprehensive power supply package. Each of the nine contracts provides that CMEEC shall pay a share of the costs of the unit (including a return on the owner's equity investment in the unit) which is proportional to its interest in that unit's output. When originally filed in September 1981, the parties were unable to agree on three demand-related components of the cost of service rate, *viz.* return on equity, cash working capital, and an appropriate amortization period for previously unrecovered accumulated deferred income taxes. Thus, the agreements contained blank provisions and the parties agreed to implement negotiated interin charges.[5] CL&P and HELCO have tendered the instant filing in order to provide the previously omitted elements of the formula rate.

Notices of the filings were issued on February 8, 1982, in Docket No. ER82–258–000, and on February 19, 1982, in Docket No. ER82–300–000, with responses due on February 25, 1982, and March 4, 1982, respectively. A timely protest and petition to intervene in each docket was filed by CMEEC.

CMEEC requests that each filing be suspended for five months. In Docket No. ER82–258–000, CMEEC also requests that the Commission grant summary disposition reducing the requested return on common equity from 17% to 16% pending final Commission action in the docket. In support of its request, CMEEC alleges that the 17% return is excessive and unduly discriminatory. According to CMEEC, reduction of the claimed rate of return is warranted inasmuch as NU has requested a 16% return on equity in its most recently proposed revision to the NU intracompany generation and transmission agreements (Docket No. ER82–281–000). CMEEC also suggests that the cost of service rates at issue in this proceeding reduce NU's risk of earnings shortfall, thereby lowering the appropriate rate of return.

In Docket No. ER82–300–000, CMEEC requests that CL&P and HELCO be summarily required to file revised rates reflecting the amortization of the unrecovered deferred income taxes over the remaining book lives of the units, rather than their remaining tax lives. CMEEC also raises questions concerning the return on equity, working cash allowance, and proposed decommissioning charges.

On March 18, 1982, CL&P and HELCO filed answers to the CMEEC's petitions to intervene. While not opposing intervention, the companies dispute the allegations contained in the pleadings and request that CMEEC's motions for summary disposition be denied. The NU companies further request that any suspension period be limited, in Docket No. ER82–258–000, to one day and, as to Docket No. ER82–300–000, until such date as the filing in Docket No. ER82–301–000 becomes effective.

Discussion

Initially, we find that participation in this proceeding by CMEEC is in the public interest and we shall therefore grant its petition to intervene in each docket.

Our preliminary review of the instant filings indicates that the rates proposed by CL&P and HELCO have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful. Accordingly, we shall accept the proposed rates in each docket for filing and suspend their operation as ordered below.

We recently addressed the Commission's suspension policy in *West Texas Utilities Company*, Docket No. ER82–23–000 (February 26, 1982). In that order, we noted that rate filings would ordinarily be suspended for one day where preliminary review indicates that the proposed increase may be unjust and unreasonable but may not generate substantially excessive revenues, as defined in *West Texas*. In the instant proceedings, our examination suggests that the proposed increases may not yield excessive revenues, much less substantially excessive revenues. Accordingly, we shall suspend the filing in Docket No. ER82–258–000 for one day, to become effective subject to refund on April 2, 1982. With respect to Docket No. ER82–300–000, we note that CL&P's companion filing in Docket No. ER82–301–000 has been identified as deficient by the Acting Director of the Office of Electric Power Regulation. Because CL&P's revised R–4 rates may not become effective by the April 10, 1982 requested effective date in Docket No. ER82–300–000, we shall suspend the instant filing and order that it become effective, subject to refund, in accordance with the underlying agreement of the parties, as of the date on which CL&P's proposed increase in Docket No. ER82–301–000 becomes effective.

We find that the issues as to which CMEEC seeks summary disposition present questions of law or fact more appropriately resolved on the basis of an evidentiary hearing. Therefore, the motions will be denied. While CL&P and HELCO have requested waiver of the filing requirements in Docket No. ER82–300–000 to the extent necessary, we note that their submittals substantially

[2] CMEEC is a joint action power agency formed by the Cities of Norwich and Groton, and the Borough of Jewett City, Connecticut.

[3] Because the increase is less than $200,000, CL&P has made an abbreviated filing pursuant to § 35.13(a)(2)(A) of the Commission's regulations.

[4] The R–4 rate was filed in Docket No. ER82–301–000, but is currently deficient due to NU's failure to provide required information under Part 35 of the regulations. A deficiency letter was issued in that docket on March 4, 1982.

[5] The parties also agreed that capacity charges developed in accordance with the contract methodology would not become effective while CL&P's then-effective R–4 rate, applicable to wholesale service to CL&P's other wholesale customers, remained in effect.

comply with the applicable requirements; under the circumstances, the request for waiver is moot.

Because we find that common questions of law and fact may be presented in Docket Nos. ER82–300–000 and ER82–258–000, and in order to promote economy of administrative resources, we shall consolidate the two dockets for purposes of hearing and decision.

Finally, with respect to the cost of service rates submitted in these dockets, we note that any future revisions in the stated nuclear decommissioning charges will constitute a change in rates under section 205 of the Federal Power Act requiring appropriate notice and filing under Part 35 of the Commission's regulations.

The Commission orders:

(A) CMEEC's motions for summary disposition are hereby denied.

(B) The proposed increase in CL&P's transmission rates filed in Docket No. ER82–258–000 is hereby accepted for filing and suspended for one day, to become effective on April 1, 1982, subject to refund.

(C) The proposed increase in rates submitted by CL&P and HELCO and Docket No. ER82–300–000 is hereby accepted for filing and suspended, and shall become effective, subject to refund on such date as the proposed increase in rates filed by CL&P in Docket No. ER82–301–000 becomes effective.

(D) Pursuant to the authority contained in and subject to the jurisdiction conferred on the Federal Energy Regulatory Commission by section 402(a) of the Department of Energy Organization Act and by the Federal Power Act, particularly sections 205 and 206 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act [18 CFR, Chapter I], a public hearing shall be held concerning the justness and reasonableness of the transmission and unit sale rates at issue in these dockets.

(E) CMEEC's petitions to intervene in Docket Nos. ER82–258–000 and ER82–300–000 are hereby granted subject to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act; *Provided, however,* that participation by such intervenor shall be limited to the matters set forth in its petitions to intervene; and *provided, further,* that the admission of such intervenor shall not be construed as recognition that it might be aggrieved by any order of the Commission in this proceeding.

(F) Docket Nos. ER82–300–000 and ER82–258–000 are hereby consolidated for purposes of hearing and decision.

(G) The Commission staff shall serve top sheets in these proceedings on or before April 12, 1981.

(H) A presiding administrative law judge, to be designated by the Chief Administrative Law Judge, shall convene a conference in these proceedings to be held within approximately fifteen (15) days of the issuance of this order in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. The presiding judge is authorized to establish procedural dates and to rule on all motions (except motions to consolidate or sever and motions to dismiss) as provided in the Commission's rules of practice and procedure.

(I) The Secretary shall promptly publish this order in the **Federal Register.**

By the Commission.

Kenneth F. Plumb,

Secretary.

Attachment A

Northeast Utilities Service Company

[Docket No. ER82–300–000]

Filed: February 8, 1982.

Connecticut Light and Power Company

Designation and Description

Supp No. 1 to Supp No. 2 (Supersedes Supp No. 1), Revised Pages of Schedule A (Development of Capacity Charge)

The above supplement applies to the following Rate Schedules: FERC No. 224, FERC No. 226, FERC No. 227, FERC No. 228, FERC No. 229, FERC No. 230, FERC No. 231, FERC No. 232.

Hartford Electric Light Company

Designations and Descriptions

Supp No. 1 to Supp No. 2 to Rate Schedule FERC No. 232 (Supersedes Supp No. 1), Revised Pages of Schedule A (Development of Capacity Charge)

Northeast Utilities Service Company

[Docket No. ER82–258–000]

Filed: January 29, 1982.

Connecticut Light and Power Company

Designation and Description

(1) Supplement No. 1 to Supplement No. 4 to Rate Schedule FERC No. 217 (Supersedes Sheet No. 5), Appendix D—First Revised Sheet No. 5

Hartford Electric Light Company

(2) Supplement No. 1 to Rate Schedule FERC No. 229 (Concurs in (1) above), Certificate of Concurrence

Western Massachusetts Electric Company

(3) Supplement No. 1 to Rate Schedule FERC No. 180 (Concurs in (1) above), Certificate of Concurrence

Holyoke Water Power Company

(4) Supplement No. 1 to Rate Schedule FERC No. 31 (Concurs in (1) above), Certificate of Concurrence

Holyoke Power and Electric Company

(5) Supplement No. 1 to Rate Schedule FERC No. 21 (Concurs in (1) above), Certificate of Concurrence

[FR Doc. 82–9228 Filed 4–5–82; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP82–238–000]

Northwest Pipeline Corp., Application

April 1, 1982.

Take notice that on March 16, 1982, Northwest Pipeline Corporation (Applicant), P.O. Box 1526, Salt Lake City, Utah 84110, filed in Docket No. CP82–238–000 an application pursuant to § 284–107 of the Commission's Regulations for authorization to gather and transport natural gas in interstate commerce, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that Interex, Inc., Thermal Exploration, Inc., and Development Associates, Inc. have arranged to sell volumes of natural gas produced in the Lincoln Road Area of Lincoln and Sweetwater Counties, Wyoming, to their respective distribution company affiliates, and Intermountain Gas Company, Washington Natural Gas Company and The Washington Water Power Company. Applicant proposes to gather and transport up to 10,000 Mcf of natural gas per day for the accounts of the producers pursuant to a transportation agreement dated June 1, 1977, as amended July 15, 1981. Applicant further proposes to utilize all present and future mutually agreed upon delivery points from the producers to Applicant so long as such points are located in the area of interest stated in said agreement.

Specifically, Applicant proposes to receive up to 10,000 Mcf of natural gas for the producers' account at the wellheads of the Lincoln Road #1, #2, #3, #4, #7 and #11 wells and deliver such gas reduced by 5.0 percent which would be purchased by Applicant and futher reduced by certain volumes to be retained as compensation for compressor fuel and lost or unaccounted for gas.

Applicant asserts that the deliveries from Applicant to the purchasers would

be made at the points of interconnection between Applicant and the purchasers at which Applicant is authorized to sell and deliver volumes of the natural gas to the purchasers pursuant to effective service agreements.

It is stated by Applicant that the transportation rates and fuel reimbursement rates which Applicant would charge the producers for all volumes transported for their account from the delivery points hereunder the Applicant's mainline transmission facilities and to the mainline redelivery points would be the Big Piney Gathering Area rates and the mainline transportation rates, as set forth from time to time on Sheet Nos. 2 and 2–B, respectively, of Applicant's FERC Gas Tariff, Original Volume No. 2. It is asserted that the currently effective mainline fuel rate is 1.0 percent and the Big Piney Area fuel rate is 1.18 percent. It is futher stated that the currently effective Sheets No. 2 and 2–B provide for the Big Piney Area rate equal to 23.27 cents per million Btu and a mainline transportation rate equal to 1.34 cents per million Btu for each one hundred mile increment of mainline transportation.

Any person desiring to be heard or to make any protest with reference to said application should on or before April 22, 1982, file with the Federal Energy regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-9219 Filed 4-5-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP79-115-012]

Northwest Pipeline Corp.; Petition To Amend

April 1, 1982.

Take notice that on March 16, 1982, Northwest Pipeline Corporation (Petitioner), P.O. Box 1526, Salt Lake City, Utah 84110, filed in Docket No. CP79–115–012 a petition to amend the order issued August 9, 1979, as amended, in the instant docket pursuant to Section 7(c) of the Natural Gas Act so as to authorize the transportation and exchange of natural gas with Mountain Fuel Supply Company (Mountain Fuel) from an enlarged area of interest, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Petitioner states that by order issued August 9, 1979, it and Mountain Fuel mutually gather and exchange natural gas in the Moxa Arch area of Lincoln, Uinta and Sweetwater Counties, Wyoming. It is asserted by Petitioner that it has acquired supplies of natural gas not located within the acreage dedicated to the agreement but adjacent thereto. It is explained that in order to make such additional supplies available to its system Petitioner entered into a letter agreement with Mountain Fuel dated August 1, 1980, which *inter alia*, amended the agreement to add Section 5, Township 22 North, Range 111 West, Sweetwater County, Wyoming, to the area dedicated to the agreement.

Petitioner therefore proposes the gathering and exchange of natural gas from the enlarged area as specified herein.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before April 22, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-9242 Filed 4-5-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-256-000]

Oklahoma Gas & Electric Co.; Order Accepting for Filing and Suspending Revised Rates, Granting Waiver and Interventions, and Establishing Price Squeeze, CWIP, and Hearing Procedures

Issued: March 30, 1982.

On January 29, 1982, Oklahoma Gas & Electric Company (OGE) submitted for filing a proposed increase in rates for (1) firm power service to twenty-two municipal and three cooperative wholesale customers, (2) transmission service and thermal energy provided to Southwestern Power Administration (SWPA), and (3) transmission service to Western Farmers Electric Cooperative (WFEC).[1] Firm power service is provided to the City of Perry (Perry) and the Town of Mannford (Mannford) under separate contracts which permit rate changes to become effective prospectively only after determination by the Commission of the just and reasonable rate. The proposed rates would increase revenues by approximately $10,980,000 (16.79%) for the calendar 1982 test period. OGE proposes an effective date of March 31, 1982, for all the proposed rates except those applicable to Perry and Mannford which would become effective prospectiveley after final Commission order in this docket.

OGE concurrently filed alternative rates reflecting full inclusion of construction work in progress (CWIP) in rate base. The proposed full-CWIP rates would increase revenues by about $13,865,000 (21.20%) during the test year. OGE proposes to implement the full-CWIP rates prospectively after a hearing to determine whether the company should be allowed to include CWIP in rate base.

In addition to the proposed increases in rates, OGE has submitted amended service agreements under its FERC Electric Tariff, First Revised Volume No. 1 to implement an increased contract demand or an additional delivery point for three customers. OGE requests waiver of the notice requirements and acceptance of these changes as of the dates agreed to by the parties pursuant to the executed agreements.

Notice of the filing was issued on February 8, 1982, with comments due on or before February 25, 1982. The Southwestern Power Administration (SWPA) filed a timely petition to intervene. SWPA requests an investigation of the proposed rates, asserting that the rate of return on common equity appears to be excessive and that certain production related costs may have been improperly included in developing the transmission rate to SWPA.

On February 25, 1982, Western Farmers Electric Cooperative (WFEC), KAMO Electric Cooperative, Inc., and

[1] *See* Attachment A for rate schedule designations.

Arkansas Valley Electric Cooperative, Inc. (Cooperatives) filed a protest, petition to intervene, and request for suspension and hearing. In support of their request for a five month suspension, the Cooperatives challenge the following aspects of the company's cost of service: (1) Exessive rate of return on common equity; (2) inappropriate application of a minimum billing demand ratchet to transmission service provided to WFEC; (3) failure to recognize WFEC's contributions in aid of construction; (4) overstatement of O&M expenses; and (5) use of an inadequate demand forecasting methodology. The Cooperatives also request that action on OGE's proposed CWIP-based rates be delayed pending Commission action on the pending CWIP rulemaking in Docket No. RM81–38.[2]

On February 25, 1982, the Municipal Systems of Oklahoma (MESO), on behalf of 19 municipal customers of OGE[3] and Cimarron Electric Cooperative, Inc., filed a petition to intervene and motion for maximum suspension. MESO addresses many of the same cost of service issues as those raised in the Cooperatives' pleading. In addition, MESO protests OGE's proposal to terminate the economy energy, emergency service, and replacement energy rates applicable to OGE's two partial requirements municipal customers, Stillwater and Ponca City. MESO contends that the new supplemental service rates which will replace the present interchange service rates are unsupported. MESO also alleges a possible price squeeze but indicates that in the time available, it has been unable to perform an analysis of retail rates.

Discussion

Initially, the Commission finds that participation in this proceeding by SWPA, the Cooperatives, and MESO is in the public interest. Accordingly, the petitions to intervene will be granted.

Under the Commission's existing standards, a utility seeking to include CWIP in rate base[4] must demonstrate clearly and convincingly that it is experiencing severe financial difficulty which cannot be alleviated by traditional forms of rate relief without materially increasing the cost of electricity.[5] However, the Commission has initiated a rulemaking proceeding on the CWIP issue in an effort to reassess the current standards.[6] In order to maintain the *status quo ante* pending further Commission action and to avoid any prejudice to rate case participants, the Commission has since set for hearing several CWIP applications which would otherwise have been disposed of summarily under existing precedent, but has phased the CWIP issue to follow the rulemaking proceeding.[7] We conclude that this approach is appropriate in the instant case as well. Accordingly, the Commission will phase consideration of OGE's CWIP application.

Our examination of the filing indicates that OGE's non-CWIP rates have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful. Therefore, the revised rates, except as applicable to Perry and Mannford, will be accepted for filing and suspended as directed below. With regard to Perry and Mannford, we shall accept the rates for filing to become effective, if at all, prospectively only after a final Commission order in this docket.

We have recently addressed the considerations underlying the Commission's policy regarding rate suspension. *West Texas Utilities Company*, Docket No. ER82–23–000 (February 26, 1982). As explained there, where our preliminary examination indicates that the increased rates may be unjust and unreasonable, but may not be substantially excessive, as described in *West Texas*, we shall suspend the rates for one day. Where, however, as here, our preliminary review indicates that the rates may be substantially excessive, we shall suspend the rates for the maximum period. Accordingly, we shall suspend the rates for service other than to Perry and Mannford for a period of five months to become effective, subject to refund, on August 31, 1982.

In light of the price squeeze allegations raised by the intervenors, we shall institute price squeeze procedures and phase those proceedings in accordance with Commission policy established in *Arkansas Power & Light Company*, Docket No. ER79–399 (August 6, 1979).

Considering the nominal nature of the proposed changes as to contract demand for the City of Kingfisher and the additional delivery points for the City of Edmond and Arkansas Valley Electric Cooperative, filed by OGE in the instant docket, and in view of the customers' consent to these changes, we find that good cause exists to waive the notice requirements and accept these revisions for filing to become effective as of the dates specified in the service agreements.

The Commission orders:

(A) OGE's request for waiver of the notice requirements is granted and the revised electric service agreements affecting contract demand for the City of Kingfisher and delivery points for the City of Edmond and the Arkansas Valley Electric Cooperative, are hereby accepted for filing to become effective, without suspension, as of the dates specified in the service agreement and shown on Attachment A of this order.

(B) OGE's non-CWIP rates for all affected customers except Perry and Mannford are hereby accepted for filing and suspended fore five months from sixty days after filing, to become effective, subject to refund, on August 31, 1982.

(C) OGE's non-CWIP rates applicable to Perry and Mannford are hereby accepted for filing to become effective, if at all, prospectively only after a final Commission order in this docket.

(D) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(a) of the DOE Act and by the Federal Power Act, particularly sections 205 and 206 thereof, and pursuant to the Commissison's Rules of Practice and Procedure and the regulations under the Federal Power Act (18 CFR, Chapter I), a public hearing shall be held concerning the justness and reasonableness of OGE's rates.

(E) The petitioners are hereby permitted to intervene in this procedding subject to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act; *Provided, however*, that participation by such intervenors shall be limited to the matters set forth in the petitions to intervene; and *provided, further*, that the admission of such intervenors shall not be construed as recognition by the Commission that they might be aggrieved by any order or orders entered by the Commission in this proceeding.

(F) We hereby order initiation of price squeeze procedures and further order that the proceeding be phased so that

[2] *Construction Work in Progress for Public Utilities*, Docket No. RM81–38, *Notice of Proposed Rulemaking* (July 27, 1981).

[3] The municipal customers represented by MESO include Blackwell, Edmond, Geary, Kingfisher, Mannford, Newkirk, Okeene, Perry, Ponca City, Pond Creek, Prague, Stillwater, Stroud, Tecumseh, Tonkawa, Waynoka, and Wynnewood, Oklahoma, as well as Paris, Arkansas.

[4] Other than pollution control and fuel conversion CWIP.

[5] 18 CFR 2.16(b)(3).

[6] *See* footnote 2, *supra*.

[7] *See, e.g., El Paso Electric Company*, Docket No. ER81–426–000 (June 30, 1981); *Central Power and Light Company*, Docket No. ER81–386–000 (July 27, 1981); *Florida Power and Light Company*, Docket No. ER81–588–000 (September 2, 1981).

the price squeeze procedures begin after issuance of a Commission opinion establishing the rate which, but for consideration of price squeeze, would be just and reasonable. The presiding judge may order a change in this schedule for good cause. The price squeeze portion of this case shall be governed by the procedures set forth in section 2.17 of the Commission's regulations as they may be modified prior to the initiation of the price squeeze phase of this proceeding.

(G) MPSC's application for authorization to include CWIP in rate base is hereby phased so that the application will be heard subsequent to Commission action in Docket No. RM81–38.

(H) The Commission staff shall serve top sheets in this proceeding on or before April 12, 1982.

(I) A presiding administrative law judge, to be designated by the Chief Administrative Law Judge, shall convene a conference in this proceeding to be held within approximately fifteen (15) days after service of top sheets, in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. The presiding judge is authorized to establish procedural dates and to rule on all motions (except motions to consolidate or sever and motions to dismiss) as provided for in the Commission's Rules of Practice and Procedure.

(J) The Secretary shall promptly publish this order in the Federal Register.

By the Commission.

Kenneth F. Plumb,

Secretary.

Attachment A

Oklahoma Gas & Electric Company, Docket No. ER82–256–000, Rate Schedule Designations

Designation and Description

(1) *FERC Electric Tariff, First Revised Volume No. 1.*

Sheet No.	Supersedes sheets No.	
3rd Revised Sheet Nos. 4, 5, 6.	2nd Revised Sheet Nos. 4, 5, 6.	Rate WM-1.
3rd Revised Sheet Nos. 7, 8, 9.	2nd Revised Sheet Nos. 7, 8, 9.	Rate WM-1.
1st Revised Sheet Nos. 10, 11, 12.	Original Sheet Nos. 10–6.	Rate WM-2.
4th Revised Sheet No. 28.	3rd Revised Sheet No. 28.	Index.
3rd Revised Sheet No. 29.	2nd Revised Sheet No. 29.	Index.

Tariff Customers: Municipals: Blackwell, Clarksville, Edmond, Geary, Kingfisher, Manchester, Newkirk, Okeene, Orlando, Paris, Ponco City, Pond Creek, Prague, Stilwater, Stroud, Tecumsah, Tonkawa, Watonga, Waynoka, Wynnewood.

Cooperatives: Arkansas Valley Electric Cooperative, Inc., Cimarron Electric Cooperative, KAMO Electric Cooperative, Inc.

(2) Supplement No. 2 to Rate Schedule FERC No. 106, Southwestern Power Admin. Revised pages 20, 22, 23.

(3) Supplement No. 2 to Rate Schedule FERC No. 103, Western Farmers Elec. Coop. Revised Page.

(4) Supplement No. 3 to Rate Schedule FERC No. 103, Revised page 16.

(5) *Service Agreements Under FERC Electric Tariff, First Revised Volume No. 1.*

Service agreement dated	Effective date	Other party	Supersedes service agreement date
Jan. 1, 1982	Jan. 1, 1982	Kingfisher	Jan. 1, 1981.
Aug. 24, 1981.	June 24, 1981.	Edmond	
Dec. 3, 1980	Feb. 26, 1981.	Arkansas Valley Elec. Coop.	
Dec. 9, 1980	June 1, 1982	Arkansas Valley Elec. Coop.	

[FR Doc. 82-9229 Filed 4-5-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6077-000]

Old Sturbridge Village; Application for Exemption From Licensing of a Small Hydroelectric Project of 5 Megawatts or Less

April 1, 1982.

Take notice that Old Sturbridge Village filed with the Federal Energy Regulatory Commission on March 11, 1982, an application for exemption for its Old Sturbridge Project No. 6077 from all or part of Part I of the Federal Power Act pursuant to 18 CFR Part 4 subpart K (1980) implementing in part section 408 of the Energy Security Act of 1980.[1] The proposed project would be located on the Quinebaug River in Old Sturbridge Village, Worcester County, Massachusetts. Correspondence with the Applicant should be directed to: Theodore Z. Penn, Old Sturbridge Village, Sturbridge, Massachusetts 01566.

Project Description—The proposed project would consist of: (1) An existing 6.9-foot high, 130-foot long, concrete-gravity dam with 1-foot high flashboards; (2) a 5-acre reservoir with negligible storage capacity at elevation 567.8 feet m.s.l.; (3) a new powerhouse at the north dam abutment with two turbine-generators with a total rated capacity of 68 kW; (4) a tailrace channel; (5) a transmission line, and (6) appurtenant facilities. Energy produced at the project would be utilized to heat the Old Sturbridge Education Center. The dam is owned by the Village.

Purpose of Exemption—An exemption, if issued, gives the Exemptee priority of control, development, and operation of the project under the terms of the exemption from licensing, and protects the Exemptee from permit or license applicants that would seek to take or develop the project.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for exemption. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Any qualified license applicant desiring to file a competing application must submit to the Commission, on or before May 21, 1982, either a competing license application that proposes to develop at least 7.5 megawatts in that project, or a notice of intent to file such a license application. Submission of a timely notice of intent allows an interested person to file the competing license application no later than September 20, 1982. Applications for a preliminary permit will not be accepted. A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c) (1980). A competing license application must conform with the requirements of 18 CFR 4.33 (a) and (d) (1980).

Comments, Protests, or Petitions To Intervene—Anyone desiring to be heard or to make any protests about this application should file a petition to intervene or a protest with the Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will

[1] Pub. L. 96–294, 94 Stat. 611, section 408 of the ESA amends *inter alia*, sections 405 and 408 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2705 and 2708).

consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be received on or before May 21, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable, and the Project Number of this notice. Any of the above named documents must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-8243 Filed 4-5-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-271-000]

Pacific Gas & Electric Co.; Order Accepting for Filing and Suspending Revised Rates, Granting Interventions, Establishing Hearing Procedures, and Consolidating Dockets

Issued: March 30, 1982.

On February 1, 1982, Pacific Gas and Electric Company (PG&E) tendered for filing increased rates for its supplemental service to the City of San Francisco (San Francisco).[1] The proposed rates would result in an increase in revenues in two steps of approximately $9,727,000 (42.0%) for the twelve month period ending December 31, 1982. The Step 1 increase would produce increased revenues of approximately $4,707,000 and the Step 2 increase an additional $5,020,000. The Step 2 increase reflects the costs associated with commencement of service of PG&E's Diablo Canyon Nuclear Generating Unit No. 1 and Helms Pumped Storage Hydroelectric Unit Nos. 1 and 2. PG&E requests that the Step 1 rates become effective on April 2, 1982, and that the Step 2 rates be effective as of April 5, 1982.

Notice of PG&E's filing was issued on February 9, 1982, with responses due by March 1, 1982. On March 1, 1982, petitions to intervene were filed by San Francisco, the Modesto Irrigation District (Modesto), and Norris-NI Industries, Inc. (Norris). Modesto repurchases PG&E's supplemental service from San Francisco. Norris is the operator of the Riverbank Army Ammunition Plant near Modesto, California, for the United States Government. The U.S. Army contracts for all of its electric power for the ammunition plant from San Francisco. Norris, as operator of the ammunition plant, seeks to represent the interests of the United States in this proceeding.

Also on March 1, 1982, the Turlock Irrigation District (Turlock) filed a petition to intervene, protest, and request for hearing and suspension. Turlock also repurchases PG&E's supplemental service from San Francisco. Turlock requests a maximum suspension for both steps of the rate increase. In support thereof, it states that both increases will produce excess revenues because of an improper demand allocation, an excessive rate of return on equity, and over-estimated long-term debt costs.

Turlock further states that, although it has not had time to thoroughly examine PG&E's filing, its limited examination raises issues concerning the amount of rate base, capital structure, cash working capital, and allocation of load management and conservation expenses.

Discussion

Initially, we note that on August 12, 1981, PG&E submitted a proposed two step rate increase applicable to its remaining wholesale customers in Docket No. ER81-679-000. The rates in that docket were suspended, to become effective subject to refund, on January 1, 1982, and March 12, 1982, respectively.[2] As the instant filing is suppported by the same calendar 1982 test year data employed by PG&E in Docket No. ER81-679-000, we shall consolidate the two dockets.

The Commission finds that participation in this proceeding by each of the petitioners is in the public interest. Accordingly, their petitions to intervene will be granted.

Our preliminary examination of PG&E's revised filing indicates that the proposed rates have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful. Accordingly, we shall accept the proposed rates for filing and suspend them as ordered below.

With respect to the Step 1 increase, we find on the basis of preliminary review that the proposed rates may not result in substantially excessive revenues, as defined in *West Texas Utilities Company*, Docket No. ER82-223-000 (February 26, 1982). Thus, for the reasons stated in *West Texas*, we shall suspend the Step 1 rates for one day to become effective, subject to refund, on April 3, 1982.

However, our examination of the Step 2 rates indicates that those rates may be substantially excessive, as described in *West Texas*. As we stated in *West Texas*, under such circumstances we shall suspend the rates for the maximum period, unless extraordinary circumstances dictates a shorter suspension. Because such extraordinary circumstances have not been presented here, we shall suspend the Step 2 rates for five months from the proposed effective date to become effective, subject to refund, on September 5, 1982.

The Commission orders:

(A) PG&E's Step 1 and Step 2 rates are hereby accepted for filing. The Step 1 rates are suspended for one day from 60 days after filing to become effective on April 3, 1982, subject to refund. The Step 2 rates are suspended for five months from the proposed effective date, to become effective, subject to refund, on September 5, 1982.

(B) Pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(a) of the Department of Energy Organization Act and by the Federal Power Act, particularly sections 205 and 206 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act [18 CFR, Chapter I], a public hearing shall be held concerning the justness and reasonableness of PG&E's rates.

(C) The petitions to intervene in this proceeding are hereby granted subject to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act; *Provided,*

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[1] *See* Attachment A for rate schedule designations.

[2] *Pacific Gas and Electric Company*, Docket No. ER81-679-000 (issued October 23, 1981), and Docket No. ER81-679-003 (issued March, 1982).

however, that participation by such intervenors shall be limited to the matters set forth in their petitions to intervene; and *provided, further*, that the admission of such intervenors shall not be construed as recognition that they might be aggrieved by any order of the Commission in this proceeding.

(D) Docket No. ER82–271–000 is hereby consolidated with the proceeding in Docket No. ER81–679–000 for purposes of hearing and decision.

(E) The presiding administrative law judge shall determine a date for the Commission staff to serve top sheets in this proceeding as well as procedures best suited for consolidated hearing.[3]

(F) The Secretary shall promptly publish this order in the **Federal Register.**

By the Commission.

Kenneth F. Plumb,

Secretary.

Pacific Gas & Electric Company Rate Schedule Designations

(1) Supplement No. 8 to Rate Schedule FPC No. 53 (Supercede Supplement No. 7; Phase I rates).

(2) Supplement No. 9 to Rate Schedule FPC No. 53 (Supercedes Supplement No. 8; Phase 2 rates).

[FR Doc. 82–9244 Filed 4–5–82; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER82–401–000]

Pennsylvania-New Jersey-Maryland Interconnection (PJM) Agreement; Filing

March 31, 1982.

Take notice that on March 25, 1982, the parties to the Pennsylvania-New Jersey-Maryland Interconnection (PJM) Agreement tendered for filing proposed Schedule 4.01 Revision No. 5 to the original Agreement between them as heretofore amended and supplemented, which is filed with the Commission under the following Rate Schedule designations:

	Rate schedule (FERC No.)
Public Service Electric and Gas Company	23
Philadelphia Electric Company	21
Pennsylvania Power & Light Company	21
Baltimore Gas and Electric Company	9
Jersey Central Power & Light Company	7
Metropolitan Edison Company	7
Pennsylvania Electric Company	24
Potomac Electric Power Company	19
Atlantic City Electric Company	20
Delmarva Power & Light Company	50

The PJM parties state that proposed Schedule 4.01 sets forth the rate for capacity deficiency transactions under the PJM Agreement for the 12-month Planning Period beginning June 1, 1982.

The PJM parties further state that no new facilities will be installed nor will existing facilities be modified in connection with the proposed schedule. It is requested that the proposed schedule become effective on June 1, 1982.

Any person desiring to be herd or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before April 16, 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. 82–9220 Filed 4–5–82; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP82–235–000]

Transcontinental Gas Pipe Line Corp.; Application

April 1, 1982.

Take notice that on March 15, 1982, Transcontinental Gas Pipe Line Corporation (Applicant), P.O. Box 1396, Houston, Texas 77251, filed in Docket No. CP82–235–000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain natural gas facilities in Louisiana, all as more fully set forth in the application which is on file with the Commission and open to the public inspection.

Applicant specifically proposes to construct and operate approximately 23.04 miles of 42-inch pipeline loop between the junction of its Southwest Louisiana Gathering System and its mainline system in Calcasieu Parish, Louisiana, and its Compressor Station No. 45 in Beauregard Parish, Louisiana, approximately 6.02 miles of 42-inch pipeline loop from Station No. 45 to milepost 473.98 on its mainline system in Beauregard Parish, Louisiana, approximately 17.46 miles of 42-inch pipeline loop from milepost 542.06 to milepost 559.52 in St. Landry Parish, Louisiana, on its mainline system, and a 2,250 horsepower Cooper-Bessemer reciprocating compressor unit and appurtenant facilities at Station No. 45.

It is asserted that such proposed facilities are required to increase Applicant's capability to move additional gas supplies from its Southwest Louisiana Gathering System to its Station No. 65 which is located at the junction of Applicant's Southeast Louisiana Gathering System and its mainline system in St. Helena Parish, Louisiana, near the Louisiana-Mississippi boundary.

Applicant anticipates that during the 1982–83 winter season the peak-day volumes of gas which would be required to be moved to Station No. 65 through the mainline system from all upstream sources would be 2,174,247 Mcf of gas per day. It is asserted that the proposed facilities would enable Applicant to meet this increased peak day demand.

The cost of the proposed facilities is estimated to be $64,570,000 which would be financed initially through revolving credit arrangements, short-term loans and funds on hand. It is further explained that permanent financing would be undertaken as part of an overall long-term financing program at a later date.

Any person desiring to be heard or to make any protest with reference to said application should on or before April 22, 1982, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition

[3] By order of March 5, 1982, the presiding judge in Docket No. ER81–679–000 directed staff counsel in that proceeding to submit a status report by March 31, 1982, in light of the Commission's consideration of an amendment filed in that docket (ER81–679–003). On March , 1982, we issued an order merging the later docket into the former, and set April 9, 1982, as the revised top sheet date. In view of the instant filing by PG&E and our disposition of it, we believe it is appropriate for the presiding judge, after staff counsel's status report, to set an appropriate date for service of further top sheets.

to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-9245 Filed 4-5-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF82-73-000]

Union Carbide Corp.; Application for Commission Certification of Qualifying Status of a Cogeneration Facility

March 31, 1982.

On February 8, 1982, Union Carbide Corp., P.O. Box 471, Texas City, Texas 77590 filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's rules.

The facility is a topping-cycle cogeneration facility located in Texas City, Texas. The primary energy source is natural gas. The facility consists of four gas-turbine-generators which produce electricity, and four connecting boilers which recover exhaust heat as steam for use in chemical processes and to drive steam turbine cogenerating units. Maximum capacity of the facility, including gas turbine and steam turbine generators is 75 megawatts. According to the Applicant, all components of the facility were installed prior to March 31, 1980. No electric utility, electric utility holding company or any combination thereof has any ownership interest in the facility.

Any person desiring to be heard or objecting to the granting of qualifying status 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. All such petitions or protests must be filed on or before May 6, 1982 and must be served on the applicant. 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. 82-9221 Filed 4-5-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-399-000]

Union Electric Co.; Filing

March 31, 1982.

Take notice that on March 24, 1982, Union Electric Company (UE) tendered for filing a Boundary Line Agreement dated February 5, 1982, between the Illinois Power Company and UE. Said Agreement provides a basis for supplying electric service to customers in one service area more economically by line extensions made across the boundary lines from the adjacent utility.

UE requests an effective date of April 1, 1982, and therefore requests waiver of the Commission's notice requirements.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before April 15, 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. 82-9222 Filed 4-5-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-397-000]

Utah Power & Light Co.; Filing

March 31, 1982.

Take notice that on March 24, 1982, Utah Power & Light Company (Utah Power), tendered for filing a change in rates under a Residential Purchase and Sale Agreement between Utah Power and the Bonneville Power Administration (BPA).

The Agreement was entered into pursuant to the Pacific Northwest Electric Power Planning and Conservation Act, Pub. L. 96-501. The Agreement provides for the exchange of electric power between Utah Power and BPA for the benefit of Utah's residential and farm customers in the State of Idaho.

Utah Power requests waiver of the Commission's notice requirements to allow for an effective date of February 1, 1982, consistent with the effective date granted by the Idaho Public Utilities Commission and also requests waiver of other procedural filing requirements that may be applicable.

Copies of the filing were served upon BPA and the Idaho Public Utilities Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before April 16, 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. 82-9223 Filed 4-5-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. EL82-12-000]

Wheelabrator-Frye Inc.; Filing

April 1, 1982.

The filing company submits the following:

Take notice that on March 23, 1982, Wheelabrator-Frye, Inc. a Delaware corporation (WFI), on behalf of itself, its wholly-owned subsidiary WESI Baltimore Inc., and a partnership to be

formed by WESI Baltimore Inc. and certain additional partners (BRESCO), filed a petition for a Declaratory Order that the Commission will not assert jurisdiction under the Federal Power Act (FPA) over WESI Baltimore, Inc. and BRESCO, which will construct, own, and operate a solid waste refuse-to-energy facility (the Facility) to be located in Baltimore, Maryland, when the Facility generates electricity for sale to the Baltimore Gas and Electric Company (BG&E) pursuant to a contract (the Energy Purchase Agreement) between WESI Baltimore Inc. and BG&E.

According to WFI, its request is necessary because, although the Facility will be a qualifying small power production facility under section 3(17)(C) of the FPA, it will have a capacity greater than 30 MW, and therefore it is not automatically exempted from regulation under the FPA.

If the Commission assets FPA jurisdiction, WFI petitions for a Declaratory Order holding that the rates for power sales by the Facility will be established under section 210 of PURPA, rather than sections 205 and 206 of the FPA; and that, because it has been established pursuant to a negotiated agreement, the rate set forth in the Energy Purchase Agreement for the sale of electricity is not subject to adjustment by the Commission.

If the Commission concludes that sections 205 and 206 of the FDA apply, WFI requests the Commission to declare that:

(1) The rate set forth in the Energy Purchase Agreement will be accepted for filing;

(2) The Commission will not, on its own motion, subject the rate to investigation; and,

(3) The Commission will not subject changes in the rates pursuant to the formula rate established in the Energy Purchase Agreement to its procedures under section 205 of the FPA.

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 or before May 5, 1982. Protests will be considered by the Commission in determining the appropriate acton 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. 82-9230 Filed 4-5-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-398-000]

Wisconsin Electric Power Co.; Filing

March 31, 1982

Take notice that on March 24, 1982, Wisconsin Electric Power Company tendered for filing replacement rate schedules for FERC Rate Schedules 42 and 43. Said rate schedules provide service for Alger-Delta Cooperative Association and Ontonagon County Rural Electrification Association, respectively.

The Company requests a waiver of § 35.13 of the Commission's regulations and further requests an effective date of July 30, 1982.

A copy of this filing has been served upon the affected wholesale customers and the Michigan Public Service Commission.

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. All such protests should be filed on or before April 15, 1982. Protestw 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. Copies of the application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-9224 Filed 4-5-82; 8:45 am]

BILLING CODE 6717-01-M

Office of Hearings and Appeals

Issuance of Decisions and Orders Week of February 15 Through February 19, 1982

During the week of February 15 through February 19, 1982, the decisions and orders summarized below were issued with respect to appeals and applications for exception or other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Appeal

Frank J. Mikula, February 18, 1982, HFA-0030

Frank J. Mikula filed an Appeal from a denial by the Privacy Act Officer of The Albuquerque Operations Office of a Request for Information which the firm had submitted under the Privacy Act. The petitioner claimed that he should be allowed access to certain files withheld from disclosure pursuant to 5 U.S.C. 552(k)(2), which protects certain investigatory material compiled for law enforcement purposes. In considering the Appeal, the DOE found that Mikula had not been denied a "right, privilege, or benefit" as a result of the maintenance of the records and, therefore, concluded that the files fell within Exemption (k)(2). Accordingly, the Appeal was denied.

Remedial Orders

Plaquemines Oil Sales Corporation, February 16, 1982, BRO-1320

Plaquemines Oil Sales Corporation (POSC) filed a Statement of Objections to a Proposed Remedial Order (PRO) which the Southwest Enforcement District of the Economic Regulatory Administration (ERA) issued to the firm on September 19, 1980. In the PRO, the ERA determined that POSC had failed to determine maximum lawful selling prices (MSLP) for each of its May 15, 1973 classes of of purchaser for No. 2 diesel fuel and had thereby overcharged its customers by $331,572.44. In considering POSC's objections, the DOE modified the PRO to reflect its finding that the ERA had established a *prima facie* case which supported the division of POSC's customers into two classes of purchaser, and the DOE found that POSC had not effectively contested this showing. The DOE also found that the ERA's periodic calculation of POSC's weighted average cost of product in inventory was proper and did not serve to inflate the alleged overcharges. On the motion of the ERA, however, the DOE modified the PRO to correct two slight errors in the MLSP and overcharge computations, reducing the total overcharges to $331,473.44. The DOE also found that the pricing provisions of POSC's sales contract with Shell Oil Company (Shell) was preempted to the extent that it conflicted with the maximum prices set forth in the price rule, and that Shell's discontinuance of a freight allowance in its sales to POSC did not justify POSC's subsequent overcharges in sales to Shell. Finally, the DOE determined that POSC had not met the evidentiary showing that would entitle it to net overcharges with undercharges or that would support a claim for financial relief from the burden of overcharges. Accordingly, the DOE concluded that the PRO, as modified, should be issued as a final Remedial Order.

Office of Enforcement/Hipps Chevron Service, February 19, 1982, HRW-0002, HRR-0014

The Office of Enforcement of the Ecomomic Regulatory Administration filed a Motion for Modification of a Proposed Remedial Order (PRO) issued to Hipps Chevron Service, a motor gasoline retailer. Although the record reflects that ERA served the firm with both the PRO and the Motion for Modification, no

aggrieved party filed a Notice of Objection or a Statement of Objections with the Office of Hearings and Appeals. In considering the Motion for Modification, the DOE found that it was not feasible to locate overcharged customers and therefore that Hipps Chevron Service should be required to pay to the treasury of the United States the full amount of the overcharges plus interest. In addition, the DOE found that the interest provisions of the PRO should be modified to conform to the ERA's current policy with regard to small gasoline retailers which specifies a rate of six percent interest per year prior to February 1, 1980, and twelve percent thereafter. Accordingly, the Motion for Modification was granted and the PRO, as modified, was issued as a final Remedial Order.

Motion for Modification and/or Rescission

R. J. Batla, Jr., February 18, 1982, BER–0162

On September 22, 1981, R. J. Batla, Jr., of the law firm of Hogan & Hartson, filed a motion requesting modification of a Decision and Order issued to him on September 8, 1980. See *R. J. Batla, Jr.*, 6 DOE ¶ 80,166 (1980). The September 8, 1980 Decision and Order had remanded a Freedom of Information Act request with instructions that the ERA's Division of Petroleum Price Regulations (DPPR) be searched for responsive documents. In his motion to modify that Decision and Order, Mr. Batla contended that the ERA's failure to comply with that instruction in a year's time was in bad faith and therefore, warranted modification of the September 8, 1980 Decision and Order to require the identification and release of documents in the DPPR regardless whether the documents are properly withholdable. The DOE found that Mr. Batla's failure to make any inquiry to the ERA concerning the status of his case precluded him from claiming that the ERA was acting in bad faith. Accordingly, the DOE denied Mr. Batla's Motion. Upon its own review of the September 8, 1980 Decision and Order and other FOIA Decisions and Orders concerning similar requests, the DOE concluded that the ERA should be required not only to search the DPPR but also (i) to search the Rulings and Interpretations Division of the Office of General Counsel and any other DOE office that might have responsive documents (ii) with respect to certain documents identified in *Hideca Petroleum Corp.*, 9 DOE ¶ 80,108 (1981), either release those documents or issue a determination that they are not releasable. Accordingly, the DOE issued a Supplemental Order requiring such action.

Supplemental Order

Southland Oil Company, February 17, 1982, BYX–0194

On February 17, 1982, the DOE issued a Decision and Order to Southland Oil Company (Southland) that reviewed the firm's exception relief from purchasing entitlements as required by 10 CFR 211.67. The Decision and Order determined that it was unnecessary to make any adjustment to the level of exception relief already granted for Southland's 1980 fiscal year.

Special Refund Procedures

Office of Special Counsel: in the Matter of Tenneco Oil Co., February 18, 1982, BEF–0073

The DOE issued a final Decision and Order setting forth procedures to be used in filing Applications for Refund for a portion of the settlement funds obtained by the Office of Special Counsel through a consent order which it entered into with Tenneco Oil Company. According to the Decision, all parties who believe that they are entitled to a portion of the settlement fund must file an Application for Refund within 90 days of the publication of the Decision in the **Federal Register** on February 24, 1982. 47 FR 8079 (February 24, 1982). The text of the entire Decision and Order, which details the information to be included in an Application may be found in the February 24th issue of the **Federal Register.**

Protective Orders

The following firms filed Applications for Protective Orders. The applications, if granted, would result in the issuance by the DOE of the proposed Protective Order submitted by the firm. The DOE granted the following applications and issued the requested Protective Order as an Order of the Department of Energy:

Company Name and Case No.

Ashland Oil, Inc., Tosco Corp., HEJ–0003

Copies of the full text of these decisions and orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room 1111, New Post Office Building, 12th & Penn. Ave., NW., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system.

Dated: March 30, 1982.

George B. Breznay,

Director, Office of Hearings and Appeals.

[FR Doc. 82–9102 Filed 4–5–82; 8:45 am]

BILLING CODE 6450–01–M

Issuance of Decisions and Orders; Week of March 1 Through March 5, 1982

During the week of March 1 through March 5, 1982, the decisions and orders summarized below were issued with respect to appeals and applications for other relief filed with the Office of Hearings and Appeals of the Department of Energy.

Copies of the full text of these decisions and orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room 1111, New Post Office Building, 12th and Pennsylvania Avenue, NW., Washington, D.C. 20461, Monday through Friday, between the hours of 1 p.m. and 5 p.m., except Federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system.

Dated: March 30, 1982.

George B. Breznay,

Director, Office of Hearings and Appeals.

Appeals

Alcot, Inc., March 3, 1982, HFA–0021

Alcot, Inc., filed an Appeal from a denial by the Acting Director of the DOE Office of Nuclear Energy's Plans and Analysis Division (Acting Director) of a Request for Information which the firm had submitted under the Freedom of Information Act. In considering the Appeal, the DOE found that certain material which was initially withheld under exemptions 1 and 3 on the grounds that it was classified should be remanded to the Acting Director for a determination as to whether it should be withheld on some other basis. The DOE further found that the Acting Director has acted properly in withholding certain other material under Exemption 5. An important issue that was considered in the Decision and Order was the effect of an Authorizing Official's misinterpreting a determination by the Director of the Office of Classification concerning whether material was properly classified.

Peter Broida, March 2, 1982, HFA–0031

Peter Broida, Esq. filed an Appeal on behalf of PaulWoodall, Jr. from a partial denial by the System Manager of the Office of Personnel of a Request for Information which the firm had submitted under the Privacy Act. In considering the Appeal, the DOE found that the System Manager's determination was procedurally inadequate, and remanded the matter to him.

Remedial Order

Okmar Oil Company, March 2, 1982 BRO–0119

On November 27, 1979 Okmar Oil Company (Okmar) filed a Statement of Objections to a Proposed Remedial Order (PRO) that the DOE's Economic Regulatory Administration (ERA) issued to the firm on September 28, 1979. In the PRO, the ERA determined that Okmar had sold specified volumes of crude oil at prices that exceeded the applicable ceiling price levels and proposed that Okmar be required to refund $164,736.25, plus interest, in a manner to be outlined in a subsequent determination of the DOE. Subsequently, the ERA filed a Motion for Modification in which it requested that the interest rate provision in the PRO be modified in accordance with its new interest rate policy. On March 2, 1982, the Office of Hearings and Appeals issued a Decision and Order in which it determined that the September 28, 1979 PRO should be issued as a final Remedial Order of the Department of Energy with certain modifications. The OHA denied the ERA's request for a retroactive change in the interest provision, but permitted a prospective modification of the interest rates. The OHA examined the context in which the ERA's new interest rate

policy was promulgated and determined that it constituted a "general statement of policy" and was therefore exempt from the notice-and-comment requirements of section 4(a) of the APA, 5 U.S.C. 553(b)(A).

Protective Orders

The following firms filed Applications for Protective Orders. The applications, if granted, would result in the issuance by the DOE of the proposed Protective Orders submitted by the firms. The DOE granted the following applications and issued the requested Protective Orders as Orders of the Department of Energy:

Name and Case No.

Marathon Oil Company, HRJ-0006
Committee of Marathon Customers; Township Oil Company; Office of Solicitor, HRJ-0007
Marathon Oil Co.; Growmark, Inc.; Office of Solicitor, HRJ-0005

Supplemental Order

Office of Special Counsel for Compliance, March 5, 1982, HRX-0015

On January 21, 1982, the Office of Hearings and Appeals (OHA) issued a Decision and Order to the Office of Special Counsel for Compliance (OSC), granting OSC's Motion for Discovery directed toward the Gulf Oil Corporation. *Office of Special Counsel*, 9 DOE ¶ 84,010 (1982). In the decision OHA did not rule on the specific OSC interrogatories and document requests but instead directed the parties to reach a stipulation concerning the proper scope of discovery. Gulf and OSC were unable to reach such a stipulation. Consequently, the Office of Hearings and Appeals issued a Supplemental Order ruling on amended discovery requests OSC filed on February 16, 1982. The OSC's amended requests were granted subject to certain limitations and modifications either agreed to by OSC and Gulf or mandated by OHA.

[FR Doc. 82-9103 Filed 4-5-82; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[WH-10-FRL 2054-6]

Determination of Water Source; Whidbey and Camano Island

AGENCY: Environmental Protection Agency.

ACTION: Final determination.

SUMMARY: The Administrator of the Environmental Protection Agency has determined that the Whidbey Island Aquifer is the sole or principal source of drinking water for Whidbey Island, Washington and that the Camano Island Aquifer is the sole or principal source of drinking water for Whidley Island and that the Camano Island Acquifer is the sole or principal source of drinking water for Camano Island, Washington. These determinations are in response to two petitions submitted by the Island County, Washington, Board of Commissioners on behalf of the Island County Health Department and the Island County Planning Department. The Commissioners requested that the EPA makes a determination under section 1424(e) of the Safe Drinking Water Act, Pub. L. 93-523 as amended, that the separate aquifers underlying Whidbey Island and Camano Island are sole or principal drinking water sources for the two islands respectively which, if contaminated, would create a significant hazard to public health. As a result of this action, Federal financially assisted projects, constructed anywhere on either Whidbey or Camano Island, will be subject to EPA review to ensure that these projects are designed and constructed so as to protect the drinking water quality of the aquifers.

EFFECTIVE DATES: April 6, 1982.

ADDRESS: The data upon which these findings are based are available to the public and may be inspected during normal business hours at the library of the Environmental Protection Agency, Region 10, 1200 Sixth Avenue, Seattle, Washington 98101 and at the Island County Health Department or Island County Planning Department, Courthouse Annex, 6th and Main, Coupeville, Washington, 98239 and at the Camano Island Courthouse Annex, 121 Northeast Camano Drive, Camano Island, Washington 98292.

FOR FURTHER INFORMATION CONTACT: Wendy A. Marshall, Drinking Water Programs Branch, Environmental Protection Agency, Region 10, at (206) 442-1223 or FTS 399-1223.

SUPPLEMENTARY INFORMATION: Notice is hereby given that pursuant to section 1424(e) of the Safe Drinking Water Act (Pub. L. 93-523) the Administrator of the Environmental Protection Agency has determined that the Whidbey Island Aquifer is the sole or principal source of drinking water for Camano Island. Both aquifers supply water to public water systems and individual (single family) wells. Pursuant to section 1424(e), Federal financially assisted projects, constructed anywhere on either Whidbey or Camano Island, will be subject to EPA review.

I. Background

Section 1424(e) of the Safe Drinking Water Act states: "If the Administrator determines, on his own initiative or upon petition, that an area has an aquifer which is the sole or principal drinking water source for the area and which if contaminated, would create a significant hazard to public health, he shall publish notice of that determination in the Federal Register. After the publication of such notice, no commitment for Federal financial assistance (through a grant, contract, loan guarantee, or otherwise) may be entered into for any project which the Administrator determines may contaminate such aquifer through a recharge zone so as to create a significant hazard to public health, but a commitment for Federal financial assistance may, if authorized under another provision of the law, be entered into to plan or design the project to assure that it will not so contaminate the aquifer."

On April 13, 1981, the Island County Board of Commissioners on behalf of the Island County Health Department and the Island County Planning Department submitted petitions to the U.S. Environmental Protection Agency requesting designation of both the Whidbey Island Aquifer and the Camano Island Aquifer as "Sole Source" Aquifer Areas. The petitioners are interested in protecting their drinking water sources from contamination and wish to cooperate with the Environmental Protection Agency to ensure that all projects receiving Federal financial assistance will be consistent with our common goal of safeguarding the fragile island aquifers for present and future uses. A Notice of Receipt of this petition, together with a request for comments, was published in the Federal Register on October 1, 1981, 46 FR 48314. Comments in favor of the proposed action were received from the National Park Service, No negative comments were received. Because of this lack of adverse comment, a public hearing was not held.

Among the determinations which the Administrator must make in connection with the designation of an area under section 1424(e) are: (1) Whether the aquifer is the area's sole or principal source of water supply, and (2) whether, if contaminated, a significant hazard to public health would result.

On the basis of the substantial amount of information which is available to this Agency, the Administrator has made the following findings, which are the basis for the determinations noted above:

1. The Whidbey Island Aquifer is the "sole source" of drinking water for approximately 24,150 people. Less than 15 percent of the public water supply systems and individual wells on the Island are treated by chlorination. No treatment is provided for 85 percent of the systems. There is no alternative source of drinking water supply which could economically replace the Whidbey Island Aquifer.

2. The Whidbey Island Aquifer is particularly vulnerable to contamination from surface activities because of the highly permeable glacial sands and gravels of which Whidbey Island is composed. The aquifer is also susceptible to salt water intrusion in areas where the ground-water aquifer is overpumped.

There is evidence of localized contamination from industrial waste disposal, septic tanks, and salt water intrusion. Contamination of the Whidbey Island Aquifer would pose a significant hazard to those people dependent on the aquifer for water supply.

3. The Camano Island Aquifer is the "sole source" of drinking water for the entire population of Camano Island (approximately 5,100 persons). Current water supply treatment for both public water supply systems and individual wells is limited to chlorination for less than 15 percent of the systems. No treatment is provided for the remaining systems for drinking purposes. There is no alternative source of drinking water supply which could economically replace the Camano Island Aquifer.

4. The Camano Island Aquifer, just as the Whidbey Island Aquifer, is particularly vulnerable to contamination from surface activities because of the highly permeable glacial sands and gravels of which Camano Island is composed. The aquifer is also susceptible to salt water intrusion in areas where the ground-water acquifer is overpumped. Contamination of the Camano Island Aquifer would pose a significant hazard to those people dependent on the aquifer for water supply.

EPA, Region 10 is working with the Federal agencies which may in the near future fund projects in the areas of concern to EPA. Interagency procedures are being developed whereby EPA will be notified of proposed commitments for projects which could contaminate the Whidbey Island Aquifer and/or the Camano Island Aquifer. Although the project review process cannot be delegated, the Regional Administrator in Region 10 will rely to the maximum extent possible upon any existing or future State and local control mechanisms in protecting the ground-water quality of these two aquifers.

II. Description of the Whidbey Island Aquifer and the Camano Island Aquifer

Whidbey and Camano Islands, the two principal inhabited islands in Island County, Washington are situated in the northern reaches of Puget Sound on the east end of the Strait of Juan de Fuca. Total land area is approximately 212 square miles, of which Whidbey Island accounts for 172 square miles and Camano 40 square miles. Both islands are long and narrow; no place on either is more than 2½ miles from a shoreline. The physical boundaries of the recharge zones of the Islands' aquifers are coincident with their land surface boundaries (shorelines); however, the boundaries of the aquifers themselves extend beneath the surrounding marine waters in most areas to an unknown distance.

Both the Camano Island Aquifer and the Whidbey Island Aquifer consist of unconsolidated glacial sand and gravel deposits which are interspersed with semi-permeable glacial till layers and discontinuous clay lenses. These semi-permeable till layers and clay lenses retard vertical flow locally, resulting in numerous semi-perched aquifer zones, surface springs, and marshes and ponds. However, except for highly localized withdrawal points, each saturated gravel and/or sand zone responds to hydraulic stresses (pumping influences and recharge) as if it was part of a single, but complex, aquifer on each island.

Recharge occurs by direct infiltration of precipitation, and by delayed infiltration through semi-perched zones and surface ponds. The surface soils of each island are comprised of the same glacial deposits as the underlying aquifers. Thus, the recharge zones of each aquifer include virtually the entire land surface of each island.

III. Economic and Regulatory Impact

Pursuant to the provisions of the Regulatory Flexibility Act (RFA), 5 U.S.C. 605(b), I hereby certify that the attached rule will not have a significant impact on a substantial number of small entities. For purposes of this certification the term "small entity" shall have the same meaning given in Section 601 of the RFA. This action is only applicable to the two islands covered by the petitions submitted by the Island County government. The only affected entities will be those island-based businesses, organizations or governmental jurisdications that submit applications for Federal financial assistance to a Federal agency. While the number of small entities which submit such applications cannot be anticipated, EPA has stated that it "will not be concerned with reviewing, on an individual basis, small isolated commitments of financial assistance * * *" 42 FR 31621 (September 29, 1977). Thus the number of projects reviewed on these islands should be very small; protection of the aquifer will normally require review of larger, potentially contaminating or over-pumping projects such as housing projects, highways or sewage treatment plants which would not ordinarily be small entities under the RFA. *See,* 42 FR 51621, 51622.

For those small entities which are subject to review, the impact of today's action will not be significant. As noted in the Federal Register preamble cited above, most projects subject to this review will be preceded by a ground-water impact assessment under other Federal laws, such as the National Environmental Policy Act (NEPA). Integration of those related review procedures with Sole Source Acquifer review will allow EPA and other Federal agencies to avoid delay or duplication of effort in approving a grant of assistance, thus minimizing any adverse effect on those small entities which are affected. Finally, today's action does not prevent grants of Federal financial assistance which may be available to any affected small entitly in order to pay for the redsign of the project to assure protection of the acquifer.

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 of $100 million or more on the economy, nor will it cause any major increase in costs or prices, or have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States' enterprises to compete in domestic or export markets. Today's action only affects Whidbey and Camano Islands. It provides an additional review of ground-water protection measures, including any instituted by local authorities, for only those projects which request Federal financial assistance on these two islands. This rule was submitted to the Office of Management and Budget in accordance with the requirements of the Executive Order.

(Safe Drinking Water Act, Pub. L. 93–523, as amended)

Dated: March 31, 1982.

Anne M. Gorsuch,

Administrator.

[FR Doc. 82–9246 Filed 4–5–82; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL COMMUNICATIONS COMMISSION

First Meeting of TIAG Definitions and Rules Subcommittee

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given of a meeting of the Telecommunications Industry Advisory Group (TIAG) Definitions and Rules Subcommittee scheduled to meet at 9:30 a.m. on Wednesday, April 21, in Room A–110 of the FCC's offices at 1229 20th Street, NW., Washington, D.C. The meeting is open to the public. The preliminary agenda is as follows:

I. General Administrative Matters
II. Review of Mission Statement
III. Discussion of Specific Subcommittee Approach
IV. Review of Existing Definitions
V. Other Business
VI. Presentation of Oral Statements
VII. Adjournment

With prior approval of the Subcommittee Chairman, John Utzinger, oral statements, while not favored or encouraged, may be allowed if time permits and if the Chairman determines that an oral presentation is conducive to the effective attainment of Subcommittee objectives. Anyone wishing to make an oral statement should contact Mr. Utzinger (203/965–2830) at least five days prior to the meeting date.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 82-9375 Filed 4-5-82; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control

Immunization Practices Advisory Committee; Renewal

Pursuant to the Federal Advisory Committee Act (Pub. L. 92–463) 5 U.S.C. Appendix I, the Centers for Disease Control announces the renewal of the Immunization Practices Advisory Committee by the Secretary of Health and Human Services, with the concurrence of the General Services Administration.

This committee provides advice and guidance to the Department of HHS regarding the most appropriate application of antigens and related agents (e.g., vaccines, antisera, immune globulins) for effective disease control in the civilian population. Additionally, the committee reviews and reports regularly on immunization practices and recommends improvements in the national immunization efforts.

Authority for the Immunization Practices Advisory Committee will expire April 1, 1984, unless the Secretary formally determines that continuance is in the public interest.

Dated: March 26, 1982.

William H. Foege,

Director, Centers for Disease Control.

[FR Doc. 82-9154 Filed 4-5-82; 8:45 am]

BILLING CODE 4160-18-M

Food and Drug Administration

[Docket No. 77N–0026]

Chemical Compounds in Food-Producing Animals; Availability of New Threshold Assessment Criteria for Guideline; Extension of Comment Period

AGENCY: Food and Drug Administration.

ACTION: Notice; extension of comment period.

SUMMARY: The Food and Drug Administration (FDA) is extending until June 4, 1982, the time for filing written comments on the new threshold assessment criteria for the guideline proposed in the agency's "Chemical Compounds in Food-Producing Animals, Criteria and Procedures for Evaluating Assays for Carcinogenic Residues." The extension is granted in response to a request from the Animal Health Institute.

DATE: Written comments by June 4, 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: Joseph A. Settepani, Bureau of Veterinary Medicine (HFV–9), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4500.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of February 2, 1982 (47 FR 4972), FDA announced the availability of new threshold assessment criteria for the guideline proposed in the agency's "Chemical Compounds in Food-Producing Animals, Criteria and Procedures for evaluating Assays for Carcinogenic Residues." Interested persons were given until April 5, 1982 (as corrected in the **Federal Register** of February 19, 1982 (47 FR 7499)), to file written comments on the guideline. The Animal Health Institute has requested that FDA extend the time for submission of comments for an additional 60 days to prepare adequate comments on this complex assessment procedure. The request for extension is on file with the Dockets Management Branch (address above).

The agency agrees that additional time for submission of comments is appropriate.

Interested persons may on or before June 4, 1982, submit written comments on the guideline to the Dockets Management Branch (address above). 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. The guidleine and received comments may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: March 31, 1982.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 82-8961 Filed 3-31-82; 2:11 pm]

BILLING CODE 4160-01-M

[Docket No. 77N–0145]

Cord Laboratories Inc./Tutag Pharmaceuticals, Inc.; Refusal To Approve Abbreviated New Drug Application; Availability of Commissioner's Decision

AGENCY: Food and Drug Administration.

ACTION: Notice of availability of Commissioner's decision.

SUMMARY: The Food and Drug Administration (FDA) is announcing that the Commissioner of Food and Drugs has issued his final decision concerning an abbreviated new drug application for X–Otag Plus Tablets submitted by Cord Laboratories Inc./Tutag Pharmaceuticals, Inc. The Commissioner has determined that the abbreviated new drug application submitted for X–Otag Plus is not entitled to approval. The decision therefore affirms the initial decision of the Administrative Law Judge, which held that X–Otag Plus had not met the requirements for approval of abbreviated new drug applications. The Commissioner has modified the initial decision in several respects, including the granting of FDA's Bureau of Drugs' exception that X–Otag Plus was not related to the drug Norgesic within the meaning of the applicable regulation.

ADDRESS: The Commissioner's decision, including the final order, and all other documents related to the decision, may be seen in the Dockets Management Branch (HFA–305), Food and Drug

Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Robert J. Rice, Jr., Regulations Policy Staff (HFC–10), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3480.

SUPPLEMENTARY INFORMATION: This notice is issued in accordance with 21 CFR 12.130(e).

Dated: March 26, 1982.

Arthur Hull Hayes, Jr.,

Commissioner of Food and Drugs.

[FR Doc. 82–9016 Filed 4–5–82; 8:45 am]

BILLING CODE 4160–01–M

[Docket No. 82P–0083]

Directly Set Cottage Cheese Deviating From Identity Standard; Temporary Permit for Market Testing

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces that a temporary permit has been issued to McDonald Dairy of Flint, MI, to market test directly set cottage cheese made with food-grade sodium bisulfate. The purpose of the temporary permit is to allow the applicant to measure consumer acceptance of the food.

DATE: This permit is effective for 15 months, beginning on the date the food is introduced or caused to be introduced into interstate commerce, but no later than July 6, 1982.

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

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 130.17 concerning temporary permits to facilitate market testing of foods deviating from the requirements of the standard of identity promulgated under section 401 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 341), notice is given that a temporary permit has been issued to McDonald Dairy.

The permit covers limited interstate marketing tests of directly set cottage cheese that deviates from the standard of identity for cottage cheese, which provides for directly set cottage cheese (21 CFR 133.128). The directly set dry curd (defined in 21 CFR 133.129), from which the test product will be made, will be formed with food-grade sodium bisulfate, which is not currently permitted for use in directly set dry curd formation. The test product meets all requirements of § 133.128, with the exception of this deviation. The permit provides for the temporary marketing of 3 million pounds of the product packaged in 1-, 1½-, or 5-pound containers to be distributed in the States of Illinois, Indiana, Michigan, and Ohio.

The test product is to be manufactured at the McDonald Diary plant located in Flint, MI.

The principal display panel of the label states the product's name; and each of the ingredients used in the food, specifically including sodium bisulfate, is stated on the label as required by the applicable sections of 21 CFR Part 101, with the exceptions stated in § 133.128(e). This permit is effective for 15 months, beginning on the date the new food is introduced or caused to be introduced into interstate commerce, but no later than July 6, 1982.

Dated: March 31, 1982.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 82–9176 Filed 4–1–82; 3:36 pm]

BILLING CODE 4160–01–M

[Docket No. 82P–0084]

Directly Set Cottage Cheese Deviating From Identity Standard; Temporary Permit for Market Testing

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces that a temporary permit has been issued to Hawthorn Mellody Farms Dairy of Wisconsin, White Water, WI, to market test directly set cottage cheese made with food-grade sodium bisulfate. The purpose of the temporary permit is to allow the applicant to measure consumer acceptance of the food.

DATES: The permit is effective for 15 months, beginning on the date the food is introduced or caused to be introduced into interstate commerce, but no later than July 6, 1982.

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

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 130.17 concerning temporary permits to facilitate market testing of foods deviating from the requirements of the standard of identity promulgated under section 401 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 341), notice is given that a temporary permit has been issued to Hawthorn Mellody Farms Dairy of Wisconsin.

The permit covers limited interstate marketing tests of directly set cottage cheese that deviates from the standard of identity for cottage cheese, which provides for directly set cottage cheese (21 CFR 133.128). The directly set dry curd (defined in 21 CFR 133.129), from which the test product will be made, will be formed with food-grade sodium bisulfate, which is not currently permitted for use in directly set dry curd formation. The test product meets all requirements of § 133.128, with the exception of this deviation. The permit provides for the temporary marketing of 4 million pounds of the product packaged in 1- or 2-pound containers to be distributed in the States of Illinois, Indiana, Iowa, Kentucky, Michigan, Minnesota, Missouri, Ohio, Pennsylvania, and Wisconsin.

The test product is to be manufactured at the Hawthorn Mellody Farms Dairy of Wisconsin plant located in White Water, WI.

The principal display panel of the label states the product's name; and each of the ingredients used in the food, specifically including sodium bisulfate, is stated on the label as required by the applicable sections of 21 CFR Part 101, with the exceptions stated in § 133.128(e). This permit is effective for 15 months, beginning on the date the new food is introduced or caused to be introduced into interstate commerce, but not later than July 6, 1982.

Dated: March 31, 1982.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 82–9177 Filed 4–1–82; 3:36 pm]

BILLING CODE 4160–01–M

[Docket No. 80P–0525]

Directly Set Cottage Cheese Deviating From Identity Standard; Temporary Permit for Market Testing

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces that a temporary permit has been issued to Hillside-Meadow Dairy of Cleveland Heights, OH, to market test directly set cottage cheese made with food-grade sodium bisulfate. The purpose of the temporary permit is to allow the applicant to measure consumer acceptance of the food.

DATE: This permit is effective for 15 months, beginning on the date the food

is introduced or caused to be introduced into interstate commerce, but no later than July 6, 1982.

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

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 130.17 concerning temporary permits to facilitate market testing of foods deviating from the requirements of the standard of identity promulgated under section 401 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 341), notice is given that a temporary permit has been issued to Hillside-Meadow Dairy.

The permit covers limited interstate marketing tests of directly set cottage cheese that deviates from the standard of identity for cottage cheese, which provides for directly set cottage cheese (21 CFR 133.128). The directly set dry curd (defined in 21 CFR 133.129), from which the test product will be made, will be formed with food-grade sodium bisulfate, which is not currently permitted for use in directly set dry curd formation. The test product meets all requirements of § 133.128, with the exception of this deviation. The permit provided for the temporary marketing of 2 million pounds of the product packaged in 1- or 2-pound containers to be distributed in the States of Ohio and Pennsylvania.

The test product is to be manufactured at the Hillside-Meadow Dairy plant located in Cleveland Heights, OH.

The principal display panel of the label states the products' name; and each of the ingredients used in the food, specifically including sodium bisulfate, is stated on the label as required by the applicable sections of 21 CFR Part 101, with the exceptions stated in § 133.128(e). This permit is effective for 15 months beginning on the date the new food is introduced or caused to be introduced into interstate commerce, but no later than July 6, 1982.

Dated: March 31, 1982.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 82-9178 Filed 4-1-82; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 80P-0524]

Directly Set Cottage Cheese Deviating From Identity Standard; Temporary Permit for Market Testing

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces that a temporary permit has been issued to Farm Fresh Dairy of Lawton, OK, to market test directly set cottage cheese made with food-grade sodium bisulfate. The purpose of the temporary permit is to allow the applicant to measure consumer acceptance of the food.

DATE: This permit is effective for 15 months, beginning on the date the food is introduced or caused to be introduced into interstate commerce, but no later than July 6, 1982.

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

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 130.17 concerning temporary permits to facilitate market testing of foods deviating from the requirements of the standard of identity promulgated under section 401 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 341), notice is given that a temporary permit has been issued to Farm Fresh Dairy.

The permit covers limited interstate marketing tests of directly set cottage cheese that deviates from the standard of identity for cottage cheese, which provides for directly set cottage cheese (21 CFR 133.128). The directly set dry curd (defined in 21 CFR 133.129), from which the test product will be made, will be formed with food-grade sodium bisulfate, which is not currently permitted for use in directly set dry curd formation. The test product meets all requirements of §-133.128, with exception of this deviation. The permit provides for the temporary marketing of 3 million pounds of the product packaged in 8-ounce, 1-, 2-, or 5-pound containers to be distributed in the States of Arkansas, Kansas, Missouri, Oklahoma, and Texas.

The test product is to be manufactured at the Farm Fresh Diary plant located in Lawton, OK.

The principal display panel of the label states the product's name; and each of the ingredients used in the food, specifically including sodium bisulfate, is stated on the label as required by the application sections of 21 CFR Part 101, with the exceptions started in § 133.128(e). This permit is effective for 15 months, beginning on the date the new food is introduced or caused to be introduced into interstate commerce, but no later than July 6, 1982.

Dated: March 31, 1982.

Josepoh P. Hile,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 82-9179 Filed 4-1-82; 3:36 pm]

BILLING CODE 4160-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Creeks East of the Mississippi and Lower Muskogee Creek Tribe—East of the Mississippi, Inc.: Clarification of Previous Notices

March 23, 1982.

AGENCY: Bureau of Indian Affairs.

ACTION: Clarification of previous notices.

SUMMARY: A list of groups filing petitions for Federal acknowledgment that they exist as Indian tribes was published by the Acting Assistant Secretary—Indian Affairs in the **Federal Register** of Tuesday, January 2, 1979, on pages 116 and 117 (FR Doc. 78–36364). Two of the forty groups included were the Creeks East of the Mississippi, c/o Mr. John Wesley Thomley, and the Lower Muskogee Creek Tribe—East of the Mississippi, Inc., c/o Mr. Neal McCormick.

A final determination that the Lower Muskogee Creek Tribe—East of the Mississippi, Inc., under the leadership of Neal McCormick, chief, and John Wesley Thomley, vice-chief, did not exist as an Indian tribe within the meaning of Federal law was published by the Assistant Secretary—Indian Affairs in the **Federal Register** of Wednesday, October 21, 1981, on pages 51652 and 51653 (FR Doc. 81–30483). This determination was effective December 21, 1981.

This notice is to clarify the status of the Creeks East of the Mississippi, c/o Mr. Thomley, and the relationship which appears to have existed between this group and the Lower Muskogee Creek Tribe—East of the Mississippi, Inc., c/o Mr. McCormick. Evidence developed during the consideration period indicates that though these two groups were allied at various times, they are to some degree separate organizations. No arguments or evidence presented in the petition or the rebuttals, or in the evidence developed by the Acknowledgment staff, would support a finding that the Creeks East of the Mississippi, based at Molino, Florida, could be acknowledged as a tribe under 25 CFR 54.7, either as a part of the Lower Muskogee Creeks or as a separate entity.

Take Creeks East of the Mississippi, c/o Mr. John Wesley Thomley, are therefore determined to have been denied Federal acknowledgment under the finding previously cited as Federal Register Document 81–30483, which was effective December 21, 1981.

FOR FURTHER INFORMATION CONTACT:
Mr. John A. Shapard, Jr., Branch of Federal Acknowledgment, Division of Tribal Government Services, Office of the Assistant Secretary—Indian Affairs, 1951 Constitution Avenue NW., Washington, D.C. 20245.

Kenneth Smith,

Assistant Secretary—Indian Affairs.

[FR Doc. 82–9155 Filed 4–5–82; 8:45 am]
BILLING CODE 4310–02–M

Bureau of Land Management

[AA–6673–E]

Alaska Native Claims Selection

On October 23, 1974, Kokhanok Native Corporation, for the Native village of Kakhanok, filed selection application AA–6673–E under the provisions of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1611 (1976)) (ANCSA), for the surface estate of certain lands in the vicinity of Kokhanok.

On January 5, 1980, in accordance with Title 10, Chapter 05 of the Alaska Business Corporation Act, and as authorized by the act of January 2, 1976 (43 U.S.C. 1627), Kokhanok Native Corporation and Ugashik Native Corporation merged into Alaska Peninsula Corporation with Alaska Peninsula Corporation being the surviving corporation.

As to the lands described below, the application submitted by Kokhanok Native Corporation, as amended, is properly filed, and meets the requirements of the Alaska Native Claims Settlement Act and of the regulations issued pursuant thereto. These lands do not include any lawful entry perfected under or being maintained in compliance with laws leading to acquisition of title.

In view of the foregoing, the surface estate of the following described lands, selected pursuant to Sec. 12(a) of ANCSA, containing approximately 5 acres, is considered proper for acquisition by Alaska Peninsula Corporation, as successor in interest to Kokhanok Native Corporation, and is hereby approved for conveyance pursuant to Sec. 14(a) of ANCSA:

Seward Meridian, Alaska (Unsurveyed)

T. 8 S., R. 30 W.,

Sec. 27, those lands formerly within Alaska Native Claims Settlement Act Sec. 3(e) application AA–9004.

Containing approximately 5 acres.

All named and unnamed water bodies within the lands to be conveyed were reviewed. Based on existing evidence it was determined that there are no navigable water bodies within the lands described.

The conveyance issued for the surface estate of the lands described above shall contain the following reservation to the United States:

The subsurface estate therein, and all rights, privileges, immunities, and appurtenances, of whatsoever nature, accruing unto said estate pursuant to the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1613(f)).

There are no easements to be reserved to the United State pursuant to Sec. 17(b) of the Alaska Native Claims Settlement Act.

The grant of the above-described lands shall be subject to:

1. Issuance of a patent after approval and filing by the Bureau of Land Management of the official plat of survey confirming the boundary description and acreage of the lands hereinabove granted;

2. Valid existing rights therein, if any, including but not limited to those created by any lease, including a lease issued under Sec. 6(g) of the Alaska Statehood Act of July 7, 1958 (48 U.S.C. Ch. 2, Sec. 6(g)), contract, permit, right-of-way, or easement, and the right of the lessee, contractee, permittee, or grantee to the complete enjoyment of all rights, privileges, and benefits thereby granted to him. Further, pursuant to Sec. 17(b)(2) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1616(b)(2)) (ANCSA), any valid existing right recognized by ANCSA shall continue to have whatever right of access as is now provided for under existing law; and

3. Requirements of Sec. 14(c) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1613(c)), that the grantee hereunder convey those portions, if any, of the lands hereinabove granted, as are prescribed in said section.

Alaska Peninsula Corporation, as successor in interest to Kokhanok Native Corporation, is entitled to conveyance of 92,160 acres of land selected pursuant to Sec. 12(a) of ANCSA. Together with the lands herein approved, the total acreage conveyed or approved for conveyance is approximately 87,348 acres. The remaining entitlement of approximately 4,812 acres will be conveyed at a later date.

Pursuant to Sec. 14(f) of the Alaska Native Claims Settlement Act, conveyance of the subsurface estate of the lands described above shall be granted to Bristol Bay Native Corporation when conveyance is granted to Alaska Peninsula Corporation, as successor in interest to Kokhanok Native Corporation, for the surface estate, and shall be subject to the same conditions as the surface conveyance.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice of this decision is being published once in the Federal Register and once a week, for four (4) consecutive weeks, in the Anchorage Times.

Any party claiming a property interest in lands affected by this decision, an agency of the Federal government, or regional corporation may appeal the decision to the Alaska Native Claims Appeal Board, provided, however, pursuant to Pub. L. 96–487, this decision constitutes the final administrative determination of the Bureau of Land Management concerning navigability of water bodies.

Appeals should be filed with the Alaska Native Claims Appeal Board, P.O. Box 2433, Anchorage, Alaska 99510, with a copy served upon both the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513 and the Regional Solicitor, Office of the Solicitor, 510 L Street, Suite 100, Anchorage, Alaska 99501. The time limits for filing an appeal are:

1. Parties receiving service of this decision shall have 30 days from the receipt of this decision to file an appeal.

2. Unknown parties, parties unable to be located after reasonable efforts have been expended to locate, and parties who failed or refused to sign the return receipt shall have until May 6, 1982 to file an appeal.

Any party known or unknown who is adversely affected by this decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Alaska Native Claims Appeal Board.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeals. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, 701 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is to be taken, the parties to be served with a copy of the notice of appeal are:

Alaska Peninsula Corporation, Successor in Interest to Kokhanok Native Corporation, Box 334, King Salmon, Alaska 99613
Bristol Bay Native Corporation, P.O. Box 198, Dillingham, Alaska 99576
State of Alaska, Department of Natural Resources, Division of Research and Development, Pouch 7–005, Anchorage, Alaska 99510

Ruth Stockie,

Acting Chief, Branch of ANCSA Adjudication.

[FR Doc. 82–9156 Filed 4–5–82; 8:45 am]

BILLING CODE 4310–84–M

[INT NOI]

Shoshone/Sun Valley; Management Framework Plan Amendment and Environmental Impact Statement

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Notice of intent.

SUMMARY: Pursuant to section 202(a) of the Federal Land Policy and Management Act of 1976 (FLPMA) the BLM will amend the Sun Valley Management Framework Plan (MFP) to consider identified wilderness study areas. This MFP Amendment will be completed in conjuction with the Shoshone MFP Amendment (Notice of Intent published in the April 2, 1981, **Federal Register**). Also, pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969, the BLM will prepare an Environmental Impact Statement (EIS) on the amendments.

The MFP amendments will address 86,603 acres of public land in Blaine, Butte, Camas, Custer, Gooding, and Lincoln counties, Idaho that have been found to have wilderness characteristics and have been designated as wilderness study areas (WSAs) in accordance with section 302 or section 603 of FLPMA. The BLM will analyze the suitability of these WSAs for inclusion by Congress in the National Wilderness Preservation System.

Significant issues identified for the Shoshone MFP Amendment include (1) Quality of wilderness values in WSAs under study; (2) Effects of wilderness designation on motorized recreation and other types of non-primitive recreation; (3) Effects of wilderness designation on the development of mineral resources; and (4) Effects of wilderness designation on livestock operations. The same issues are applicable to the Sun Valley Planning Area.

The interdisciplinary team will include specialists in cultural resources, economics, lands, minerals, outdoor recreation, range, sociology, wildlife, and visual resources.

The public is invited to continue to participate throughout the amendment and EIS process. The process includes identification of issues, development of planning criteria, analysis of the management situation, formulation of alternatives, and analysis of environmental impacts. An information packet containing information on the WSAs under study is available from the Shoshone District Office on request.

DATES: Written comments to be considered in the MFP amendment or EIS process should be submitted by May 14, 1982.

ADDRESS: Comments should be sent to the BLM Shoshone District Office, P.O. Box 2 B, Shoshone, Idaho 83352.

FOR FURTHER INFORMATION CONTACT: Rob Hellie, EIS Team Leader at the above address. Telephone (208) 886–2206 or FTS 554–6576.

Dated: March 26, 1982.

Terrance M. Costello,

Acting District Manager.

[FR Doc. 82–9157 Filed 4–5–82; 8:45 am]

BILLING CODE 4310–84–M

Outer Continental Shelf Oil and Gas Lease Sales; List of Restricted Joint Bidders

This notice supersedes the List of Restricted Joint Bidders published in the **Federal Register** on Wednesday, October 7, 1981, at 46 FR 49653. Pursuant to the authority vested in the Director of the Bureau of Land Management by the joint bidding provisions of 43 CFR 3316.3, the following companies shall be restricted from bidding with any other company on the same list at Outer Continental Shelf Oil and Gas Lease Sales held during the bidding period of May 1, 1982, through October 31, 1982.

Chevron U.S.A. Inc.
Exxon Corporation
Mobil Oil Corporation
Mobil Oil Exploration & Producing Southeast Inc.
Mobil Producing Texas & New Mexico Inc.
MTS Limited Partnership (Mesa Petroleum, Texaco Inc., and Sequoia Petroleum)
Shell Energy Resources Inc.
Shell Offshore Inc.
Shell Oil Company
Standard Oil Company of California
Texaco Inc.

Dated: April 1, 1982.

Arnold E. Petty,

Acting Associate Director, Bureau of Land Management.

[FR Doc. 82–9149 Filed 4–5–82; 8:45 am]

BILLING CODE 4310–84–M

Minerals Management Service

Oil and Gas and Sulphur Operations in the Outer Continental Shelf; Union Oil Co. of Calif.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the Receipt of a Proposed Development and Production Plan.

SUMMARY: Notice is hereby given that Union Company of California has submitted a Development and Production Plan describing the activities it proposes to conduct on Lease OCS–G 0989, Block 276, Eugene Island Area, offshore Louisiana.

The purpose of this Notice is to inform the public, pursuant to section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the Plan and that it is available for public review at the Office of the Minerals Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone (504) 837–4720, Ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

Dated: March 29, 1982.

Lowell G. Hammons,

Minerals Manager, Gulf of Mexico OCS Region.

[FR Doc. 82–9158 Filed 4–5–82; 8:45 am]

BILLING CODE 4310–31–M

National Park Service
National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before March 26, 1982. Pursuant to § 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under

the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, U.S. Department of the Interior, Washington, D.C. 20243. Written comments should be submitted by April 21, 1982.

Carol D. Shull,

Acting Keeper of the National Register.

ALASKA

Juneau Division

Juneau, *Baranof Hotel (AHRS Site No. JUN-199)* 127 Franklin St.

Matanuska-Susitna Division

Talkeetna, *Fairveiw Inn (AHRS Site No. Tal-006)* Main St.

ARKANSAS

ROCK ART SITES IN ARKANSAS THEMATIC RESOURCES. Reference—see individual listings under Baxter, Clark, Conway, Crawford, Independence, Johnson, Marion, Pope, Searcy, Stone, Van Buren and Washington Counties.

Baxter County

Norfork vicinity, *Old Joe (Rock Art Sites in Arkansas Thematic Resources)*

Clark County

Arkadelphia vicinity, *Pond Mountain Carved Rock (Rock Art Sites in Arkansas Thematic Resources)*

Conway County

Oppelo vicinity, *Grotto, The, Petit Jean No. 8 (Rock Art Sites in Arkansas Thematic Resources)*
Oppelo vicinity, *Hardison Shelter, Petit Jean No. 3 (Rock Art Sites in Arkansas Thematic Resources)*
Oppelo vicinity, *Indian Cave, Petit Jean No. 1 (Rock Art Sites in Arkansas Thematic Resources)*
Oppelo vicinity, *Petit Jean No. 4 (Rock Art Sites in Arkansas Thematic Resources)*
Oppelo vicinity, *Petit Jean No. 5 (Rock Art Sites in Arkansas Thematic Resources)*
Oppelo vicinity, *Petit Jean No. 6 (Rock Art Sites in Arkansas Thematic Resources)*
Oppelo vicinity, *Petit Jean No. 7 (Rock Art Sites in Arkansas Thematic Resources)*
Oppelo vicinity, *Petit Jean No. 9 (Rock Art Sites in Arkansas Thematic Resources)*
Oppelo vicinity, *Petit Jean No. 10 (Rock Art Sites in Arkansas Thematic Resources)*
Oppelo vicinity, *Petit Jean No. 11 (Rock Art Sites in Arkansas Thematic Resources)*
Oppelo vicinity, *Rockhouse Cave, Petit Jean No. 2 (Rock Art Sites in Arkansas Thematic Resources)*

Crawford County

Rudy vicinity, *High Rock Petroglyph Shelter (High Rock No. 2) (Rock Art Sites in Arkansas Thematic Resources)*

Independence County

Desha vicinity, *Wyatt Petroglyphs (Rock Art Sites in Arkansas Thematic Resources)*
Salado vicinity, *Goff Petroglyph Site (Rock Art Sites in Arkansas Thematic Resources)*

Jefferson County

Pine Bluff, *Lee, R. E., House,* 1302 W. 2nd Ave.

Johnson County

Clarksville vicinity, *King's Canyon Petroglyphs (Rock Art Sites in Arkansas Thematic Resources)*
Clarksville vicinity, *Serpent Cave (Rock Art Sites in Arkansas Thematic Resources)*

Lonoke County

Lonoke, *Lonoke County Courthouse,* N. Center St.

Marion County

Summit vicinity, *Sunburst Shelter (Rock Art Sites in Arkansas Thematic Resources)*

Miller County

Texarkana, *Bottoms House,* 500 Hickory
Texarkana, *Foulke, Claude, House,* 501 Pecan St.

Pope County

Dover vicinity, *Crow Mountain Petroglyph (Rock Art Sites in Arkansas Thematic Resources)*

Searcy County

Snowballs vicinity, *Cooper's Bluff (Jacob's Rock) (Rock Art Sites in Arkansas Thematic Resources)*

Stone County

Fox vicinity, *Fox Pictograph (Rock Art Sites in Arkansas Thematic Resources)*
Mountain View vicinity, *Pictograph Cave (Rock Art Sites in Arkansas Thematic Resources)*

Union County

El Dorado vicinity, *Bell Gin Landing Site*

Van Buren County

Shirley vicinity, *Edgemont Shelter (Indian Rock House) (Rock Art Sites in Arkansas Thematic Resources)*
Shirley vicinity, *Lynn Creek Shelter (Rock Art Sites in Arkansas Thematic Resources)*

Washington County

Goshen vicinity, *Bluff Point (Rock Art Sites in Arkansas Thematic Resources)*

Yell County

Dardanelle, *Kimball House,* 713 N. Front St.

CALIFORNIA

Amador County

Jackson, *DePue, Grace Blair, House and Indian Museum Building,* 215 Court St.

Los Angeles County

San Pedro, *Battery John Barlow and Saxton,* Fort MacArthur

Marin County

Belvedere, *Rey, Valentine, House,* 428 Golden Gate Ave.

Riverside County

Lake Elsinore, *Clevelin Country Club,* 17584 Lakeshore Dr.

Sacramento County

Sacramento, *I Street Bridge,* CA 16 (also in Yolo County)

San Joaquin County

Woodbridge, *I.O.O.F. Hall (Independent Order of Odd Fellows)* Main St.

CONNECTICUT

Fairfield County

Bridgeport, *Marina Park Historic District,* Marina Park, Park and Waldemere Aves.

Hartford County

Burlington, *Treadwell House,* George Washington Tpke.
Glastonbury, *Williams, J. B., Co Historic District,* Hubbard, Williams and Welleib Sts.
Hartford, *Capen-Clark Historic District,* Capen, Clark, Elmer, Barbour, Martin, and Main Sts.
Warehouse Point, *St. John's Episcopal Church,* 92 Maine St.

New Haven County

East Haven, *Branford Electric Railway,* 17 River St., East Haven to Court St., Short Beach

New London County

Colchester, *Bacon Academy,* S. Main St.
New London, *Harris, Jonathan Newton, House,* 130 Broad St.
Norwich, *Carroll Building,* 9—15 Main St. and 14—20 Water St.

Tolland County

Coventry, *Capron-Phillips House,* 1129 Main St.

DELAWARE

New Castle County

Newark, *NEWARK MULTIPLE RESOURCE AREA.* This area includes:
Aetna Hose, Hook, and Ladder Company, Fire Station No. 1, 26 Academy St.;
Aetna Hose, Hook and Ladder Company Fire Station No. 2, 31 Academy St.;
Anderson House, 50 W. Park Pl.; *Baily House,* 166 W. Main St.;
Bank of Newark Building, 102 E. Main St.; *Bell Farmhouse,* 401 Nottingham Rd.;
Belmont Hall, 302 W. Main St.; *Blue Hen Farm,* 505 Stamford Dr.;
Building at 140 West Main Street; Building at 34 Choate Street;
Building at 134–138 New London Road; Building at 28–34½ Academy Street;
Chambers House, S. College Ave.; *Curtis Mansion,* W. Main St.;
Curtis Paper Mill Workers' Houses, Curtis Lane;
Deer Park Farm, 48 W. Park Pl.; *Deer Park Hotel,* 108 W. Main St.;
Evans, George, House, 5 W. Main St.; *Evans, John, House,* W. Main St. and N. College Ave.; *Exchange Building,* 154–158 E. Main St.;
Granite Mansion, 292 W. Main St.;
Green Mansion, 94—96 E. Main St.;
Memorial Hall, University of Delaware campus;
Meteer Store House, 325 Paper Mill Rd.;
Newark Opera House, 95 E. Main St.;
Newark Passenger Station, S. College Ave. and Amtrack-Conrail RR.;
Old First Presbyterian Church (Daugherty Hall), W. Main St.;

Old Newark Comprehensive School, 83 E. Main St.;
Rhodes Pharmacy, 36 E. Main St.;
St. John the Baptist Roman Catholic Church, 200 E. Main St.;
St. Thomas' Episcopal Church, 21 Elkton Rd.;
State Theater, 39 E. Main St.;
Wilmington Trust Company Bank, 82 E. Main St.;
Wislon, Edward R., House, 521 S. College Ave.; and *Wright House*, 47 Kent Way

DISTRICT OF COLUMBIA

Washington

Piney Branch Quarry Site, Piney Branch Pkwy.

FLORIDA

Alachua County

Gainesville, *McKenzie, Mary Phifer, House*, 617 E. University Ave.

Orange County

Winter Park, *Brewer, Edward Hill, House*, 240 Trismen Ter.

ILLINOIS

Henderson County

Oquawka, *Phelps, Alexis, House*, Lot 10, Block 42

INDIANA

KENNEDY, A. M., HOUSE AND COVERED BRIDGES OF RUSH COUNTY THEMATIC RESOURCES. Reference—see individual listings under Rush County.

Elkhart County

Goshen, *U.S. Post Office*, 301 E. Lincoln Ave.

Hancock County

Greenfield, *Greenfield High School*, North and Pennsylvania Sts.

Porter County

Chesterton vicinity, *Weller House*, 1200 North Rd.

Rush County

Rushville vicinity, *Ferree Covered Bridge (Kennedy, A. M., House and Covered Bridges of Rush County Thematic Resources)* Base Rd.
Rushville vicinity, *Forsythe Covered Bridge (Kennedy, A. M., House and Covered Bridges of Rush County Thematic Resources)* SR 650
Rushville vicinity, *Kennedy, Archibald, M., House (Kennedy, A. M., House and Covered Bridges of Rush County Thematic Resources)* SR 200
Rushville vicinity, *Moscow Covered Bridge (Kennedy, A. M., House and Covered Bridges of Rush County Thematic Resources)* SR 875 and SR 625
Rushville vicinity, *Norris Ford Covered Bridge (Kennedy, A. M., House and Covered Bridges of Rush County Thematic Resources)* SR 150
Rushville vicinity, *Offutt Covered Bridge (Kennedy, A. M., House and Covered Bridges of Rush County Thematic Resources)* SR 550
Rushville vicinity, *Smith Covered Bridge (Kennedy, A. M., House and Covered Bridges of Rush County Thematic Resources)* SR 300

Sullivan County

Merom, *Union Christian College*, 3rd and Philip Sts.

IOWA

Madison County

Earlham, *Earlham Public School*, 809 Main St.

Scott County

Davenport, *Central Fire Station*, 331 Scott St.
Davenport, *Davenport City Hall*, 226 W. 4th St.
Davenport, *Iowa Soldiers' Orphans' Home*, 2800 Eastern Ave.
Pleasant Valley, *Spencer, Roswell, House*, Off U.S. 67

Winneshiek County

Decorah vicinity, *Jacobson Farm*, SE of Decorah on Rt. 1

LOUISIANA

Calcasieu Parish

Vinton, *Lyons House*, 1335 Horridge St.

MICHIGAN

Baraga County

L'Anse vicinity, *Hebard-Ford Summer Home*, NE of L'Anse

Bay County

Bay City, *Center Avenue Neighborhood Residential District*, Roughly bounded by Green and N. Madison Aves., 5th and 6th Sts.
Bay City, *Midland Street Commercial District*, Roughly bounded by John, Vermont, Catherine and Litchfield Sts.

Gogebic County

Ironwood, *Curry, Solomon S., House, 631 E. McLeod Ave.*

Houghton County

Houghton, *Shelden-Dee Block*, Shelden Ave. and Isle Royale St.
Lake Linden, *Bosch, Joseph, Building*, 302 Calumet Ave.
Painesdale, *Painesdale Historic District, MI 26*

Isabella County

Mount Pleasant, *St. John's Episcopal Church, 206 W. Maple St.*

Kalamazoo County

Schoolcraft, *Thomas, Dr. Nathan M., House, 613 E. Cass St.*

Kent County

Grand Rapids, *Third Reformed Church, 1009 Hermitage St., SE.*

Lapeer County

North Branch, *Pioneer State Bank No. 36*, 4046 Huron St.

Mackinac County

St. Ignace, *Chambers, John, House*, 90 N. State St.

Manistee County

Manistee, *Manistee Central Business District*, Roughly bound by Maple, Washington, Water and River Sts.

Menowinee County

Menominee, *Chicago, Wilwaukee, St. Paul; and Pacific Railroad Station*, 219 W. 4th Ave.

Monroe County

Monroe, *CITY OF MONROE MULTIPLE RESOURCE AREA.* This area includes: *East Elm-North Macobm Street Historic District*, Roughly bounded by River Raisin, Lorain, Monroe and Macomb Sts.; *Old Village Historic District*, MI 50 and MI 125; *St. Mary's Academy Historic District*, Elm Ave.; *St. Mary's Church Complex Historic District*, Elm Ave. and MI 125; and *New York Central River Raisin Railroad Bridge*, Off MI 50

St. Clair County

Port Huron, *Harrington Hotel*, 1026 Military St.
Port Huron, *Ladies of the Maccabees Building*, 901 Huron Ave.

Washtenaw County

Ann Arbor, *Harris Hall*, 617 E. Huron St.
Ann Arbor, *St. Patrick's Parish Complex*, Northfield Church and Whitmore Lake Rds.

Wayne County

Detroit, *Coronado Apartments*, 3751—3773 2nd Ave.
Detroit, *Gethsemane Evangelical Lutheran Church*, 4461 28th St.
Detroit, *Grand Riviera Theater*, 9222 Grand River Ave.
Detroit, *Greektown Historic District*, Monroe Ave. between Brush St. and St. Antoine
Detroit, *Lawyers Building*, 137 Cadillac Sq.
Detroit, *St. John's-St. Luke's Evangelical Church*, 2120 Russell St.
Plymouth, *Baker, Henry W., House*, 233 S. Main St.

MINNESOTA

MURRAY COUNTY MULTIPLE RESOURCE AREA. This area includes: Fulda, *First National Bank*, 115 N. St. Paul Ave.; and Slayton, *Dinehart-Holdt House*, 2812 Linden Ave.

Ramsey County

St. Paul, *Butler, Pierce and Walter, House*, 1345–1347 Summit Ave.

MISSOURI

CITY OF CARTHAGE MULTIPLE RESOURCE AREA. This area includes: Carthage and vicinity, *Carthage South Historic District*, Roughly bounded by Garrison and Centennial Aves., 5th and Clinton Sts.; *Cassil Place Historic District*, W. Central; Adkins House, 1011 Prospect; *Biffer, Andrew, House*, 1847 S. Garrison; Blevins House, 715 Oak; *Boon House*, 226 W. 4th; *Borland House*, 903 W. Chestnut; *Carmean House*, 1615 Grand; *Carter's Bluff*, 1201 E. Chestnut; *Davey, T. N., House*, 631 McGregor; *De Baca House*, 603 E. Macon; *Detweiler House*, 1522 River; *1841 Jasper County Courthouse*, SR 2;

Farmer House, 202 S. Fulton; *Gerkey House*, 220 W. 4th St.; *Grimes House*, 1701 Grand; *Hall House*, 708 Poplar; *Harrington, Charles O., House*, 803 Prospect; *Heilyer, Capt. John, House*, 300 N. Main St.; *Howard House*, 705 McGregor; *Johnston House*, 209 N. Main St.; *Kellog Home*, Hwy. 66–71; *Kendrick House*, Hwy. 71–66; *Lane House*, 1627 S. Main St.; *Logan House*, 509 E. Chestnut; *Logan House*, 403 E. 4th St.; *Manalo House*, 1607 S. Main St.; Missouri Pacific Railroad Station, 514 N. Orner; *Morris House*, 519 E. 3rd St.; *Newcomb House*, 400 S. Fulton; *Oaks, The Morgan* Heights and County Cluf Rds.; *Phelps Country Estate*, SR 1; *Prichard House*, 831 Prospect; *Pugh Bonding Service*, 407 E. 4th St.; *Pugh House*, 321 Clinton; *Pyle House*, 509 Cooper; *Raydon House*, 404 S. Fulton; *Ring, O.P. House*, 816 River; *Scrader House*, 1106 Cedar; *Shinn House*, 231 N. Main St.; *Slates House*, 518 Walnut; *Smith House*, 1734 S. Maple; *Smith House*, 727 W. Chestnut; *Smith House*, 913 W. Chestnut; *Thomas House*, 425 Fall St.; *Van Acres*, Morgan Heights Rd. and 17th St.; and *Wyatt House*, 421 13th St.

NEW JERSEY

Burlington County

Mt. Laurel, *Evesham Friends Meetinghouse*, Moorestown-Mt. Laurel and Hainesport-Mt. Laurel Rds.

Cumberland County

Bridgeton vicinity, *Spindrift Sailing Yacht*, S of Bridgeton, Flanigan Brothers Ship Yard

Hudson County

Bayonne, *First Reformed Dutch Church of Bergen Neck (First Reformed Church of Bayonne)* Avenue C and 33rd St.

Hunterdon County

Clinton, *Music Hall*, 23 W. Main St.

Middlesex County

New Brunswick, *Jarrad, Levi D., House*, George St., Douglass College Campus

Ocean County

Lakewood, *Strand Theatre*, 400 Clifton Ave.

Passaic County

Passaic, *St. John's Evangelical Lutheran Church*, 140 Lexington Ave.

NEW YORK

Westchester County

Port Chester, *Bush-Lyon Homestead*, King St.

NORTH CAROLINA

Cumberland County

Fayetteville, *St. Joseph's Episcopal Church*, Ramsey and Moore Sts.

Guilford County

High Point, *Kilby Hotel*, 627 E. Washington St.

Nash County

Nashville vicinity, *Rose Hill*, N of Nashville Off NC 58

Vance County

Townsville vicinity, *LaGrange*, S of Townsville Off SR 1308

Watauga County

Blowing Rock, *Green Park Inn*, US 321 also in Caldwell County

Wilson County

Wilson, *Moses, Rountree, House*, 107 N. Rountree St.

PENNSYLVANIA

Greene County

West Findley vicinity, *Fisher Site (36GR21)*

SOUTH DAKOTA

Butte County

Belle Fourche, *Belle Fourche Commercial Historic District*, 500–620 State St. and 608–622 5th Ave.

TENNESSEE

Claiborne County

Tazewell vicinity, *Kesterson-Watkins House*, Cedar Fork Rd.

Shelby County

Memphis, *Tennessee Club (Overall-Goodbar Building)* 128–130 Court Ave.

Weakley County

Dresden, *Oakland*, SR 22 and TN 89

VERMONT

Chittenden County

Burlington, *Robinson, Daniel Webster, House*, 384 and 388 Main St.

Windsor County

North Springfield, *Lockwood-Boynton House*, 1 School St.

WISCONSIN

Dane County

Madison, *Brittingham Park Boathouse*, N. Shore Dr.

Rock County

FOOTVILLE MULTIPLE RESOURCE AREA. This area includes: Footville, *Footville Condensery*, Beloit St.; *Footville State Bank*, 158 Depot St.; *Owen, William J., Store (Billy Owen Store)*, 220 Depot St; and *Strang, Soloman J., House*, N. Gilbert St.

Walworth County

Whitewater vicinity, *Maples Mound Group (47 WI 82)*, W of Whitewater

Winnebago County

Oshkosh, *Bowen, Abraham Briggs, House*, 1010 Bayshore Dr.

Oshkosh, *Frontenac, The*, 132–140 High St. and 9 Brown St.

[FR Doc. 82–9192 Filed 4–5–82; 8:45 am]

BILLING CODE 4310–70–M

National Park Service

Appalachian National Scenic Trail Advisory Council; Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the Appalachian National Scenic Trail Advisory Council will be held in Harpers Ferry, West Virginia on May 14, from 9:00 a.m. to 4:00 p.m. The agenda of the meeting will include a review of Appalachian Trail protection status and implementation of the cooperative managment system.

The meeting will be open to the public, although space will be limited. Persons will be accommodated on a first-come, first-served basis. Any person may file with the Council a written statement concerning the matters to be discussed.

Persons wishing further information concerning this meeting or who wish to submit written statements, may contact David A. Richie, Project Manager, Appalachian Trail Project Office, Harpers Ferry Center, Harpers Ferry, West Virginia 25425, at Area Code (304) 535–2346.

Minutes of the meeting will be available for public inspection four weeks after the meeting at the above address. Copies of the minutes will also be available from Room 3120, Interior Building, 18th and C Streets, N.W., Washington, D.C. 20240, and at the headquarters of the Appalachian Trail Conference, Washington Street, Harpers Ferry, West Virginia 25425.

David A. Richie,

Project Manager.

March 26, 1982.

[FR Doc. 82–9191 Filed 4–5–82; 8:45 am]

BILLING CODE 4310–70–M

Intention To Negotiate Concession Contract; Little Mountain Service Center, Inc.

Pursuant to the provisions of Section 5 of the Act of October 9, 1965, (79 Stat. 969; 16 U.S.C. 20), public notice is hereby given that thirty (30) days after the date of publication of this notice, the Department of the Interior, through the Regional Director, Southeast Region, National Park Service, proposes to negotiate a concession contract with Little Mountain Service Center, Inc., authorizing it to continue the operation of an automotive service station with limited refreshment, souvenir, and grocery sales, facilities, and services for the public within the Jeff Busby Area of the Natchez Trace Parkway, Mississippi, for a period of ten (10) years from January 1, 1982, through December 31, 1991.

As assessment of the environmental impact of this proposed action has been made and it has been determined that it will not significantly affect the quality of the environment, and that it is not a major Federal action having significant impact on the environment under the National Environmental Policy Act of 1969. The environmental assessment and finding of no significant impact may be reviewed in the Office of the Superintendent.

The foregoing concessioner has performed its obligations to the satisfaction of the Secretary under an existing contract which expires by limitation of time on December 31, 1981, and, therefore, pursuant to the Act of October 9, 1965, as cited above, is entitled to be given preference in the negotiation of a new contract. The concessioner is currently providing concessioner services under an interim letter of authorization. This provision, in effect, grants Little Mountain Service Center, Inc., as the present satisfactory concessioner, the right to meet the terms of responsive proposals for the proposed new contract and a preference in the award of the contract, if thereafter, the proposal of Little Mountain Service Center, Inc., is substantially equal to others received. In the event a responsive proposal superior to that of Little Mountain Service Center, Inc., (as determined by the Secretary) is submitted, Little Mountain Service Center, Inc., will be given the opportunity to meet the terms and conditions of the superior proposal the Secretary considers desirable, and, if it does so, the new contract will be negotiated with Little Mountain Service Center, Inc. The Secretary will consider and evaluate all proposals received as a result of this notice.

Any proposal, including that of the existing concessioner, must be postmarked or hand delivered on or before the thirtieth (30th) day following publication of this notice to be considered and evaluated.

Interested parties should contact the Regional Director, Southeast Region, National Park Service, 75 Spring Street, S.W., Atlanta, Georgia 30303, for information as to the requirements of the proposed contract.

Dated: March 25, 1982.

Neal G. Guse,

Acting Regional Director, Southeast Region.

[FR Doc. 82-9189 Filed 4-5-82; 8:45 am]

BILLING CODE 4310-70-M

San Antonio Missions Advisory Commission Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the San Antonio Missions Advisory Commission will beheld at 1:30 p.m., Tuesday, April 20, 1982, at the Federal Building, 727 E. Durango, Room B406, San Antonio, Texas.

The San Antonio Missions Advisory Commission was established pursuant to Public Law 95-629, Title II, November 10, 1978. The purpose of the commission is to advise the Secretary of the Interior or his designee on matters relating to the park and with respect to carrying out the provisions of the statute establishing the San Antonio Missions National Historical Park.

Matters to be discussed at this meeting include:

—Park Operations Update
—Park Protection Zone
—Cooperative Agreements
—Recognition of First Term Commissioners

The meeting will be open to the public, however, facilities and space for accommodating members of the public will be limited and persons will be accommodated on a first-come, first-serve basis.

Any member of the public may file a written statement concerning the matters to be discussed with the Superintendent, San Antonio Missions National Historical Park.

Persons wishing further information regarding this meeting or who wish to submit a written statement may contact Jose A. Cisneros, Superintendent, 727 E. Durango, Room A612, San Antonio, Texas 78206, telephone (512) 229-6000.

Minutes of the meeting will be available for public review four weeks after the meeting at the office of the San Antonio Missions National Historical Park.

Dated: March 25, 1982.

Jack Neckels,

Regional Director, Southwest Region.

[FR Doc. 82-9190 Filed 4-5-82; 8:45 am]

BILLING CODE 4310-70-M

INTERSTATE COMMERCE COMMISSION

[Docket No. AB-167 (Sub-no. 192N)]

Rail Carriers; Conrail Abandonment Between Chicago Heights and the End of the Line in Cook County, IL; Findings

Notice is hereby given pursuant to section 308(e) of the Regional Rail Reorganization Act of 1973 that the Commission, Review Board Number 3 has issued a certificate authorizing the Consolidated Rail Corporation to abandon its rail line between Chicago Heights and the end of the line in the County of Cook, IL, a total distance of 0.6 miles effective on March 3, 1982.

The net liquidation value of this line is $138,008. If, within 120 days from the date of this publication, Conrail receives a bona fide offer for the sale, for 75 percent of the net liquidation value, of this line it shall sell such line and the Commission shall, unless the parties otherwise agree, establish an equitable division of joint rates for through routes over such lines.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-9114 Filed 4-5-82; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-167 (Sub-195N)]

Rail Carriers; Conrail Abandonment Between Knox and Tefft, IN; Findings

Notice is hereby given pursuant to section 308(e) of the Regional Rail Reorganization Act of 1973 that the Commission, Review Board Number 3 has issued a certificate authorizing the Consolidated Rail Corporation to abandon its rail line between Knox and Tefft in the Counties of Starke and Jasper, IN, a total distance of 18.0 miles effective on March 3, 1982.

The net liquidation value of this line is $392,345. If, within 120 days from the date of this publication, Conrail receives a bona fide offer for the sale, for 75 percent of the net liquidation value, of this line it shall sell such line and the Commission shall, unless the parties otherwise agree, establish an equitable division of joint rates for through routes over such lines.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-9116 Filed 4-5-82; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-167 (Sub-194N)]

Rail Carriers; Conrail Abandonment Between Olivers and Knox, IN; Findings

Notice is hereby given pursuant to section 308(e) of the Regional Rail Reorganization Act of 1973 that the Commission, Review Board Number 3 has issued a certificate authorizing the Consolidated Rail Corporation to abandon its rail line between Olivers and Knox in the Counties of Starke and St. Joseph, IN, a total distance of 32.0 miles effective on March 3, 1982.

The net liquidation value of this line is $1,319,283. If, within 120 days from the date of this publication, Conrail receives a bona fide offer for the sale, for 75 percent of the net liquidation value, of this line it shall sell such line and the Commission shall, unless the parties otherwise agree, establish an equitable division of joint rates for through routes over such lines.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-9115 Filed 4-5-82; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-167 (Sub-196N)]

Rail Carriers; Conrail Abandonment Between Tefft and Wheatfield, IN; Findings

Notice is hereby given pursuant to section 308(e) of the Regional Rail Reorganization Act of 1973 that the Commission, Review Board Number 3 has issued a certificate authorizing the Consolidated Rail Corporation to abandon its rail line between Tefft and Wheatfield in the County of Jasper, IN, a total distance of 2.0 miles effective on March 3, 1982.

The net liquidation value of this line is $56,882. If, within 120 days from the date of this publication, Conrail receives a bona fide offer for the sale, for 75 percent of the net liquidation value, of this line it shall sell such line and the Commission shall, unless the parties otherwise agree, establish an equitable division of joint rates for through routes over such lines.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-9117 Filed 4-5-82; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-167 (Sub-199N)]

Rail Carriers; Conrail Abandonment Between Wasepi and Jackson and Between Three Rivers and Wasepi, MI; Findings

Notice is hereby given pursuant to section 308(e) of the Regional Rail Reorganization Act of 1973 that the Commission, Review Board Number 1 has issued a certificate authorizing the Consolidated Rail Corporation to abandon its rail line between milepost 34.7 near Wasepi and milepost 96.6 near Jackson, MI, a total distance of 61.9 miles effective on March 5, 1982.

The net liquidation value of this line is $2,511,318. If, within 120 days from the date of this publication, Conrail receives a bona fide offer for the sale, for 75 percent of the net liquidation value, of this line it shall sell such line and the Commission shall, unless the parties otherwise agree, establish an equitable division of joint rates for through routes over such lines.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-9118 Filed 4-5-82; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Agricultural Cooperative Transportation; Intent To Perform Interstate Transportation for Certain Nonmembers

Dated: April 1, 1982.

The following Notices were filed in accordance with section 10526 (a)(5) of the Interstate Commerce Act. These rules provide that agricultural cooperatives intending to perform nonmember, nonexempt, interstate transportation must file the Notice, Form BOP 102, with the Commission within 30 days of its annual meetings each year. Any subsequent change concerning officers, directors, and location of transportation records shall require the filing of a supplemental Notice within 30 days of such change.

The name and address of the agricultural cooperative (1) and (2), the location of the records (3), and the name and address of the person to whom inquiries and correspondence should be addressed (4), are published here for interested persons. Submission of information which could have bearing upon the propriety of a filing should be directed to the Commission's Office of Compliance and Consumer Assistance, Washington, D.C. 20423. The Notices are in a central file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C.

(1) American Southern Growers Association, Inc.
(2) Rt. 1, Box 680D, Natchitoches, LA 71457
(3) Rt. 1, Box 680D, Natchitoches, LA 71457
(4) F. E. Barnhart, Rt. 1, Box 680D, Natchitoches, LA 71457.

(1) Federated Co-op Transport
(2) P.O. Box 353, Hoopeston, IL 60942
(3) 6th Ave. and Route 9, Hoopeston, IL 60942
(4) Vicki Torbet, P.O. Box 353, Hoopeston, IL 60942.

(1) Land O'Lakes, Inc.
(2) P.O. Box 116, Minneapolis, MN 55440
(3) 4001 Lexington Ave., No., Arden Hills, MN 55112
(4) Harold O. Hoelscher, P.O. Box 116, Minneapolis, MN 55440.

(1) The Arkansas Rice Growers Cooperative Association d.b.a. Riceland Foods
(2) P.O. Box 927, Stuttgart, AR 72160
(3) 2120 South Park Ave., Stuttgart, Arkansas 72160
(4) Charles A. Gunnell, P.O. Box 927, Stuttgart, AR 72160.

(1) Shenango Valley Lines, Inc.
(2) P.O. Box 35427, Phoenix, AZ 85069
(3) 5515 W. Glenn Dr., Glendale, AZ
(4) David Robinson, P.O. Box 5678, Scottsdale, AZ 85261.

(1) T. L. C. Farm Lines, Inc.
(2) 1666 Fabick Dr., Fenton, Missouri 63026
(3) 1666 Fabick Dr., Fenton, MO 63026
(4) Tom C. Lange, 1666 Fabick Dr., Fenton, MO 63026.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-9146 Filed 4-5-82; 8:45 am]

BILLING CODE 7035-01-M

[Volume No. 4]

Motor Carriers; Applications, Alternate Route Deviations, and Intrastate Applications

Motor Carrier Intrastate Applications)

The following application(s) for motor common carrier authority to operate in intrastate commerce seek concurrent motor carrier authorization in interstate or foreign commerce within the limits of the intrastate authority sought, pursuant to Section 10931 (formerly Section 206(a)(6)) of the Interstate Commerce Act. These applications are governed by Special Rule 245 of the Commission's *General Rules of Practice* (49 CFR 1100.245), which provides, among other things, that protests and requests for information concerning the time and place of State Commission hearings or other proceedings, any subsequent changes therein, and any other related matters shall be directed to the State Commission with which the application is filed and shall *not* be addressed to or filed with the Interstate Commerce Commission.

New York Docket No. T-9989, filed February 23, 1982. Applicant: DENNIS J. LAUGHLIN, d/b/a LAUGHLIN SERVICE, 130 Sawyer Ave., Buffalo, NY 14150. Certificate of public convenience and necessity sought to operate a freight service, as follows: Transportation of: Heavy merchandise and accessories, appurtenances and materials in connection therewith; contractors equipment and supplies; and motor vehicles: Between all points in the state. Intrastate, interstate and foreign

commerce authority sought. Hearing: date, time and place not yet fixed. Request for procedural information should be addressed to New York Department of Transportation, 1220 Washington Ave., State Campus, Albany, NY 12232, and should not be directed to the Interstate Commerce Commission.

By the Commission.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-9126 Filed 4-5-82; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Finance Applications; Decision-Notice

The following applications, filed on or after July 3, 1980, seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control of motor carriers pursuant to 49 U.S.C. 11343 or 11344. Also, applications directly related to these motor finance applications (such as conversions, gateway eliminations, and securities issuances) may be involved.

The applications are governed by Special Rule 240 of the Commission's Rules of Practice (49 CFR § 1100.240). See Ex Parte 55 (Sub-No. 44), Rules Governing Applications Filed By Motor Carriers Under 49 U.S.C. 11344 and 11349, 363 I.C.C. 740 (1981). These rules provide among other things, that opposition to the granting of an application must be filed with the Commission in the form of verified statements within 45 days after the date of notice of filing of the application is published in the Federal Register. Failure seasonably to oppose will be construed as a waiver of opposition and participation in the proceeding. If the protest includes a request for oral hearing, the request shall meet the requirements of Rule 242 of the special rules and shall include the certification required.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.241. A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00, in accordance with 49 CFR 1100.241(d).

Amendments to the request for authority will not be accepted after the date of this publication. However, the Commission may modify the operating authority involved in the application to conform to the Commission's policy of simplifying grants of operating authority.

We find, with the exception of those applications involving impediments (e.g., jurisdictional problems, unresolved fitness questions, questions involving possible unlawful control, or improper divisions of operating rights) that each applicant has demonstrated, in accordance with the applicable provisions of 49 U.S.C. 11301, 11302, 11343, 11344, and 11349, and with the Commission's rules and regulations, that the proposed transaction should be authorized as stated below. Except where specifically noted this decision is neither a major Federal action significantly affecting the quality of the human environment nor does it appear to qualify as a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests as to the finance application or to any application directly related thereto filed within 45-days of publication (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (unless the application involves impediments) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, the duplication shall not be construed as conferring more than single operating right.

Applicant(s) must comply with all conditions set forth in the grant or grants of authority within the time period specified in the notice of effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

Dated: March 29, 1982.

By the Commission, Review Board Number 3, Members Krock, Joyce, and Dowell.

MC-F-14823, filed March 15, 1982. WOOSTER MOTOR WAYS, INC. (Wooster) (1357 Mechanicsburg Road, P.O. Box 436, Wooster, OH 44697) Central and Merger-Oliver Truck Lines, Inc. (Oliver) (1238 South Cleveland-Massillon Road, Akron, OH 44321). Representative: John P. McMahon, 100 East Broad Street, Columbus, OH 43215. Authority is sought by Wooster, a motor common carrier (MC-145194 and subnumbers thereunder) to control the operating authority and properties of Oliver, a registered and certificated motor common carrier (MC-85561 and subnumbers thereunder) and then to merge the operating authority and property of Oliver into Wooster. Kenneth E. Beaverson who currently controls Wooster through ownership of its outstanding capital stock seeks to control the merged rights through the transaction. Oliver's authority involves general commodities primarily over irregular routes in the State of Ohio. A detailed description of the carrier authorities are on file as part of the application at the Commission office in Washington, DC and at its Regional Office in Philadelphia, PA.

Notes.—(1) Wooster has filed an application for temporary control of Oliver, (2) this transaction is related directly to No. MC-145194 (Sub-No. 13) published elsewhere in this Federal Register.

Decision-Notice

The following operating rights applications, filed on or after July 3, 1980, are filed in connection with pending finance applications under 49 U.S.C. 10926, 11343 or 11344. The applications are governed by Special Rule 252 of the Commission's General Rules of Practice (49 CFR 1100.252).

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.252. Persons submitting protests to applications filed in connection with pending finance applications are requested to indicate across the front page of all documents and letters submitted that the involved proceeding is directly related to a finance application and the finance docket number should be provided. A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the request for authority are not allowed. However, the Commission may have modified the application to conform to the Commission's policy of simplifying grants of operating authority.

Findings: With the exceptions of those applications involving duly noted problems (e.g., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each applicant has demonstrated that its proposed service warrants a grant of the application under the governing section of the Interstate Commerce Act. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where specifically noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests in the form of verified statements as to the finance application

or to the following operating rights applications directly related thereto filed within 45 days of publication of this decision-notice (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except where the application involves duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

Applicant(s) must comply with all conditions set forth in the grant or grants of authority within the time period specified in the notice by effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Dated: March 29, 1982.

By the Commission, Review Board Number 3, Members Krock, Joyce, and Dowell.

MC 145194 (Sub-13), filed March 15, 1982. Applicant: WOOSTER MOTOR WAYS, INC., 1357 Mechanicsburg Road, P.O. Box 436, Wooster, OH 44697. Representative: John P. McMahon, 100 East Branch Street, Columbus, OH 43125, (614) 228–1541. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk) over regular routes between Belpre, OH and Bridgeport, OH, from Belpre over S.R. 7 to Bridgeport, serving all intermediate points; and (2) over irregular routes, between Cincinnati, OH, and points in Summit, Cuyahoga, Columbiana and Harrison Counties, OH, on the one hand, and, on the other, points in OH. The foregoing authority sought is to convert to a certificate of public convenience and necessity the certificate of registration currently held by Oliver Truck Lines, Inc. of Akron, OH in No. MC–15561 (Sub-No. 8) and to be controlled by and then merged into Wooster Motor Lines, Inc. in No. MC–F–14823 a directly related matter (published elsewhere in this **Federal Register**).

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82–9127 Filed 4–5–82; 8:45 am]

BILLING CODE 7035–01–M

Motor Carriers; Finance Applications; Decision-Notice

The following applications, filed on or after July 3, 1980, seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control of motor carriers pursuant to 49 U.S.C. 11343 or 11344. Also, applications directly related to these motor finance applications (such as conversions, gateway eliminations, and securities issuances) may be involved.

The applications are governed by Special Rule 240 of the Commission's Rules of Practice (49 CFR § 1100.240). See Ex Parte 55 (Sub-No. 44), Rules Governing Applications Filed By Motor Carriers Under 49 U.S.C. 11344 and 11349, 363 I.C.C. 740 (1981). These rules provide among other things, that opposition to the granting of an application must be filed with the Commission in the form of verified statements within 45 days after the date of notice of filing of the application is published in the **Federal Register**. Failure seasonably to oppose will be construed as a waiver of opposition and participation in the proceeding. If the protest includes a request for oral hearing, the request shall meet the requirements of Rule 242 of the special rules and shall include the certification required.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.241. A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00, in accordance with 49 CFR 1100.241(d).

Amendments to the request for authority will not be accepted after the date of this publication. However, the Commission may modify the operating authority involved in the application to conform to the Commission's policy of simplifying grants of operating authority.

We find, with the exception of those applications involving impediments (e.g., jurisdictional problems, unresolved fitness questions, questions involving possible unlawful control, or improper divisions of operating rights) that each applicant has demonstrated, in accordance with the applicable provisions of 49 U.S.C. 11301, 11302, 11343, 11344, and 11349, and with the Commission's rules and regulations, that the proposed transaction should be authorized as stated below. Except where specifically noted this decision is neither a major Federal action significantly affecting the quality of the human environment nor does it appear to qualify as a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests as to the finance application or to any application directly related thereto filed within 45 days of publication (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (unless the application involves impediments) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, the duplication shall not be construed as conferring more than a single opeating right.

Applicant(s) must comply with all conditions set forth in the grant or grants or authority within the time period specified in the notice of effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

Dated: March 31, 1982.

By the Commission, Review Board Number 3, Members Krock, Joyce, and Dowell.

MC–F–14813, filed February 23, 1982. Buyer: VIKING LINE, INC., 4231 Hearnes Blvd., Joplin, MO 64801. Purchase (Portion). Seller: TRAILWAYS, INC., 1500 Jackson St., Dallas, TX 75201; Maxwell A. Howell, 1100 Investment Blvd., 1511 K St., NW., Washington, DC 20005; George W. Hanthorn, Trailways, Inc., 1500 Jackson St., Dallas, TX 75201. Viking seeks authority to purchase a portion of the operating rights of Trailways in No. MC–109780 which authorizes passengers and their baggage, express and newspapers over regular routes between Joplin, MO and the intersection of U.S. Hwy. 77 and Kansas Hwy. 96. The actual routes are described in the appendix. By the same application, Ale Ebb, who controls Viking seeks authority to control the operating rights through the transaction. Viking holds authority under 54589.

Note.—(1) No TA has been filed; (2) A directly related application has been filed by Viking in No. MC–54589 (Sub-No. 9), which is published in another section of the **Federal Register**.

Appendix

1. Interstate Authority (Form MC–109780)

(a) Between the junction of U.S. Hwy 77 and Kansas Highway 96 approximately 7 miles east of Augusta, KS, and Joplin, MO, serving all intermediate points except those on Kansas Highway 47 between Fredonia and Altoona, KS, including Fredonia but not including Altoona: From the junction

of U.S. Hwy 77 and Kansas Highway 96 over Kansas Highway 96 to junction unnumbered highway, thence over unnumbered highway to Leon, KS, thence return over unnumbered highway to junction Kansas Highway 96, thence over Kansas Highway 96 to junction Kansas Highway 99, thence over Kansas Highway 99 to Severy, KS, thence return over Kansas Highway 99 to junction Kansas Highway 96, thence over Kansas Highway 96 via Fredonia, KS, to junction U.S. Highway 75 approximately 2 miles west of Neodesha, KS, thence over U.S. Highway 75 via Neodesha to junction Kansas Highway 37, thence over Kansas Highway 37 to junction U.S. Highway 169, thence over U.S. Highway 169 to junction U.S. Highway 160, thence over U.S. Highway 160 to Parsons, KS, thence over U.S. Highway 59 to Oswego, KS, thence over Kansas Highway 96 to Crestline, KS, thence over Kansas Highway 26 to junction U.S. Highway 66, and thence over U.S. Highway 66 to Joplin (also from Fredonia over Kansas Highway 47 to Altoona, KS, thence over U.S. Highway 75 to junction Kansas Highway 37; and also from Crestline over Kansas Highway 96 to the Kansas-Missouri State Line, thence over Missouri Highway 96 to junction unnumbered highway approximately 1 mile west of Carl Junction, MO, thence over unnumbered highway to junction Missouri Highway 171, thence over Missouri Highway 171 to junction Missouri Highway 43, thence over Missouri Highway 43 to Joplin), and return over the same routes.

(b) Between Neodesha, KS, and Independence, KS, over U.S. Highway 75 serving all intermediate points.

(c) Between Crestline, KS, and junction U.S. Highway 169 and Missouri (sic) Highway 96, serving all intermediate points except Altamont and Oswego, KS: From Crestline over Kansas Highway 96 via Oswego and Altamont, KS, to junction U.S. Highway 169, and return over the same route.

(d) Between Independence, KS, and Parsons, KS, serving all intermediate points: From Independence over U.S. Highway 160 via Cherryvale, KS, to Parsons, and return over the same route.

Decision-Notice

The following operating rights applications, filed on or after July 3, 1980, are filed in connection with pending finance applications under 49 U.S.C. 10926, 11343 or 11344. The applications are governed by Special Rule 252 of the Commission's General Rules of Practice (49 CFR 1100.252).

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.252. Persons submitting protests to applications filed in connection with pending finance applications are requested to indicate across the front page of all documents and letters submitted that the involved proceeding is directly related to a finance application and the finance docket number should be provided. A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the request for authority are not allowed. However, the Commission may have modified the application to conform to the Commission's policy of simplifying grants of operating authority.

Findings: With the exceptions of those applications involving duly noted problems (e.g., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each applicant has demonstrated that its proposed service warrants a grant of the application under the governing section of the Interstate Commerce Act. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where specifically noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests in the form of verified statement as to the fincance application *or* to the following operating rights applications directly related thereto filed within 45 days of this decision-notice (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except where the application involves duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

Applicant(s) must comply with all conditions set forth in the grant or grants of authority within the time period specified in the notice by effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Dated: March 31, 1982.

By the Commission, Review Board Number 3, Members Krock, Joyce, and Dowell.

MC 54589 (Sub-9), filed February 23, 1982. Applicant: VIKING LINE, INC., 4231 Hearnes Blvd., Joplin, MO 64801. Representative: Maxwell A. Howell, 1100 Investment Bldg., 1511 K Street NW., Washington, D.C. 20005. Transporting *passengers and their baggage, baggage, express and newspapers,* in the same vehicle with passengers. (1) Between the junction of US Hwy 77 and KS Hwy 96 and Wichita, KS, over US Hwy 96 serving all intermediate points, (2) Between Parsons, KS and Joplin, MO, serving all intermediate points, From Parsons over US Hwy 160 to US Hwy 69, then over US Hwy 69 to Pittsburg, KS, then return over US Hwy 69 to KS Hwy 57, then over KS Hwy 57 to MO Hwy 171, then over MO Hwy 171 to MO Hwy 43, then over MO Hwy 43 to Joplin and return over the same route. (3) Between Oswego, KS and junction US Hwy 169 and KS Hwy 96, over KS Hwy 96 serving all intermediate points. (4) Between Fredonia, KS and Altoona, KS, over KS Hwy 47 serving all intermediate points. The purpose of this application is to fill the gaps on certain routes being purchased by applicant from Trailways, Inc. in a directly related proceeding in No. MC-F-14813, so as to provide service between Joplin, MO and Wichita, KS and all intermediate points. The foregoing route description should be read in conjunction with the operating rights being purchased from Trailways in the directly related proceeding, which is published elsewhere in the Federal Register.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-9128 Filed 4-5-82; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Finance Applications; Decision-Notice

The following applications, filed on or after July 3, 1980, seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control of motor carriers pursuant to 49 U.S.C. 11343 or 11344. Also, applications directly related to these motor finance applications (such as conversions, gateway eliminations, and security issuances) may be involved.

The applications are governed by Special Rule 240 of the Commission's Rules of Practice (49 CFR § 1100.240).

See Ex Parte 55 (Sub-No. 44), Rules Governing Applications Filed By Motor Carriers Under 49 U.S.C. 11344 and 11349, 363 I.C.C. 740 (1981). These rules provide among other things, that opposition to the granting of an application must be filed with the Commission in the form of verified statements within 45 days after the date of notice of filing of the application is published in the Federal Register. Failure seasonably to oppose will be construed as a waiver of opposition and participation in the proceeding. If the protest includes a request for oral hearing, the request shall meet the requirements of Rule 242 of the special rules and shall include the certification required.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.241. A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00, in accordance with 49 CFR 1100.241(d).

Amendments to the request for authority will not be accepted after the date of this publication. However, the Commission may modify the operating authority involved in the application to conform to the Commission's policy of simplifying grants of operating authority.

We find, with the exception of those applications involving impediments (e.g., jurisdictional problems, unresolved fitness questions, questions involving possible unlawful control, or improper divisions of operating rights) that each applicant has demonstrated, in accordance with the applicable provisions of 49 U.S.C. 11301, 11302, 11343, 11344, and 11349, and with the Commission's rules and regulations, that the proposed transaction should be authorized as stated below. Except where specifically noted this decision is neither a major Federal action significantly affecting the quality of the human environment nor does it appear to qualify as a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests as to the finance application or to any application directly related thereto filed within 45 days of publication (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (unless the application involves impediments) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, the duplication shall not be construed as conferring more than a single operating right.

Applicant(s) must comply with all conditions set forth in the grant or grants of authority within the time period specified in the notice of effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

Dated: March 25, 1982.

By the Commission, Review Board Number 3, Members Krock, Joyce, and Dowell.

MC–F–14817, filed March 4, 1982. ACME TRUCKING INC. (Acme) (109A E. Main St., Newark, OH 43055—PURCHASE—CUSTOM MOTOR FREIGHT CO. (Custom) (18509 Forest Wood Ave., Cleveland, OH 44135). Representative: J. A. Kundtz, National City Bank Bldg., Cleveland, OH. Acme seeks to purchase the interstate operating rights of Customs and to tack the authority with its existing rights. Garrett Bond, the sole stockholder of Acme, seeks authority to acquire control of said rights through the transaction. Acme is purchasing those rights contained in Custom's certificate in MC–144437 (Sub-No. 4F), which authorizes the transportation of iron and steel articles between points in OH, on the one hand, and, on the other, points in KY on and east of U.S. Hwy 31, and those in IN on and south of U.S. Hwy 31, and those in IN on and south of U.S. Hwy 24. Acme, a common carrier, holds operating rights under certificate No. MC–141094 and Subs thereunder.

Notes.—(1) Applicant proposes to tack the authority being acquired with its existing rights at points in Franklin and Licking Counties, OH. However, an extension application has not been filed and the finance application does not contain sufficient information to justify tacking at this time. Accordingly, our approval herein will not authorize tacking, and any certificate issued hereunder will not authorize tacking. (2) Application for temporary authority has been filed.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-9129 Filed 4-5-82; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Finance Applications; Decision-Notice

As indicated by the findings below, the Commission has approved the following applications filed under 49 U.S.C. 10924, 10926, 10931 and 10932.

We Find

Each transaction is exempt from section 11343 (formerly section 5) of the Interstate Commerce Act, and complies with the appropriate transfer rules.

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.

Petitions seeking reconsideration must be filed within 20 days from the date of this publication. Replies must be filed within 20 days after the final date for filing petitions for reconsiderations; any interested person may file and serve a reply upon the parties to the proceeding. Petitions which do not comply with the relevant transfer rules at 49 CFR 1132.4 may be rejected.

If petitions for reconsideration are not timely filed, and applicants satisfy the conditions, if any, which have been imposed, the application is granted and they will receive an effective notice. The notice will indicate that consummation of the transfer will be presumed to occur on the 20th day following service of the notice, unless either applicant has advised the Commission that the transfer will not be consummated or that an extension of time for consummation is needed. The notice will also recite the compliance requirements which must be met before the transferee may commence operations.

Applicants must comply with any conditions set forth in the following decision-notices within 30 days after publication, or within any approved extension period. Otherwise, the decision-notice shall have no further effect.

It Is Ordered

The following applications are approved, subject to the conditions stated in the publication, and further subject to the administrative requirements stated in the effective notice to be issued hereafter.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC–FC–79710. By decision of March 29, 1982, issued under 49 U.S.C. 10926 and the transfer rules at 49 C.F.R. 1132, Review Board Number 3 approved the transfer to MARCH TRANSPORTATION, INC., of Milwaukee, WI, of Certificate No. MC–118989 (Sub-No. 239X) issued to CONTAINER TRANSIT, INC., of Milwaukee, WI authorizing: Various named commodities, including, but not limited to *food, machinery, rubber and plastic products, chemicals, pulp, and paper, waste or scrap materials, clay, concrete, stone, glass, metal, lumber,* etc. between named points throughout the United States. Representative:

Anthony C. Vance, 1307 Dolley Madison Blvd., McLean, VA 22101. TA lease is sought. Transferee is not a carrier.

MC–FC–79651. By decision of March 25, 1982, issued under 49 U.S.C. 10926 and the transfer rules at 49 C.F.R. 1132, Review Board Number 3 approved the transfer to FELDSPUR TRUCKING CO., INC. of Spruce Pine, NC, of Certificate No. MC–145527 issued to RAY AND WILSON TRUCKING COMPANY, INC., of Micaville, NC authorizing operations as a common carrier, over irregular routes, transporting *olivine*, from points in Jackson, Mitchell, and Yancey Counties, NC, to those points in the U.S. in and east of ND, SD, NE, KS, OK, and TX (except NC). Representative: Joseph L. Steinfeld, Jr., 1029 Vermont Ave., N.W., Suite 1000, Washington, D.C. 20005. TA lease is sought. Transferee is a carrier.

MC–FC–79597. By decision of March 25, 1982, issued under 49 U.S.C. 10926 and the transfer rules at 49 C.F.R. 1132, Review Board Number 3 approved the transfer to ALAMO TRAVEL, INC., of Certificate No. MC–85526, issued January 9, 1981 to ARROW COACH LINES, d/b/a ARROW TRAILWAYS OF TEXAS authorizing the transportation of (1) *passengers and their baggage, and express* in the same vehicle with passengers, (a) between San Antonio, TX and Goldthwaite, TX: from San Antonio over Interstate Hwy 10 to Comfort, TX, then over U.S. Hwy 87 to Fredericksburg, TX, then over Texas Hwy 16 to Goldthwaite, and return over the same route; (b) between Corpus Christi, TX and Kingsville, TX: from Corpus Christi over Texas Hwy 44 to Robstown, TX, then over U.S. Hwy 77 to Kingsville, and return over the same route; (2) over irregular routes transporting *passengers and their baggage*, in the same vehicle with passengers, in round trip special or charter operations, beginning and ending at Corpus Christi and San Antonio, TX, and extending to points in the United States (except Hawaii), subject to the following conditions if any. Representative: Thomas F. Sedberry, Esq., P.O. Box 2023, Austin, TX 78768.

MC–FC–79661. By decision of March 24, 1982, issued under 49 U.S.C. 10926 and the transfer rules at 49 C.F.R. 1132, Review Board Number 3 approved the transfer to SAV-TIME DELIVERY, INC., of Certificate No. MC–99762 (Sub-Nos. 1, 2, 37F and 38) issued March 22, 1961, December 3, 1967, April 28, 1981 and April 22, 1981 to LAW TRUCKING COMPANY authorizing the transportation of (a) *general commodities* (with exceptions), between Boston, MA and Providence, RI, over a described route and between Boston on the one hand, and, on the other, points in CT, and (b) *textile, textile products and equipment, supplies and materials* used in the manufacture of textiles and manufacture of textile mills in MA, RI, CT, NY and NJ. Representative: Donald J. Packer, Esq., 201 Waterman Avenue, East Providence, RI 02914.

MC–FC–79668. By decision of March 24, 1982, issued under 49 U.S.C. 10926 and the transfer rules at 49 C.F.R. 1132, Review Board Number 3 approved the transfer to HARNIC TRUCKING, INC., of Hammond, IN of Certificate No. MC–156614, issued to JUAREZ TRUCKING CO., of Posen, IL, authorizing the transportation of *metal products*, between points in Lake, Cook, Quill and DuPage Counties, IL, Lake, Porter, and LaPorte Counties, IN, on the one hand, and, on the other, points in AL, AR, FL, GA, IA, IL, IN, KS, KY, LA, MS, MO, OK, TN, TX, and VA. Representative: Alki E. Scopelitis, 1301 Merchant Plaza, East Tower, Indianapolis, IN 46204. TA lease is not sought. Transferee is a carrier.

MC–FC–79680. By decision of March 24, 1982, issued under 49 U.S.C. 10926 and the transfer rules at 49 C.F.R. 1132, Review Board Number 3 approved the transfer to REVA BRACHT, d/b/a BRACHT TRANSPORTATION COMPANY, of Milbank, SD, of a portion of Certificate No. MC–10095 issued to RAYMOND O. BRACHT, d/b/a BRACHT TRANSPORTATION COMPANY, of Milbank, SD (First Northwestern Trust Company of South Dakota, Administrator), authorizing *general commodities* (usual exceptions) from St. Paul, MN to Milbank, SD, serving named intermediate and off-route points. Representative: Richard L. Gill, 1805 American National Bank Bldg., St. Paul, MN 55101.

MC–FC–79683. By decision of March 25, 1982, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 3 approved the transfer to RALPH B. OPPERMAN of Permit No. MC–147466 (Sub-No. 1) issued September 16, 1981 to CUSTOMER TRUCK SERVICE authorizing the transportation of (1) *wire retaining walls*, and (2) *wine*, in bales or rolls, between points in the United States, under continuing contract(s) with Milfiker Pine Co., of Eureka, CA. Representative: Fred R. Covington, Registered ICC Practioner, Covington & Associates, 3483 Golden Gate Way, Suite 217.

MC–FC–79684. By decision of March 24, 1982, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 3 approved the transfer to JACK LINK TRUCK LINE, INC. of Dyersville, IA 52040 of Certificate No. MC–72818 issued to HONSON TRUCKING, INC. of Mediapolis, IA, authorizing (1) *general commodities*, with usual exceptions, over described regular route, (a) between Mediapolis, IA, and Chicago, IL, serving intermediate and off-route points of Forest Park and Sheffield, IL, and points within 12 miles of Mediapolis, IA; (b) between Mediapolis, IA, and Galesburg, IL, serving intermediate points of Monmouth, IL, and points within 12 miles of Mediapolis, IA; (c) between Mediapolis, IA, and Peoria, IL, serving intermediate and off-route points within 12 miles of Mediapolis, IA; (2) *coal*, (a) from points in Tazewell, Peoria, and Knox Counties, IL, to Mediapolis, IA, and points within 12 miles thereof; (3) *household goods* as defined by the Commission, between Mediapolis, IA, and points within 12 miles thereof, on the one hand, and, on the other, points in IL; (4) *inedible cheese trimmings*, from points in MO and WI, to those points in IL, IA, and MO located on the Mississippi River. Representative: Jack H. Blanshan, 205 W. Touhy Ave., Suite 200–A, Park Ridge, IL 60068. TA lease is not sought. Transferee is a carrier.

MC–FC–79691. By decision of March 25, 1982, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 3 approved the transfer to CADDO MOVERS, INC, of Certificate No. MC–145578 (Sub-No. 1F), issued to CHEVALLEY MOVING & STORAGE OF LAWTON, INC., authorizing the transportation of *used household goods*, between points in Comanche, Kiowa, Caddo, McLain, Carter, Grady, Murray, and Stephens Counties, OK, restricted to the transportation of traffic having a prior or subsequent movement, in containers, beyond the points authorized and further restricted to the performance of pickup and delivery service in connection with packing, crating, and containerization or unpacking, uncrating and decontainerization of such traffic. Representative: Charles J. Kimball, 1600 Sherman Street, Suite 665, Denver, CO 80203.

Note(s).—(1) Transferee presently holds no authority from the Commission.

(2) TA has been filed.

MC–FC–79699. By decision of March 24, 1982, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 3 approved the transfer to CARL SCHULTZ AND MARGARET SCHULTZ, A PARTNERSHIP, DBA SCHULTZ

TRUCKING, of Brighton, MO, of Certificate No. MC–151033 (Sub-No. 1), issued to MITCHELL TRUCKING CO., of Ozark, MO, which authorizes the transportation of *sand and lime*, in bulk, (1) from points in Christian County, MO, to points in AR and OK, and (2) from points in Muskogee County, OK, to points in MO. Representative: Bruce McCurry, 910 Plaza Towers, Springfield, MO 65804.

Notes.—TA has not been filed. Transferee is not a carrier.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82–9125 Filed 4–5–82; 8:45 am]

BILLING CODE 7035–01–M

Motor Carriers; Permanent Authority Decisions; Restriction Removals; Decision-Notice

The following restriction removal applications, filed after December 28, 1980, are governed by 49 CFR 1137. Part 1137 was published in the Federal Register of December 31, 1980, at 45 FR 86747.

Persons wishing to file a comment to an application must follow the rules under 49 CFR 1137.12. A copy of any application can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the restriction removal applications are not allowed.

Some of the applications may have been modified prior to publication to conform to the special provisions applicable to restriction removal.

Canadian carrier applicants: In the event an application to transport property, filed by a Canadian domiciled motor carrier, is unopposed, it will be reopened on the Commission's own motion for receipt of additional evidence and further consideration in light of the record developed in Ex Parte No. MC–157, Investigation Into Canadian Law and Policy Regarding Applications of American Motor Carriers For Canadian Operating Authority.

Findings

We find, preliminarily, that each applicant has demonstrated that its requested removal of restrictions or broadening of unduly narrow authority is consistent with the criteria set forth in 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.

Volume No. 242

Decided: March 30, 1982.

MC 1239 (Sub–13)X, filed February 24, 1982. Applicant: PONY TRUCKING, INC., 501 Stat Route 7, Steubenville, OH 43952. Representative: Maxwell A. Howell, 1100 Investment Building, 1511 K Street, N.W., Washington, DC 20005. Lead and Subs 3, 4, 5, 7, 9 and 10F: (1) broaden commodity description (a) iron and steel products, iron and steel articles, titanium and titanium products to "metal products" in the lead and Subs 3, 4, 7, 9 and 10F; and (b) crushed automobiles and automobile parts to "waste or scrap materials and transportation equipment" in Sub 5; and (2) broaden territorial description to (a) between points in the U.S. in the lead, and (b) between points in the U.S. under continuing contract(s) with a named shipper in Subs 3, 4, 5, 7, 9 and 10F, and remove except in bulk restriction in Sub 7.

MC 65112 (Sub–2)X, filed March 19, 1982. Applicant: FOGARTY VAN LINES, INC., 1103 Cumberland Avenue, Tampa, FL 33602. Representative: David Earl Tinker, 1000 Connecticut Avenue, NW., Suite 1112, Washington, DC 20036–5391. Lead and subs 1, 7, 9, 10, and 11G from household goods to "household goods, furniture, and fixtures."

MC 68898 (Sub-10)X, filed March 5, 1982. Applicant: JOHN W. GEISELMAN II, d.b.a. HANOVER TRANSFER COMPANY, 409 East Hanover Street, Hanover, PA 17331. Representative: Barry Roberts, Suite 700, 600 Maryland Ave., S.W., Washington, D.C. 20024. Lead, irregular routes: (1) broaden household goods, as defined by the Commission, to "household goods, and furniture and fixtures"; and (2) expand Hanover, PA and points within 20 miles thereof to points in York and Adams Counties, PA and Carroll and Baltimore Counties, MD.

MC 84719 (Sub-12)X, filed March 16, 1982. Applicant: BEKINS MOVING & STORAGE CO., Aurora Ave., at North 95th, P.O. Box 30728, Seattle, WA 98103. Representative: Daniel W. Baker, Esq., 100 Pine St., #2550, San Francisco, CA 94111. Subs 6 and 8: broaden the commodity description from household goods to "household goods, furniture and fixtures, and materials, equipment and supplies used in the manufacture, sale and distribution of furniture and fixtures, in its authority (1) between points in WA, OR and ID, and (2) between points in AK within 25 miles of Anchorage, AK including Anchorage.

MC 109551 (Sub-9)X, filed March 9, 1982. Applicant: BREMCO MILLS, INC., New Bremen, OH. Representative: Donald Smith, P.O. Box 40248, Indianapolis, IN 46240. Sub-7 certificate (1) broaden to "clay, concrete, glass or stone products" from glass containers and accessories therefor, plastic bottles, jars and vials, and closures for glass containers; to "metal products" from aluminum billets, pigs and scrap; (2) change: Gas City to Grant County, IN; Louisville and Frankfort to Jefferson and Franklin Counties, KY; facilities at Marion, Evansville, Anderson, Alexandria, Indianapolis, Jeffersonville, Madison, Muncie, Terre Haute, Swayzee, East Chicago, Fort Wayne, and South Bend, IN to Grant, Vanderburgh, Madison, Marion, Clark, Jefferson, Delaware, Vigo, Grant, Lake, Allen, and St. Joseph Counties, IN; Bonneville to Warrick County, IN; and Coldwater to Branch County, MI; (3) remove the originating at facilities in Bonneville, IN restriction; and (4) one-way to radial authority.

MC 112241 (Sub-6)X, filed March 9, 1982. Applicant: HUSSEY'S MOVING & STORAGE, INC., 1720 Broadway, Vallejo, CA 94590. Representative: Daniel W. Baker, 100 Pine St., #2550, San Francisco, CA 94111. Lead and Sub-No. 4: broaden (1) household goods, as defined by the Commission, lead and used household goods, Sub 4 to "household goods, furniture and fixtures, and materials, equipment and supplies used in the manufacture, sale or distribution of furniture and fixtures"; (2) from points in CA within 50 miles of Vallejo, CA to points in San Francisco, San Mateo, Santa Clara, Alameda, Contra Costa, Sacramento, San Joaquin, Yolo, Solano, Napa, Lake, Sonoma and Marin Counties, CA, lead; (3) remove restriction against service at points in San Francisco and San Mateo Counties and to Alameda County, limited to shipments from points in Napa and Solano Counties, CA, lead; (4) remove restriction to transportation of traffic having a prior or subsequent movement beyond points authorized, and restricted to performance of pickup and delivery service in connection with packing, crating and containerization, or unpacking, uncrating and decontainerization, Sub. 4.

MC 116400 (Sub-9)X, filed August 26, 1981, previously noticed in the Federal Register of September 15, 1981, republished as follows: Applicant: LAWRENCE TRANSFER & STORAGE CORPORATION, 2727 Hollins Road, NE,

P.O. Box 13025, Roanoke, VA 24030. Representative: B. W. LaTourette, Jr., 11 S. Meramec, Suite 1400, St. Louis, MO 63105. Applicant seeks to remove restrictions in its Sub-No. 7F certificate to broaden the commodity description from household goods to "household goods and furniture and fixtures" between points in 25 states. This application previously was denied. However Div. 2's decision in No. MC 8575 (Sub.-No. 8)X, *Ferguson Van Lines, Inc.—Administrative Appeal* (not printed) served 1–12–82 requires this Board to republish the application.

MC 119285 (Sub-5)X, filed March 16, 1982. Applicant: YELLOW CAB INC., 130 E. Market St., Lima, OH 45801. Representative: Andrew Jay Burkholder, 275 E. State St., Columbus, OH 43215. Sub-3 and 4 permits; (1) broaden to: (a) "such commodities as are manufactured, dealt in, or used by manufactures of metal products" from rolling mill rolls in Sub 3, and (b) "such commodities as are manufactured, dealt in, or used by manufacturers of electrical products" from electric motors generators, and parts for electric motors and generators in Sub 4; (2) expand to between points in the U.S. (except AK and HI), under a continuing contract(s) with named shipper in Sub 3 (part 1), and Sub 4.

MC 119917 (Sub-73)X, filed February 23, 1982. Applicant: DUDLEY TRUCKING COMPANY, INC., 524 Memorial Drive, SE., Atlanta, GA 30316. Representative: Archie B. Culbreth, Suite 202, 2200 Century Parkway, Atlanta GA 30345. Subs 7, 8, 17, 20, 21, 30, 33, 52F, 54F, 57F, 63F, and 68X certificates, (1) broaden to (a) "food and related products," from shelled salted peanuts, in mixed loads (Sub 7), bakery products, except frozen (Sub 8), potato chips and sticks, corn chips, twists and puffs, popped corn, and bakery products (Subs 17, 21, and 30), cheese spread, in mixed loads (Sub 20), and foodstuffs, except bakery products, in mixed loads (Sub 33); (b) "pulp, paper and related products, and paper waste or scrap," from kraft paper, waste paper, and materials, equipment and supplies (Sub 52); (c) "barbecue equipment, and such commodities as are dealt in by manufacturers or distributors of charcoal and related products," from charcoal, hickory chips, light fluid, fireplace logs, and barbecue equipment (Sub 54); and (d) "pulp, paper and related products, and calcium compounds," from wrapping paper in rolls, and calcium carbonate, in bags (Sub 57); (2) remove "originating at and destined to" restrictions in Subs 30 and 33; (3) change one-way service to radial; (4) replace plantsites and points with countywide authority: Sub 8, Chattanooga, TN (plantsite at Chattanooga); Subs 20, 30, and 33, Atlanta, GA (plantsite in Atlanta); Sub 30, Mecklenburg County, NC (plantsite in Charlotte); Sub 52, Henrico County, VA (facilities at Sandston); Sub 54, Taney County, MO (facilities at Branson), Clarke County, MS (Pachuta), and Marion County, FL (Ocala); Sub 57, Chatham County, GA (Savannah), and Talladega County, AL (Sylacauga); and Sub 63, Rockdale and Bleckley Counties, GA (facilities near Conyers and Cochran), and Montgomery County, IN (Crawfordsville); and (5) remove "originating at or destined to" restrictions in Sub 68X and change the territorial descriptions to: between named facilities located at points in the United States, on the one hand, and, on the other, points in the United States.

MC 128532 (Sub-6)X, filed March 8, 1982. Applicant: LAMBE'S TRUCKING LTD., P.O. Box 908, Clarasholm, AB, Canada T0L 0T0. Representative: John T. Wirth, 2600 Petro-Lewis Tower, 717 17th Street, Denver, CO 80202. Sub No. 1(a) broaden Part (1) materials and supplies used in the manufacture of mobile homes to "transportation equipment;" (b) Parts (2) and (3) finished trusjoists, lumber, steel tubing, and steel pipe to "building materials, lumber and wood products, and metal products;" (c) broaden Part (1) Grand Island, NE to Hall County, NE; the port of entry on the U.S.-Canada boundary line located at or near Sweetgrass, MT to ports of entry on the U.S.-Canada boundary line located at points in MT; (d) broaden Parts (2) and (3) ports on entry on the U.S.-Canada boundary line at or near Eastport, ID, Sweetgrass, MT, and Sumas, WA to ports of entry in ID, MT, and WA; (e) change one-way authority Parts (1), (2) and (3) to radial authority; and (f) remove Parts (2) and (3) the restriction limiting operations to the transportation of traffic in foreign commerce destined to Claresholm in the Province of Alberta, Canada.

MC 134254 (Sub-5)X, filed February 26, 1982. Applicant: NANC CORPORATION, 2610 North Dort Highway, Flint, MI 48506. Representative: Robert D. Schuler, 100 West Long Lake Road, Suite 102, Bloomfield Hills, MI 48013. Subs 2, 3, and 4, broaden: guardrail, guardrail posts and accessories, and support structures, and materials, supplies and equipment used in the manufacture of guardrail, guardrail posts and accessories, and support structures (except in bulk), to "metal products and clay, concrete, glass or stone products;" and to between points in the U.S. under continuing contract(s) with named shipper.

MC 138026 (Sub-6)X, filed March 11, 1982. Applicant: LOGISTICS EXPRESS, INC., d.b.a. LOGEX, 1890 S. Chris Lane, Anaheim, CA 92805. Representative: Patricia M. Schnegg, 707 Wilshire Blvd., Ste. 1800, Los Angeles, CA 90017. Sub 59 certificate: broaden to "commodities in bulk" from liquified natural gas, in bulk, part (3).

MC 142765 (Sub-14)X, filed March 16, 1982. Applicant: AMERICAN TRANSPORTATION, INC., 797 Amity Road, Bethany, CT 06525. Representative: Mel P. Booker, Jr., P.O. Box 1281, Old Town Station, Alexandria, VA 22313. Sub-Nos. 2 and 8F permits: broaden the territorial description to between points in the United States (except AK and HI), under continuing contract(s) with named shippers.

MC 143433 (Sub-1)X, filed February 11, 1982. Applicant: B. L. GILBERT, d.b.a. GILBERT TRUCKING COMPANY, 310 South First Ave., Stroud, OK 74079. Representative: Greg E. Summy, P.O. Box 2650, Edmond, OK 73083. Sub-No. 17 (embracing No. MC–133095 Sub-Nos. 111 and 200F acquired in No. MC–FC–79217) certificate: (A) Broaden to (1) "metal products" from unfinished metal and brass nose cone projectile pieces, and "pulp, paper and related products" from tracing paper, Sub 111; (2) county-wide authority: (a) Naugatuck and Waterbury (New Haven County, CT), and Ennis (Ellis County, TX), Sub 111; and (b) facilities-Paducah (McCracken County, KY), Sub 200F; (B) remove the (a) "commodities in bulk, in tank vehicles" restriction, Sub 200F; and (b) "originating at or destined to" restriction, Subs 111 and 200F; and (C) broaden to radial authority, Sub 111.

MC 145306 (Sub-3)X, filed February 26, 1982. Applicant: WEST TRUCKING LINE, INC., West Chester, IA 52359. Representative: Larry D. Knox, 600 Hubbell Building, Des Moines, IA 50309. Sub 2F: (1) Eliminate the facilities limitation; (2) broaden livestock confinement systems and materials, equipment and supplies to "machinery"; (3) change one-way to radial authority; and (4) replace Kalona, IA with Washington County, IA.

MC 147318 (Sub-11)X, filed March 12, 1982. Applicant: DEEP SOUTH TRUCKING, INC., P.O. Box 304, Purvis, MS 39475. Representative: Donald B. Morrison, P.O. Box 22828, Jackson, MS 39205. MC–145213 Subs 5 and 6 permits, (1) broaden to "lumber and wood products" from lumber in Sub 5, and to "metal products" from iron and steel

articles in Sub 6; (2) expand to between points in the U.S. under a continuing contract(s) with named shipper in both Subs.

MC 148326 (Sub-6)X, filed March 8, 1982. Applicant: THIES TRANSPORTATION, INC., P.O. Box 49, Great Bend, KS 67530. Representative: William B. Barker, 641 Harrison Street, P.O. Box 1979, Topeka, KS, 66601. Subs 2F and 3F: (1) broaden meats, meat products and meat byproducts and articles distributed by meat packinghouses (except commodities in bulk), and materials and supplies to "food and related products (except commodities in bulk), and materials and supplies", Sub 2F; and (2) broaden the territory authority to between points in the U.S. (except AK and HI), Subs 2F and 3F, under contracts with named shippers.

Volume No. 243

Decided: March 25, 1982.

MC 64501 (Sub-8)X, filed February 11, 1982, previously noticed in the **Federal Register** of March 5, 1982, republished as follows: Applicant: UNITED TRANSPORTATION COMPANY OF RHODE ISLAND, INC., 34 Mohawk Drive, Leominster, MA 01453. Representative: Mary E. Kelley, 22 Stearns Avenue, Medford, MA 02155. Sub 7 certificate (in part): The Board previously broadened the territorial description from "(West Claremont, Claremont, Sunapee, Andover, Manchester, Derry, and Salem)" to "Sullivan, Merrimack, Hillsborough and Rockingham Counties, NH." This was an error on our part. Applicant had sought broadening from "(those points in NH south and west of a line beginning at the Connecticut River near West Claremont, NH and extending in an easterly direction through Claremont, Sunapee, and Andover, NH, to Concord, NH, and then south through Manchester, Derry, and Salem, NH to the NH–MA State line, including the points specified)" to "Sullivan, Merrimack, Hillsborough, Cheshire and Rockingham Counties, NH." The purpose of this republication is to correct the omission of Cheshire County reflected above.

MC 93147 (Sub-35)X, filed February 22, 1982. Applicant: DELTA TRANSPORT CORPORATION, 595 Cottage Street, Springfield, MA 01104. Representative: James M. Burns, Suite 413, 1383 Main Street, Springfield, MA 01103. Lead and Sub-Nos. 2, 3F, 4, 11F, 14F and 15F broaden (1) to "general commodities (except Class A and B explosives)" from general commodities with the usual exceptions lead and Sub 2; to "food and related products" from bakery goods, Sub 3 and foodstuffs, Sub 11; to "pulp, paper and related products" from paper and paper products, Sub 15; and to "building materials" from wall coverings, and adhesives, Sub 14 (part 1); (2) remove facilities limitation, Subs 3F and 11, (3) remove "originating at/ destined to "restriction, Sub 14F and 15 and except in tank vehicle restriction, Sub 3, (4) Freehold, NJ to Monmouth County, Sub 3 and Rochester, NY to Monroe County, Sub 11, and (5) to radial authority, Subs 3 and 11.

MC 117465 (Sub-24)X, filed March 16, 1982. Applicant: BEAVER EXPRESS SERVICE INC., d.b.a. BEAVER EXPRESS, 1215 Kansas, Box 151, Woodward, OK 73801. Representative: Max G. Morgan, P.O. Box 2650, Edmond, OK 73083. Sub 20, broaden regular route operations to allow service at all intermediate points, and more restriction on service at Shamrock and Wheeler, TX, to traffic received from or delivered to connecting carriers.

MC 138471 (Sub-11)X, filed February 12, 1982. Applicant: LEONARD TRUCKING, INC., 707 Colorado St., Kelso, WA 98626. Representative: David C. White, 2400 SW. Fourth Avenue, Portland, OR 97201. Subs 1, 7 and 8F certificates: (1) Broaden to "lumber and wood products," from wooden shakes and shingles in Sub 1; "food and related products," from wine and malt beverages in Subs 1 and 7; and, "pulp, paper and related products," from paper and paper products in Sub 8; (2) delete "except in bulk" restriction in Sub 7, and "originating at and destined to" restrictions in Sub 1; (3) broaden to countywide as follows: Cowlitz County, WA (Longview) in Sub 8; and (4) replace one-way with radial authority.

MC 145351 (Sub-2)X, filed March 1, 1982. Applicant: SORRELS TRUCKING CO., INC., 160 N. Perkins St., Memphis, TN 38117. Representative: Henry E. Seaton, 1024 Pennsylvania Bldg., 425 13th Street NW., Washington, DC 20004. Lead certificate: (1) Remove all exceptions from the general commodities authority, except classes A & B explosives, commodities in bulk and household goods, and (2) authorize service at all intermediate points along described regular routes.

MC 148055 (Sub-2)X, filed February 24, 1982. Applicant: L & B CARTAGE, INC., P.O. Box 388, Freeland, MI 48623. Representative: Robert E. McFarland, 2855 Coolidge Rd., Ste. 201A, Troy, MI 48084. Lead certificate: (A) Remove (1) all exceptions from the general commodities authority, except classes A & B explosives, household goods as defined by the Commission, and commodities in bulk, and (2) "having a prior or subsequent movement by air" restriction; and (B) broaden to county-wide authority: Bay, Midland, and Saginaw Counties, MI (Airport—Freeland); Wayne, Oakland, and Macomb Counties, MI (Airport—Romulus); and Washtenaw County, MI (Airport—Ypsilanti).

MC 148907 (Sub-2)X, filed August 31, 1981 and previously noticed in **Federal Register** September 10, 1981, and September 30, 1981, republished as corrected this issue: Applicant: R. M. ORMES TRANSPORTATION, INC., 20 Atlantic Ave., Woburn, MA 01801. Representative: Frank J. Weiner, 15 Court Square, Boston, MA 02108. Applicant seeks to remove restrictions in its lead and Sub-No. 1 certificates to broaden the commodity description from household goods to "household goods and furniture and fixtures" in both certificates. This Board previously denied the broadening of the commodity description. However the Commission's decision in No. MC–8575 (Sub-No. 8)X, *Ferguson Van Lines, Inc.*, served 1–12–82 requires that this application be republished.

MC 149133 (Sub-16)X, filed March 8, 1982. Applicant: DIST/TRANS MULTI-SERVICES, INC., d.b.a. TAHWHEELALEN EXPRESS, INC., Post Office Box 7191, 1333 Nevada Boulevard, Charlotte, NC 28217. Representative: Charles L. Garrison (address same as applicant's). Sub-No. 9F permit to broaden to between points in the U.S. under continuing contract(s) with named shipper.

MC 150777 (Sub-3)X, filed February 22, 1982. Applicant: AMERICAN CONTRACT CARRIERS, INC., 14767 San Bernardino Avenue, Fontana, CA 92335. Representative: Richard C. Celio, 2300 Camino Del Sol, Fullerton, CA 92633. Sub 1, remove restriction against frozen foods, meats, meat products, meats by-products and articles distributed by meat packinghouses and requiring transportation in vehicles equipped with mechanical refrigeration, from "such commodities as are dealt in by distributors and manufacturers of health products".

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82–9148 Filed 4–5–82; 8:45 am]

BILLING CODE 7035–01–M

[Docket No. AB-167 (Sub-213N)]

Rail Carriers; Conrail Abandonment Between Rome and McConnellsville, NY; Notice of Findings

Notice is hereby given pursuant to Section 308(e) of the Regional Rail Reorganization Act of 1973 that the Commission, Review Board Number 2 has issued a certificate authorizing the Consolidated Rail Corporation to abandon its rail line between Rome and McConnellsville in the County of Oneida, NY, a total distance of 10.1 miles effective on March 3, 1982.

The net liquidation value of this line is $365,357. If, within 120 days from the date of this publication, Conrail receives a bona fide offer for the sale, for 75 percent of the net liquidation value, of this line it shall sell such line and the Commission shall, unless the parties otherwise agree, establish an equitable division of joint rates for through routes over such lines.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-9130 Filed 4-5-82; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-167 (Sub-191N)]

Rail Carriers; Conrail Abandonment at Columbia City, IN; Notice of Findings

Notice is hereby given pursuant to Section 308(e) of the Regional Rail Reorganization Act of 1973 that the Commission, Review Board Number 3 has issued a certificate authorizing the Consolidated Rail Corporation to abandon its rail line between milepost 55.0 and milepost 56.5 at Columbia City in the County of Whitely, IN, a total distance of 1.6 miles effective on March 3, 1982.

The net liquidation value of this line is $60,544. If, within 120 days from the date of this publication, Conrail receives a bona fide offer for the sale, for 75 percent of the net liquidation value, of this line it shall sell such line and the Commission shall, unless the parties otherwise agree, establish an equitable division of joint rates for through routes over such lines.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-9124 Filed 4-5-82; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-167 (Sub-200N)]

Rail Carriers; Conrail Discontinuance of Service Between Pavonia and Merchantville, NJ; Notice of Findings

Notice is hereby given pursuant to Section 308(e) of the Regional Rail Reorganization Act of 1973 that the Commission, Review Board Number 3 has issued a certificate authorizing the Consolidated Rail Corporation to abandon its rail line between Pavonia and Merchantville in the County of Camden, NJ, a total distance of 1.9 miles effective on March 3, 1982.

The net liquidation value of this line is –0–. If, within 120 days from the date of this publication, Conrail receives a bona fide offer for the sale, for 75 percent of the net liquidation value, of this line it shall sell such line and the Commission shall, unless the parties otherwise agree, establish an equitable division of joint rates for through routes over such lines.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-9119 Filed 4-5-82; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-167 (Sub-204N)]

Rail Carriers; Conrail Abandonment Between S. Paterson and Paterson, NJ; Notice of Findings

Notice is hereby given pursuant to Section 308(e) of the Regional Rail Reorganization Act of 1973 that the Commission, Review Board Number 3 has issued a certificate authorizing the Consolidated Rail Corporation to abandon its rail line between S. Paterson and Paterson in the County of Passaic, NJ, a total distance of 1.3 miles effective on March 3, 1982.

The net liquidation value of this line is $340,717. If, within 120 days from the date of this publication, Conrail receives a bona fide offer for the sale, for 75 percent of the net liquidation value, of this line it shall sell such line and the Commission shall, unless the parties otherwise agree, establish an equitable division of joint rates for through routes over such lines.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-9120 Filed 4-5-82; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-167 (Sub-207N)]

Rail Carriers; Conrail Abandonment Between E. Longbranch and Branchport, NJ; Notice of Findings

Notice is hereby given pursuant to Section 308(e) of the Regional Rail Reorganization Act of 1973 that the Commission, Review Board Number 2 has issued a certificate authorizing the Consolidated Rail Corporation to abandon its rail line between E. Longbranch and Branchport in the County of Monmouth, NJ, a total distance of 1.2 miles effective on March 3, 1982.

The net liquidation value of this line is $71,950. If, within 120 days from the date of this publication, Conrail receives a bona fide offer for the sale, for 75 percent of the net liquidation value, of this line it shall sell such line and the Commission shall, unless the parties otherwise agree, establish an equitable division of joint rates for through routes over such lines.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-9121 Filed 4-5-82; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-167 (Sub-208N)]

Rail Carriers; Conrail Abandonment Between Branchport and Ft. Monmouth, NJ; Notice of Findings

Notice is hereby given pursuant to Section 308(e) of the Regional Rail Reorganization Act of 1973 that the Commission, Review Board Number 2 has issued a certificate authorizing the Consolidated Rail Corporation to abandon its rail line between Branchport and Ft. Monmouth in the County of Monmouth, NJ, a total distance of 2.0 miles effective on March 3, 1982.

The net liquidation value of this line is $255,831. If, within 120 days from the date of this publication, Conrail receives a bona fide offer for the sale, for 75 percent of the net liquidation value, of this line it shall sell such line and the Commission shall, unless the parties otherwise agree, establish an equitable division of joint rates for through routes over such lines.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-9122 Filed 4-5-82; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-167 (Sub-212N)]

Rail Carriers; Conrail Abandonment Between Ilion and Harbor, NY; Notice of Findings

Notice is hereby given pursuant to Section 308(e) of the Regional Rail Reorganization Act of 1973 that the Commission, Review Board Number 2 has issued a certificate authorizing the Consolidated Rail Corporation to

abandon its rail line between Ilion and Harbor in the County of Herkimer, NY, a total distance of 9.4 miles effective on March 3, 1982.

The net liquidation value of this line is $912,798. If, within 120 days from the date of this publication, Conrail receives a bona fide offer for the sale, for 75 percent of the net liquidation value, of this line it shall sell such line and the Commission shall, unless the parties otherwise agree, establish an equitable division of joint rates for through routes over such lines.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-9123 Filed 4-5-82; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-167 (Sub-215N)]

Rail Carriers; Conrail Abandonment Between Pittsford and Brighton, NY; Notice of Findings

Notice is hereby given pursuant to Section 308(e) of the Regional Rail Reorganization Act of 1973 that the Commission, Review Board Number 2 has issued a certificate authorizing the Consolidated Rail Corporation to abandon its rail line between Pittsford and Brighton, in the County of Monroe, NY, a total distance of 5.1 miles effective on March 3, 1982.

The net liquidation value of this line is $161,790. If, within 120 days from the date of this publication, Conrail receives a bona fide offer for the sale, for 75 percent of the net liquidation value, of this line it shall sell such line and the Commission shall, unless the parties otherwise agree, establish an equitable division of joint rates for through routes over such lines.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-9131, Filed 4-5-82; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-167 (Sub-217N)]

Rail Carriers; Conrail Abandonment Between Elmira and Horseheads, NY; Notice of Findings

Notice is hereby given pursuant to Section 308(e) of the Regional Rail Reorganization Act of 1973 that the Commission, Review Board Number 2 has issued a certificate authorizing the Consolidated Rail Corporation to abandon its rail line between Elmira and Horseheads in the County of Cheming, NY, a total distance of 5.1 miles effective on March 3, 1982.

The net liquidation value of this line is $132,787. If, within 120 days from the date of this publication, Conrail receives a bona fide offer for the sale, for 75 percent of the net liquidation value, of this line it shall sell such line and the Commission shall, unless the parties otherwise agree, establish an equitable division of joint rates for through routes over such lines.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-9132 Filed 4-5-82; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-167 (Sub-219N)]

Rail Carriers; Conrail Abandonment Between Leetonia and Lisbon, OH; Notice of Findings

Notice is hereby given pursuant to Section 308(e) of the Regional Rail Reorganization Act of 1973 that the Commission, Review Board Number 2 has issued a certificate authorizing the Consolidated Rail Corporation to abandon its rail line between Leetonia and Lisbon in the Counties of Columbiana and Mahoning, OH, a total distance of 11.5 miles effective on March 3, 1982.

The net liquidation value of this line is $257,318. If, within 120 days from the date of this publication, Conrail receives a bona fide offer for the sale, for 75 percent of the net liquidation value, of this line it shall sell such line and the Commission shall, unless the parties otherwise agree, establish an equitable division of joint rates for through routes over such lines.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-9133 Filed 4-5-82; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-167 (Sub-220N)]

Rail Carriers; Conrail Abandonment at Cleveland, OH; Notice of Findings

Notice is hereby given pursuant to Section 308(e) of the Regional Rail Reorganization Act of 1973 that the Commission, Review Board Number 2 has issued a certificate authorizing the Consolidated Rail Corporation to abandon its rail line between milepost 0.0 and milepost 2.4 at Cleveland in the County of Cuyahoga, OH, a total distance of 2.4 miles effective on March 3, 1982.

The net liquidation value of this line is $1,013,839. If, within 120 days from the date of this publication, Conrail receives a bona fide offer for the sale, for 75 percent of the net liquidation value, of this line it shall sell such line and the Commission shall, unless the parties otherwise agree, establish an equitable division of joint rates for through routes over such lines.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-9134 Filed 4-5-82; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-167 (Sub-221N)]

Rail Carriers; Conrail Abandonment at Sandusky, OH; Notice of Findings

Notice is hereby given pursuant to Section 308(e) of the Regional Rail Reorganization Act of 1973 that the Commission, Review Board Number 1 has issued a certificate authorizing the Consolidated Rail Corporation to abandon its rail line between milepost 0.0 and milepost 1.9 at Sandusky in the County of Erie, OH, a total distance of 1.9 miles effective on March 3, 1982.

The net liquidation value of this line is $103,528. If, within 120 days from the date of this publication, Conrail receives a bona fide offer for the sale, for 75 percent of the net liquidation value, of this line it shall sell such line and the Commission shall, unless the parties otherwise agree, establish an equitable division of joint rates for through routes over such lines.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-9135 Filed 4-5-82; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-167 (Sub-222N)]

Rail Carriers; Conrail Abandonment at Tiffin, OH; Notice of Findings

Notice of hereby given pursuant to Section 308(e) of the Regional Rail Reorganization Act of 1973 that the Commission, Review Board Number 1 has issued a certificate authorizing the Consolidated Rail Corporation to abandon its rail line between milepost 33.8 and milepost 36.2 at Tiffin in the County of Seneca, OH, a total distance of 2.4 miles effective on March 3, 1982.

The net liquidation value of this line is $49,056. If, within 120 days from the date of this publication, Conrail receives a bona fide offer for the sale, for 75 percent of the net liquidation value, of this line it shall sell such line and the Commission shall, unless the parties otherwise agree, establish an equitable

division of joint rates for through routes over such lines.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-9136 Filed 4-5-82; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-167 (Sub-223N)]

Rail Carriers; Conrail Abandonment Between W. Marion and Kenton, OH; Notice of Findings

Notice of hereby given pursuant to Section 308(e) of the Regional Rail Reorganization Act of 1973 that the Commission, Review Board Number 1 has issued a certificate authorizing the Consolidated Rail Corporation to abandon its rail line between W. Marion and Kenton in the Counties of Marion and Hardin, OH, a total distance of 19.2 miles effective on March 3, 1982.

The net liquidation value of this line is $1,236,246. If, within 120 days from the date of this publication, Conrail receives a bona fide offer for the sale, for 75 percent of the net liquidation value, of this line it shall sell such line and the Commission shall, unless the parties otherwise agree, establish an equitable division of joint rates for through routes over such lines.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-9137 Filed 4-5-82; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-167 (Sub-224N)]

Rail Carriers; Conrail Abandonment Between N. Cherokee and Bellefontaine, OH; Notice of Findings

Notice is hereby given pursuant to Section 308(e) of the Regional Rail Reorganization Act of 1973 that the Commission, Review Board Number 1 has issued a certificate authorizing the Consolidated Rail Corporation to abandon its rail line between N. Cherokee and Bellefontaine in the County of Logan, OH, a total distance of 4.5 miles effective on March 3, 1982.

The net liquidation value of this line is $316,265. If, within 120 days from the date of this publication, Conrail receives a bona fide offer for the sale, for 75 percent of the net liquidation value, of this line it shall sell such line and the Commission shall, unless the parties otherwise agree, establish an equitable division of joint rates for through routes over such lines.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-9138 Filed 4-5-82; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-167 (Sub-225N)]

Rail Carriers; Conrail Abandonment Between Truro and Whitehall, OH; Notice of Findings

Notice is hereby given pursuant to Section 308(e) of the Regional Rail Reorganization Act of 1973 that the Commission, Review Board Number 1 has issued a certificate authorizing the Consolidated Rail Corporation to abandon its rail line between Truro and Whitehall in the County of Franklin, OH, a total distance of 2.2 miles effective on March 3, 1982.

The net liquidation value of this line is $254,468. If, within 120 days from the date of this publication, Conrail receives a bona fide offer for the sale, for 75 percent of the net liquidation value, of this line it shall sell such line and the Commission shall, unless the parties otherwise agree, establish an equitable division of joint rates for through routes over such lines.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-9139 Filed 4-5-82; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-167 (Sub-226N)]

Rail Carriers; Conrail Abandonment Between Phoenixville and Ironsides, PA; Notice of Findings

Notice is hereby given pursuant to Section 308(e) of the Regional Rail Reorganization Act of 1973 that the Commission, Review Board Number 1 has issued a certificate authorizing the Consolidated Rail Corporation to abandon its rail line between Phoenixville and Ironsides in the County of Chester, PA, a total distance of 1.8 miles effective on March 3, 1982.

The net liquidation value of this line is $68,831. If, within 120 days from the date of this publication, Conrail receives a bona fide offer for the sale, for 75 percent of the net liquidation value, of this line it shall sell such line and the Commission shall, unless the parties otherwise agree, establish an equitable division of joint rates for through routes over such lines.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-9140 Filed 4-5-82; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-167 (Sub-229N)]

Rail Carriers; Conrail Abandonment Between Flinton and Glasgow, PA; Notice of Findings

Notice is hereby given pursuant to Section 308(e) of the Regional Rail Reorganization Act of 1973 that the Commission, Review Board Number 1 has issued a certificate authorizing the Consolidated Rail Corporation to abandon its rail line between Flinton and Glasgow in the Counties of Cambria and Clearfield, PA, a total distance of 14.8 miles effective on March 3, 1982.

The net liquidation value of this line is $226,885. If, within 120 days from the date of this publication, Conrail receives a bona fide offer for the sale, for 75 percent of the net liquidation value, of this line it shall sell such line and the Commission shall, unless the parties otherwise agree, establish an equitable division of joint rates for through routes over such lines.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-9141 Filed 4-5-82; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-167 (Sub-230N)]

Rail Carriers; Conrail Abandonment Between Garman and the End of the Line in Cambria County, PA; Notice of Findings

Notice is hereby given pursuant to Section 308(e) of the Regional Rail Reorganization Act of 1973 that the Commission, Review Board Number 1 has issued a certificate authorizing the Consolidated Rail Corporation to abandon its rail line between Garman and the end of the line in the County of Cambria, PA, a total distance of 2.2 miles effective on March 3, 1982.

The net liquidation value of this line is $23,613. If, within 120 days from the date of this publication, Conrail receives a bona fide offer for the sale, for 75 percent of the net liquidation value, of this line it shall sell such line and the Commission shall, unless the parties otherwise agree, establish an equitable

division of joint rates for through routes over such lines.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-9142 Filed 4-5-82; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-167 (Sub-231N)]

Rail Carriers; Conrail Abandonment Between Patton and the End of the Line in Cambria County, PA; Notice of Findings

Notice is hereby given pursuant to Section 308(e) of the Regional Rail Reorganization Act of 1973 that the Commission, Review Board Number 1 has issued a certificate authorizing the Consolidated Rail Corporation to abandon its rail line between Patton and the end of the line in the County of Cambria, PA, a total distance of 1.1 miles effective on March 3, 1982.

The net liquidation value of this line is $29,273. If, within 120 days from the date of this publication, Conrail receives a bona fide offer for the sale, for 75 percent of the net liquidation value, of this line it shall sell such line and the Commission shall, unless the parties otherwise agree, establish an equitable division of joint rates for through routes over such lines.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-9143 Filed 4-5-82; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-167 (Sub-232N)]

Rail Carriers; Conrail Abandonment Between McGees Mills and Glen Campbell, PA; Notice of Findings

Notice is hereby given pursuant to Section 308(e) of the Regional Rail Reorganization Act of 1973 that the Commission, Review Board Number 1 has issued a certificate authorizing the Consolidated Rail Corporation to abandon its rail line between McGees Mills and Glen Campbell in the Counties of Clearfield and Indiana, PA, a total distance of 5.7 miles effective on March 3, 1982.

The net liquidation value of this line is $60,379. If, within 120 days from the date of this publication, Conrail receives a bona fide offer for the sale, for 75 percent of the net liquidation value, of this line it shall sell such line and the Commission shall, unless the parties otherwise agree, establish an equitable division of joint rates for through routes over such lines.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-9144 Filed 4-5-82; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-167 (Sub-233N)]

Rail Carriers; Conrail Abandonment at Youngwood, PA; Notice of Findings

Notice is hereby given pursuant to Section 308(e) of the Regional Rail Reorganization Act of 1973 that the Commission, Review Board Number 1 has issued a certificate authorizing the Consolidated Rail Corporation to abandon its rail line between milepost 0.0 and milepost 0.6 at Youngwood in the County of Westmoreland, PA, a total distance of 0.6 miles effective on March 3, 1982.

The net liquidation value of this line is $57,735. If, within 120 days from the date of this publication, Conrail receives a bona fide offer for the sale, for 75 percent of the net liquidation value, of this line it shall sell such line and the Commission shall, unless the parties otherwise agree, establish an equitable division of joint rates for through routes over such lines.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-9145 Filed 4-5-82; 8:45 am]

BILLING CODE 7035-01-M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

Board for International Food and Agricultural Development; Meeting

Pursuant to Executive Order 11769 and the provisions of section 10(a), (2), Pub. L. 92-463, Federal Advisory Committee Act, notice is hereby given of the Forty-ninth meeting of the Board for International Food and Agricultural Development (BIFAD) on April 22, 1982.

The purpose of the meeting is to discuss the future of A.I.D. university Strengthening Programs and progress on the Memoranda of Understanding; to consider a report on the management of the proposed cooperative program between U.S. research institutions and the international agricultural research centers; and to receive status reports on such matters as Joint Enterprises, Host Country Contracts, Joint Career Corps, BIFAD Charter revision, A.I.D. implementation of recommendations in the General Accounting Office Report on Title XII, and Joint Committee activities. The Board will also meet with the BIFAD Support Staff to discuss staff actions and operational procedures.

The meeting will begin at 9:00 a.m. and adjourn at 12:15 p.m., and will be held in Room 540, National Science Foundation, 1800 G Street NW., Washington, D.C. The meeting with the BIFAD Support Staff will begin at 1:30 p.m. and adjourn at 3:00 p.m. This meeting will be held in Room 2248, New State Department Building, 22nd and C Streets NW., Washington, D.C. The meetings are open to the public. Any interested person may attend, may file written statements with the Board before or after the meetings, or may present oral statements in accordance with procedures established by the Board, and to the extent the time available for the meetings permit.

Dr. Erven J. Long, Coordinator, Title XII Strengthening Grants and University Relations, Bureau for Science and Technology, Agency for International Development, is designated as A.I.D. Advisory Committee Representative at this meeting. It is suggested that those desiring further information write to him in care of the Agency for International Development, State Department, International Development Cooperation Agency, Washington, D.C. 20523, or telephone him at (703) 235-8929.

Dated: March 31, 1982.

Dr. Erven J. Long,

A.I.D. Advisory Committee Representative, Board for International Food and Agricultural Development.

[FR Doc. 82-9150 Filed 4-5-82; 8:45 am]

BILLING CODE 6116-01-M

DEPARTMENT OF LABOR

Labor Advisory Committee for Trade Negotiations and Trade Policy; Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463 as amended), notice is hereby given of a meeting of the Labor Advisory Committee for Trade Negotiations and Trade Policy.

Date, time and place: April 28, 1982, 2:00 p.m., N3437 A, B, C & D Frances Perkins, Department of Labor Building, 200 Constitution Avenue, NW., Washington, D.C. 20210.

Purpose: To discuss trade negotiations and trade policy of the United States.

This meeting will be closed under the authority of Section 10(d) of the Federal Advisory Committee Act. The Committee will hear and discuss sensitive and confidential matters concerning U.S. trade negotiations and trade policy.

For further information, contact: Joseph S. Papovich, Executive Secretary, Labor Advisory Committee; Phone: (202) 523-6171.

Signed at Washington, D.C. this 31st day of March 1982.

Robert W. Searby,

Deputy Under Secretary, International Affairs.

March 31, 1982.

[FR Doc. 82-9108 Filed 4-5-82; 8:45 am]

BILLING CODE 4510-28-M

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 March 22, 1982–March 26, 1982.

In order for an affirmative determination to be made and a certification of eligibility to apply for adjustment assistance to be issued, each of the group eligibility requirements of section 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA-W-12,224; Natalie Fashions, Inc., Palmerton, PA
TA-W-12,469; Bender Brothers Sportswear, Inc., Bayonne, NJ
TA-W-12,258; Lakeland Manufacturing Co., Sheboygan, WI
TA-W-12,105; M. O. Dorby, Inc., New York, NY
TA-W-12,102; Brickhan Stamping Co., Oshkosh, WI
TA-W-12,335; T. J. Corp., DBA Halco, Inc., New Eagle, PA

In 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-12,602; Freeman Shoe Co., United States Shoe Corp., Waynesboro, PA
TA-W-12,303; Old Mr. Boston Distiller Corp., Boston, MA
TA-W-12,236; United States Shoe Corp., Harrison, OH
TA-W-11,113; United States Shoe Corp., Cassville, MO

I hereby certify that the aforementioned determinations were issued during the period March 22–26, 1982. 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: March 30, 1982.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 82-9107 Filed 4-5-82; 8:45 am]

BILLING CODE 4510-30-M

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. 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.

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 April 16, 1982.

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 April 16, 1982.

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 29th day of March 1982.

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
Armco, Inc., Butler Works (Butler Armco Independent Union).	Butler, Pa	Mar. 23, 1982	Mar. 18, 1982	TA-W-13,358	Stainless steel strip and sheet, cold rolled non-oriented steel, electrical steel.
ASARCO, Inc. (USWA)	Corpus Christi, Tex	Mar. 22, 1982	Mar. 15, 1982	TA-W-13,359	Zinc cadmium, sulfuric acid.
Beta Handbag & Luggage Corp (workers)	Hialeah, Fla	do	Mar. 18, 1982	TA-W-13,360	Handbags and luggage.
Brown Boveri Electric, Inc., Power Systems Div., Downey Operation (IBEW).	Downey, Calif	Mar. 12, 1982	Mar. 4, 1982	TA-W-13,361	Power circuit breakers.
Desoto Mining Co., Inc., Richwood Plant (Industrial and Misc. Workers Union).	Richwoods, Mo	Mar. 15, 1982	Mar. 8, 1982	TA-W-13,362	Surface mining—barite.
Desoto Mining Co., Inc., Kingston Plant (Industrial and Misc. Workers Union).	Kingston, Mo	do	do	TA-W-13,363	Do.
(The) Gang's All Here, Inc. (ILGWU)	New York, N.Y	Mar. 17, 1982	Mar. 12, 1982	TA-W-13,364	Ladies' pants and skirts.
Lanthier Foundry & Machine Co. (UAW)	Oxford, Mich	Mar. 19, 1982	Mar. 15, 1982	TA-W-13,365	Investment castings.
(The) Singer Co., Industrial Machine Div. (IUE)	Elizabeth, N.J	Mar. 18, 1982	Mar. 9, 1982	TA-W-13,366	Sewing machines.
TRW-Fujitsu Co., Financial Systems Div	Orlando, Fla	Mar. 22, 1982	Mar. 17, 1982	TA-W-13,367	Electronic teller terminals, auto teller terminals and CRT's memories and equipment.
Inspiration Consolidated Copper Co., Christmas Div. (workers).	Inspiration, Ariz	do	Mar. 16, 1982	TA-W-13,368	Mine copper, refine copper, copper cathodes and copper wire.
Inspiration Consolidated Copper Co. (workers)	Inspiration, Ariz	do	do	TA-W-13,369	Do.

APPENDIX—Continued

Petitioner: Union/workers or former workers of	Location	Date received	Date of petition	Petition No.	Articles produced
Ford Motor Co., Norfolk Assembly Plant (UAW).	Norfolk, Va	Mar. 25, 1982	Mar. 23, 1982	TA-W-13,370	Assembly of trucks.

[FR Doc. 82-9106 Filed 4-5-82; 8:45 am]
BILLING CODE 4510-30-M

Pension and Welfare Benefit Programs

[Prohibited Transaction Exemption 82-63; (Exemption Application No. D-2488)]

Class Exemption To Permit Payment of Compensation To Plan Fiduciaries for the Provision of Securities Lending Services

AGENCY: Office of Pension and Welfare Benefit Programs, Labor.

ACTION: Grant of class exemption.

SUMMARY: This exemption will allow certain compensation arrangements to be made for the provision by a fiduciary of securities lending services to an employee benefit plan, if the conditions specified in the exemption are met. The exemption affects participants and beneficiaries of employee benefit plans and fiduciaries who provide securities lending services to such plans. In the absence of this exemption, certain compensation arrangements for the provision of securities lending services by a plan fiduciary to an employee benefit plan would be subject to the prohibitions of section 406(b)(1) of the Employee Retirement Income Security Act of 1974 (the Act) and the taxes imposed by section 4975 (a) and (b) of the Internal Revenue Code of 1954 (the Code) by reason of section 4975(c)(1)(E) of the Code.

EFFECTIVE DATE: April 6, 1982.

FOR FURTHER INFORMATION CONTACT: Shelby J. Hoover, Esq., Office of the Solicitor, U.S. Department of Labor, (202) 523-9594. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On January 23, 1981, notice was published in the **Federal Register** (46 FR 7527) of the granting by the Department of Labor (the Department) of a prohibited transaction class exemption (PTE 81-6) to permit the lending of securities by employee benefit plans to banks and broker-dealers who are parties in interest with respect to such plans, if the conditions specified in the exemption are met. PTE 81-6 provides an exemption from the restrictions of section 406(a)(1)(A) through (D) of the Act and the taxes imposed by section 4975(a) and (b) of the Code by reason of section 4975(c)(1)(A) through (D) of the Code.

In the preamble to the proposal that became PTE 81-6, the Department described one type of arrangement, under which fiduciaries would be compensated for the provision of securities lending services to an employee benefit plan, that could give rise to a violation of section 406(b)(1) of the Act.[1] The Department did not, at that time, propose relief from section 406(b)(1) in connection with such arrangements because of, among other things, the existence of certain statutory exemptions that might be applicable. Comments received in connection with the proceeding to adopt PTE 81-6 indicated, however, that relief from section 406(b)(1) might be appropriate. Since the Department did not wish to delay the granting of PTE 81-6, it decided to adopt PTE 81-6 and to propose a separate class exemption from the prohibitions of section 406(b)(1) of the Act to permit, under certain conditions designed to protect plan participants, compensation arrangements for the provision of securities lending services to employee benefit plans.[2]

On January 23, 1981, notice was published in the **Federal Register** (46 FR 7518) of the pendency before the Department of such a proposed class exemption. The notice gave interested persons an opportunity to comment and to request a hearing on the matter. Several comments were received, but no requests were made for a hearing. Upon consideration of all the public comments submitted, the Department has determined to grant the exemption, subject to certain modifications. These modifications and the major comments are discussed below.

[1] *See* 45 FR 24946, 24948, n. 11 (April 11, 1980). Section 406(b)(1) of the Act provides that a fiduciary shall not deal with the assets of the plan in his own interest or for his own account. The references in this preamble to various provisions of sections 406 and 408 of the Act should be read to refer as well to the corresponding provisions of section 4975 of the Code.

[2] *See* section 408(a) of the Act, which provides that the Department may not grant an exemption from section 406(b) unless, among other things, it has afforded an opportunity for a hearing on the matter.

Discussion of comments

A. Source of Fee Payments

The proposed exemption was limited to the payment by an employee benefit plan to a fiduciary of compensation for services rendered in connection with loans of plan assests that are securities. One commentator suggested that section I of the exemption be modified to remove the restriction that the payment must be made by the plan, so that the exemption would be available if other persons, such as the employer sponsoring the plan, paid the compensation for securities lending services and the other conditions of the exemption were met. Another commentator suggested that the final exemption should provide relief from section 406(b)(3) of the Act, in order to permit a fee arrangement in which a certain percentage of the total fee charged the borrower by the plan would be directly paid by the borrower to the lending fiduciary as its compensation for services rendered to the plan in connection with the particular loan transaction.[3] A third commentator asked whether such a fee arrangement would violate section 406(b)(2) of the Act.[4]

Upon consideration of these comments, the Department has decided to remove the qualification that the payments must be made by the plan. The Department, however, has decided not to expand the exemption to include relief from the provisions of section 406(b)(3). That section prohibits payment to a plan fiduciary for his own account of "kickbacks" or other consideration by persons having an interest in a transaction involving plan assets. In the Department's opinion, however, section 406(b)(3) is not violated by reason of a fiduciary's receiving on behalf of the plan the gross loan fees from the borrower, in his capacity as a fiduciary of the plan, and

[3] Section 406(b)(3) of the Act provides that a fiduciary shall not receive any consideration for his own personal account from any party dealing with the plan in connection with a transaction involving the assets of the plan.

[4] Section (b)(2) provides that a fiduciary may not, in his individual or any other capacity, act in any transaction involving the plan on behalf of a party whose interests are adverse to the plan or the interests of its participants or beneficiaries.

then allocating for his own account a portion of those fees previously fully disclosed and agreed to as the compensation for the fiduciary's services by an independent fiduciary who has the authority to approve the arrangement on behalf of the plan. In that situation, the payments to the lending fiduciary are, in effect, made from the assets of the plan and should be accounted for as such. Those payments are, therefore, distinguishable from undisclosed payments made under a separate arrangement between the lending fiduciary and the borrower, who is a person having an interest in the underlying loan transaction. The lending fiduciary is precluded by section 406(b)(3) from receiving, for his own account, any payments of the latter type.

Similarly, the Department does not perceive any necessity to expand the scope of the exemption to include relief from the prohibitions of section 406(b)(2). Provided that the fiduciary does not in fact represent or act on behalf of the borrower, or other party whose interests are adverse to the plan or its participants or beneficiaries, the Department does not believe that section 406(b)(2) of the Act is violated solely by reason of his receiving compensation for the provision of securities lending services.

B. Authorization of Compensation Arrangement

Under the proposal, the compensation arrangement was (1) to be reasonable, (2) to be paid in accordance with the terms of a written instrument; and (3) to be subject to the prior authorization of a plan fiduciary who was independent of the lending fiduciary and of any affiliate thereof. Comments were received from representaties of both the banking and insurance industries concerning the difficulties bank collective investment funds and insurance company pooled separate accounts would encounter in attempting to meet the condition of prior authorization contained in the proposal. Both bank collective investment funds and insurance company pooled separate accounts frequently consist of several hundred member plans. Under the terms of the proposal, each member plan would have been required to expressly authorize the compensation arrangement prior to its institution for the entire collective fund or pooled separate account. As a result, it would have been possible that a compensation arrangement for an entire collective fund or pooled separate account would not be authorized because one plan fiduciary failed to respond to a request for authorization.

One commentator also described potential problems that could arise under the proposed conditions relating to termination of a compensation agreement (discussed separately below), as applied to a pooled separate account. By permitting a plan fiduciary to terminate the arrangement at any time without prior notice and without penalty to the plan, the commentator argued, the exemption could be viewed as allowing a fiduciary of any plan participating in the account to terminated the fee arrangement (and perhaps, thereby, the provision of securities lending services) for the entire account without prior notice to the insurance company or to any other plan participating in the account.

The Department, having considered these comments, has decided to adopt a special rule for pooled investment funds. Under that rule, the authorization and termination provisions of paragraph (d) of the exemption are replaced with a requirement that the authorizing fiduciary with respect to each plan in the fund be provided, not less than 30 days in advance of implementation of, or material modification to, the compensation arrangement, with all relevant information concerning the arrangement or modification. Although the authorizing fiduciary may make reasonable requests for additional information within this 30 day period prior to implementation of the arrangement, such a request alone will not require a delay in the implementation of the proposed arrangement.

The special rule also provides that any plan that objects in writing to the implementation of, material change in, or continuation of the arrangement must be given an opportunity to withdraw from the fund, without penalty, as soon as it is practicable to effect such withdrawal in a manner that is equitable to the withdrawing plan and to the plans retaining their investment in the pool. In the case of implementing a compensation arrangement, or materially modifying an existing arrangement, such withdrawals must be accomplished prior to the implementation or modification. In the case of a plan that objects to the continuation of an existing arrangement, however, the arrangement may be continued while the plan's withdrawal from the pool is being effected.

This special rule is designed to provide an equitable balance among the interests of all of the plans invested in the pool, under conditions that are adequate for the protection of the plans' participants. A principal characteristic of these compensation arrangements that gives rise to violations of section 406(b)(1) is that the lending fiduciary has control over the amount of his fees, because those fees depend, typically, on the quantity of securities loaned and the duration of the loans. If, within the constraints specified in the written instrument evidencing the compensation arrangement, it is possible for the lending fiduciary to manage the securities lending program in a manner that might be viewed as objectionable by a participating plan, the authorizing fiduciary for that plan should consider that possibility, together with the length of time that might be required to effect the plan's withdrawal from the pool, before initially authorizing or acquiescing in the arrangement. Once having determined that the constraints of the arrangement are appropriate, however, a plan fiduciary who later decides to terminate the plan's participation in the program by withdrawing from the pool should not, in the Department's view, have the power to interrupt the provision of the securities lending program for the entire pool. Similarly, an authorizing fiduciary that does not tender a timely written objection to an arrangement should not, by reason of such failure, be in a position later to interrupt the provision of services to the pool.

Nevertheless, under the special rule, a compensation arrangement that requires relief from the provision of section 406(b)(1) (or a material modification of such a compensation arrangement) may not be implemented in the first place until all objecting plans have been given the opportunity to withdraw, and any plans so electing have withdrawn. In a situation where such withdrawals can be effected reasonably quickly, on the order of thirty days or less, this condition will result in correspondingly short delay, or no delay at all, in the implementation of the program. On the other hand, if and to the extent that withdrawals from the pool may require substantially longer periods of time to achieve, the Department believes that it would be correspondingly less appropriate to impose the arrangement on participating plans over the objections of their authorizing fiduciaries, as would be the case if the arrangement were permitted to go into effect notwithstanding the objections.

The Department recognizes that a plan may propose to invest its assets in an account or fund subsequent to the implementation of the compensation arrangement. For such plans, the Department has determined that authorization of the plan's investment in

the account or fund shall be given in the manner described in paragraph (d)(1), as would be the case of a single plan authorizing such an arrangement where commingled investment funds are not involved. However, the remaining conditions of the special rule for commingled investment funds concerning material changes, continuation, or termination of the arrangement remain unchanged for such plans.

At the request of one commentator, the Department has made it clear that the written instrument reflecting the arrangement under which the compensation is to be paid to the plan fiduciary may be in the form of a master agreement covering a series of securities lending transactions, so that a separate authorization of fees in connection with each loan transaction is not required.

C. Termination of compensation agreement

The proposal provided as a condition that the compensation arrangement could be terminated by the authorizing fiduciary at any time without prior notice to the lending fiduciary and without penalty to the plan. Some commentators indicated that to allow termination without prior notice would work a practical hardship on fiduciaries, because outstanding loans would have to be terminated in accordance with the applicable loan agreements, and those agreements typically do not provide for their termination without notice. In response to those comments, the Department has modified the exemption to provide that the compensation arrangement must be terminable by the authorizing fiduciary within (1) the time negotiated for such notice of termination by the plan and the lending fiduciary, or (2) five business days, whichever is lesser, and without penalty to the plan. Those time periods are consistent with the conditions set forth in PTE 81–6.

D. "In-House" Plans

Commentators representing banks and insurance companies objected to the requirment of prior authorization by an independent fiduciary for plans maintained by a bank or insurance company for its own employees. Such "in-house" plans frequently participate in either collective investment funds or pooled separate accounts managed by the employer. In most cases, the fiduciaries of these plans are officers, directors, and/or employees of the lending fiduciary. The commentators indicated that it was impracticable to expect a bank or insurance company to obtain independent authorization with respect to the securities lending compensation arrangement for its own plan's participation in a pooled fund which it manages. One result of such a condition would be, in the comentators' view, the removal of "in-house" plans from participation in pooled account activity. In light of these comments, the Department has decided to eliminate the requirement that the authorizing fiduciary be independent, in the case of in-house plans.[5]

E. Statutory Exemption for the Provision of Ancillary Services

Section 408(b)(6) of the Act contains a statutory exemption for the provision of ancillary services by a bank or similar financial insitution to a plan for which it is a fiduciary, if the conditions set forth in that section are met. The Department stated its view, in the preamble to the proposal that became PTE 81–6, that the provisions of securities lending services to a plan, by a bank or similar financial institution that exercises discretionary authority or control respecting managment of the plan's assets, is an ancillary service within the meaning of section 408(b)(6) of the Act.[6] The Department concluded that a trustee or other fiduciary may provide securities lending services to a plan for an additional fee if: (1) the transaction meets the requirements of section 408(b)(2) of the Act [7] and does not constitute a violation of section 406(b), or (2) the fiduciary is a bank or similar financial institution, the transaction meets the requirements of section 408(b)(6), and the transaction does not constitute a violation of section 406(b)(3) of the Act.[8] Nevertheless, commentators on that proposal expressed uncertainty concerning the availability of the exemption provided by section 408(b)(6), because the Department has not yet issued "guidelines" as contemplated by the statutory provisions.[9]

Commentators have continued to express concern regarding the availability of the statutory exemption for ancillary bank services. It is the opinion of the Department that the condition contained in section 408(b)(6)(B) is satisfied (in the absence of such regulations) if the ancillary services are provided in accordance with specific quidelines issued by the bank or similar financial institution, and if adherence to the guidelines would reasonably preclude such bank or institution from providing the services in a manner described in section 408(b)(6)(B)(i) or (ii) of the Act (*see* note 9, *supra*).

F. Indemnification Agreements

One commentator asserted that it is common practice, with respect to non-ERISA accounts, for the lending fiduciary to indemnify the client who engages in a securities lending program against all losses that may arise by reason of the lending fiduciary's operation of the program. It was suggested that final exemption be expanded to authorize the giving of such an indemnification to plans by the lending fiduciaries.

In the Department's view, if a contract for the provision to a plan of securities lending services contains customary terms and conditions indemnifying the plan against losses arising from the securities lending operations, the statutory exemption contained in section 408(b)(2) of ERISA will apply to the provision of the services (including the indemnification), where the conditions contained in that section and the regulations thereunder are met.[10] In taking this position, the Department expresses no opinion with respect to indemnification agreements that are separately negotiated.

General Information

The attention of interested persons is directed to the following:

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[5] The elimination of this requirement is consistent with prior treatment of "in-house" arrangements. See, *e.g.*, Prohibited Transaction Exemption 77–3, Class Exemption Involving Mutual Fund In-House Plans, 42 FR 18734 (April 18, 1977).

[6] *See* 45 FR 24948–9 (April 11, 1980).

[7] Section 408(b)(2) of the Act provides that the prohibitions of section 406 are not applicable to contracts and reasonable arrangements between a plan and a party in interest for services necessary for the establishment or operation of the plan, if no more than reasonable compensation is paid therefor.

[8] *See* note 3, *supra*. *See also* regulation 29 CFR 2550.408b–6, which states that section 408(b)(6) provides an exemption for acts described in sections 406(b)(1) or 406(b)(2) of ERISA, but not from acts described in section 406(b)(3) thereof.

[9] The exemption contained in section 408(b)(6) is available for the provision of ancillary services by a bank or similar financial institution to a plan for which it is a fiduciary, if certain conditions are met. One such condition, set forth in subsection 408(b)(6)(B), is that "The extent to which such ancillary service is provided is subject to specific guidelines issued by the bank or similar financial insitution (as determined by [the Department] * * *, and adherence to such guidelines would reasonably preclude the bank or financial institution from providing such ancillary service (i) in an excessive or unreasonable manner, and (ii) in a manner that would be inconsistent with the best interests of participants and beneficiaries of employee benefit plans."

Paragraph (c) of regulation 29 CFR 2550.408b–6, which is intended to contain the requirements that those guidelines must meet, has been reserved.

[10] Of course, a fiduciary is in any event liable, pursuant to the provisions of section 409 of the Act, for any losses that result from a breach of the fiduciary's duties under the Act.

(1) The fact that a transaction is the subject of a exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act which require, among other things, a fiduciary to discharge his duties respecting the plan solely in the interests of participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) This exemption does not extend to transactions prohibited under sections 406(a), 406(b)(2) or 406(b)(3) of the Act, or section 4975(c)(1) (A) through (D) and (F) of the Code;

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction; and

(4) The class exemption is applicable to a particular transaction only if the transaction satisfies the conditions specified in the class exemption.

Exemption

In accordance with section 408(a) of the Act and section 4975(c)(2) of the Code, and pursuant to the procedures set forth in ERISA Proc. 75-1 (40 FR 18471, April 28, 1975), the Department makes the following determinations, on the basis of the entire record:

(a) The class exemption set forth herein is administratively feasible;

(b) It is in the interests of plans and of their participants and beneficiaries; and

(c) It is protective of the rights of participants and beneficiaries of plans.

Accordingly, the following exemption is hereby granted under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1.

I. Transactions

Effective April 6, 1982, the restrictions of section 406(b)(1) of the Employee Retirement Income Security Act of 1974 (the Act) and the taxes imposed by section 4075 (a) and (b) of the Internal Revenue Code of 1954 (the Code) by reason of section 4075(c)(1)(E) of the Code shall not apply to the payment to a fiduciary (the "lending fiduciary") of compensation for services rendered in connection with loans of plan assets that are securities, provided that:

(a) The loan of securities is not prohibited by section 406(a) of the Act;

(b) The lending fiduciary is authorized to engage in securities lending transactions on behalf of the plan;

(c) The compensation is reasonable and is paid in accordance with the terms of a written instrument, which may be in the form of a master agreement covering a series of securities lending transactions;

(d) Except as otherwise provided in paragraph (f), the arrangement under which the compensation is paid (1) is subject to the prior written authorization of a plan fiduciary (the "authorizing fiduciary"), who is (other than in the case of a plan covering only employees of the lending fiduciary or affiliates of such fiduciary) independent of the lending fiduciary and of any affiliate thereof, and (2) may be terminated by the authorizing fiduciary within (i) the time negotiated for such notice of termination by the plan and the lending fiduciary, or (ii) five business days, whichever is lesser, in either case without penalty to the plan;

(e) No such authorization is made or renewed unless the lending fiduciary shall have furnished the authorizing fiduciary with any reasonably available information which the lending fiduciary reasonably believes to be necessary to determine whether such authorization should be made or renewed, and any other reasonably available information regarding the matter that the authorizing fiduciary may reasonably request; and

(f) (Special Rule for Commingled Investment Funds) In the case of a pooled separate account maintained by an insurance company qualified to do business in a state or a common or collective trust fund maintained by a bank or trust company supervised by a state or federal agency, the requirements of paragraph (d) of this exemption shall not apply: *Provided,* that

(1) the information described in paragraph (e) (including information with respect to any material change in the arrangement) shall be furnished by the lending fiduciary to the authorizing fiduciary described in paragraph (d) with respect to each plan whose assets are invested in the account or fund, not less than 30 days prior to implementation of the arrangement or material change thereto, and, where requested, upon the reasonable request of the authorizing fiduciary;

(2) in the event any such authorizing fiduciary submits a notice in writing to the lending fiduciary objecting to the implementation of, material change in, or continuation of the arrangement, the plan on whose behalf the objection was tendered is given the opportunity to terminate its investment in the account or fund, without penalty to the plan, within such time as may be necessary to effect such withdrawal in an orderly manner that is equitable to all withdrawing plans and to the nonwithdrawing plans. In the case of a plan that elects to withdraw pursuant to the foregoing, such withdrawal shall be effected prior to the implementation of, or material change in, the arrangement; but an existing arrangement need not be discontinued by reason of a plan electing to withdraw; and

(3) in the case of a plan whose assets are proposed to be invested in the account or fund subsequent to the implementation of the compensation arrangement and which has not authorized the arrangement in the manner described in paragraphs (f)(1) and (f)(2), the plan's investment in the account or fund shall be authorized in the manner described in paragraph (d)(1).

II. Definitions

For purposes of this exemption, the term "affiliate" of another person means:

(1) Any person directly or indirectly, through one or more intermediaries, controlling, controlled by, or under common control with such other person;

(2) Any officer, director, partner, employee, relative (as defined in section 3(15) of the Act) of such other person; and

(3) Any corporation or partnership of which such other person is an officer, director or partner.

For purposes of this paragraph, the term "control" means the power to exercise a controlling influence over the management or policies of a person other than an individual.

Signed at Washington, D.C. this 31st day of March, 1982.

Jeffrey N. Clayton,

Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 82-9168 Filed 4-5-82; 8:45 am]

BILLING CODE 4510-29-M

[Application No. D-447 and Application No. D-1903]

Proposed Amendments to Prohibited Transaction Exemption 77-9

AGENCY: Office of Pension and Welfare Benefit Programs Labor.

ACTION: Notice of Proposed Amendments to Prohibited Transaction Exemption 77-9.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of proposed amendments to Prohibited Transaction Exemption 77-9 (PTE 77-9). The exemption relates to certain transactions involving employee benefit plans and insurance agents and brokers, pension consultants, insurance companies, investment companies, and investment company principal underwriters. The proposed amendments are in response to requests by the applicants that the Department permit certain transactions similar to those currently addressed in PTE 77-9. If they are adopted, the amendments will affect the participants and beneficiaries of employee benefit plans, fiduciaries of such plans, and persons engaging in transactions to which the exemption applies.

EFFECTIVE DATE: If adopted, this proposed exemption would be effective for transactions occurring after October 31, 1977.

DATE: Written comments and requests for a public hearing must be received by June 7, 1982.

ADDRESS: Written comments and requests for a public hearing (preferably at least three copies) should be sent to: Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, Washington, D.C. 20210. Attention: Amendments to Prohibited Transaction Exemption 77-9.

The above-referenced applications and all comments and requests for a public hearing will be available for public inspection in the Public Documents Room, Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue, N.W., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Mary O. Lin, Esq., Plan Benefits Security Division, Office of the Solicitor, U.S. Department of Labor, Washington, D.C. 20216; telephone 202-523-8658. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of proposed amendments to Prohibited Transaction Exemption 77-9 (PTE 77-9). PTE 77-9 provides an exemption from the prohibited transaction restrictions of section 406 of ERISA, and from the taxes imposed by section 4975 (a) and (b) of the Internal Revenue Code of 1954 (the Code) by reason of section 4975(c)(1) of the Code.[1]

I. Background

PTE 77-9 was initially granted on June 24, 1977 (42 FR 32395). On that same date, additional conditions were proposed to be added to the exemption (42 FR 32399). The proposed additional conditions, together with other proposed amendments (*see* 43 FR 18354, April 28, 1978), were the subject of a public hearing on July 20, 1978. The exemption, as amended, was published in the **Federal Register** on January 5, 1979 (44 FR 1479). Subsequently, a change in the effective date of one of the conditions of PTE 77-9 was proposed (*see* 4 FR 32310, June 5, 1979) and adopted (*see* 44 FR 52365, September 7, 1979).

PTE 77-9 provides that insurance agents and brokers, pension consultants, insurance companies, investment companies, and investment company principal underwriters who either are, or are affiliated with, fiduciaries or other service providers with respect to employee benefit plans may, under conditions set forth in the exemption, engage in specified transactions with such employee benefit plans. Those transactions would otherwise be prohibited by section 406 of the Act, which, generally, prohibits a plan fiduciary from engaging in transactions on behalf of the plan with persons who are "parties in interest" with respect to the plan. The term "party in interest" includes persons who provide services to the plan.

Section III of PTE 77-9 describes the transactions covered by the exemption. Generally, they involve purchases, with plan assets, of securities issued by investment companies, or of insurance or annuity contracts issued by insurance companies, and the payment of sales commissions with respect thereto. Sections IV and V of PTE 77-9 contain the conditions that are applicable with respect to the transactions described in Section III.

II. The Applications

A. Application No. D-447. Application No. D-447 was submitted by the Investment Company Institute (ICI).[2] In that application, ICI requested an exemption from the prohibited transaction provisions of the Act for certain transactions between an employee benefit plan and entities within an investment company complex when an entity within the complex serves as a non-discretionary trustee or custodian with respect to the plan. Generally, the subject transactions pertained to the purchase, redemption, or exchange of investment company securities, the sale of insurance or annuity contracts, and the provision of various services.

In a letter dated May 10, 1979, ICI made a new submission with respect to the requested exemption, in which it requested an exemption for (1) the provision to a plan of "nondiscretionary trust or custodial services" by an investment company, and the receipt of fees therefor, and (2) any other transaction which would be permissible under the Act or the Code but for the provision of the non-discretionary trust or custodial services to a plan. In support of its request, ICI states that investment company complexes customarily internalize trustee or custodian functions by means of a bank or non-bank subsidiary. ICI further suggests that requiring a plan holding shares of an investment company to retain a custodian unaffiliated with such investment company increases the expenses of the plan and reduces the efficiency of the plan's transactions with respect to securities issued by that investment company. ICI has further supplemented its application with a letter, dated April 21, 1980, which listed typical nondiscretionary trust or custodial services.[3]

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[1] Section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978), effective December 31, 1978 (44 FR 1065, January 3, 1979), transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed herein to the Secretary of Labor.

[2] The Investment Company Institute is a trade association for the mutual fund industry of the United States. Its membership comprises numerous investment companies, their investment advisers, and their principal underwriters.

[3] In the April 21, 1980, letter, ICI states that nondiscretionary trustees and custodians:

(a) Open and maintain plan accounts and, in the case of defined contribution plans, individual participant accounts, pursuant to the employer's instructions;

(b) Receive contributions from the employer and credit them to individual participant accounts in accordance with the employer's instructions;

(c) Invest contributions and other plan assets in shares of a mutual fund or funds or other products such as insurance or annuity contracts designated by the employer, plan trustee, or participants, and reinvest dividends and other distributions in such investments;

(d) Redeem, transfer, or exchange mutual fund shares or surrender insurance or annuity contracts as instructed by the employer, plan trustee, or participant;

(e) Provide or maintain "designation of beneficiary" forms and make distributions from the trust or custodial account to participants or beneficiaries in accordance with the instructions of the employer, plan trustee, participants, or beneficiaries;

All of the transactions specifically described in ICI's application (except for the provision of certain services to a plan, discussed below) would be exempt from the prohibited transaction rules by PTE 77–9, but for the provision of nondiscretionary trust or custodial services to the plan participating in the transaction by an entity within the investment company complex. With respect to the transactions described in paragraphs III(a) through III(d) of PTE 77–9,[4] paragraph V(a) limits the exemption to situations where, among other things, "(t)he insurance agent or broker, pension consultant, insurance company, or investment company principal underwriter is not * * * a trustee of the plan."

Limited relief for transactions between an investment company complex and a plan that utilizes the custodial services provided by the complex is provided by paragraph III(f) of PTE 77–9, which exempts

(t)he purchase, with plan assets, of securities issued by an investment company from, or the sale of such securities to, and investment company or an investment company principal underwriter, when such investment company, principal underwriter, or the investment company investment adviser is a fiduciary or a service provider (or both) with respect to the plan solely by reason of the sponsorship of a master or prototype plan including the provision in connection therewith of non-discretionary trust or custodial services, if any, with respect to the plan.

However, since paragraph III(f) is limited to transactions involving plans that adopt a complex's master or prototype plan and where, moreover, the investment company complex provides no services to the plan other than non-discretionary trust or custodial services in connection with sponsorship of the plan, it is not available to a large segment of the investment company industry.

B. Application No. D–1903. Investors Diversified Services Inc. (IDS) has also requested a class exemption from the prohibited transaction provisions of the Act. This application was made with respect to a broad range of transactions involving employee benefit plans and investment company complexes which provide (1) nondiscretionary trust or custodial services. and (2) actuarial and other consulting services, to such plans.

As is the case with the ICI application, exemptive relief for the transactions described in the IDS application (except for the provision of certain services to plans, discussed below) would, to the exent such relief is necessary, be available under PTE 77–9 but for the provision of nondiscretionary trust or custodial services to plans.[5] Because the requested relief parallels, in large part, that requested by ICI, the Department has decided that it is appropriate to consider the IDS application in conjunction with the ICI application, and to propose one class exemption designed to dispose of both applications.

III. Description of the Proposed Amendments

Upon consideration of the above mentioned applications, the Department proposes to amend PTE 77–9 to permit the transactions described in paragraphs III(a) through (d) and III(f) in situations where the plan engaging in the transaction utilizes nondiscretionary trust or custodial services provided by a person affiliated with the other party to the transaction. The Department proposes to effect these amendments by modifying paragraphs III(f) and V(a), and by adding new paragraph VI(g).

Under existing paragraph III(f), as noted above a transaction described therein is exempt only if the member of the investment company complex engaging in the transaction is a fiduciary or a service provider (or both) with respect to the plan solely by reason of the sponsorship of a master or prototype plan, including the provision of related nondiscretionary trust or custodial services. The Department proposes to amend this paragraph so that the exemption described therein is not limited to plans adopting a master or prototype plan sponsored by the complex. Accordingly, if the Department's proposal is adopted, the exemption in paragraph III(f) will be available if the relationship to the plan of the investment company, its principal underwriter, or its investment adviser arises solely from the sponsorship of a master or prototype plan, or from the provision of nondiscretionary trust or custodial services, or from both. The Department tentatively believes that this modification will not adversely affect the protections afforded by the exemption to plan participants.

As is also noted above, the exemptive relief provided for transactions described in paragraphs III(a) through (d) is not available if the insurance agent or broker, pension consultant, insurance company, or investment company principal underwriter is a trustee with respect to the plan engaged in the transaction. The Department proposes to amend that condition to permit the subject transactions in situations where a person seeking to avail itself of the relief provided by the exemption, or an affiliate thereof, is a nondiscretionary trustee with respect to the plan, provided that the nondiscretionary trustee does not render investment advice with respect to any assets of the plan.

In the preamble to the adoption of a previous amendment to PTE 77–9, the Department declined to amend paragraph V(a) in the manner now

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(f) Deliver to participants or their employer all notices, prospectuses, and proxy statements, and vote proxies in accordance with the participants' instructions.

(g) Maintain records of all contributions, investments, distributions, and other transactions and report them to the employer and participants;

(h) Make necessary filings with the Internal Revenue Service and other government agencies;

(i) Keep custody of the plan's assets;

(j) Reply to and prepare correspondence, either directly or through the mutual fund distributor or adviser, regarding the investment account and the operation and interpretation of a master or prototype plan sponsored by the complex to which the nondiscretionary trustee or custodian belongs.

In some situations the trustee or custodian is empowered to amend the master or prototype plan; in others, this power resides in the sponsor of the master or prototype plan.

ICI further describes the duties of the nondiscretionary trustees as "ministerial" and indicates that such trustees possess no decisional authority with respect to a plan's funding medium or subsequent purchases or sales.

[4] The transactions decribed in those paragraphs are the purchase, with plan assets, of an insurance or annuity contract; the effecting by an insurance agent or broker, pension consultant, or investment company principal underwriter of a transaction for the purchase, with plan assets, of an insurance or annuity contract or of securities issued by an investment company; and the receipt of a sales commission by an insurance agent or broker, pension consultant, or investment company principal underwriter in connection with the transactions described above.

[5] IDS' application requests relief for transactions involving the exchange of securities issued by one investment company for the securities issued by another investment company, and for the surrender of insurance or annuity contracts for their cash surrender value.

It appears to the Department that the exchange of investment company securities referred to constitutes a redemption of such securities held by a plan, coupled with a purchase of other securities issued by another investment company. The Department has taken the position that such a redemption is a transaction described in section III(c) of PTE 77–9 (relating to the purchase, with plan assets, of securities issued by an investment company). *See* letter from the Department and the Internal Revenue Service to John A. Cardon, Esq., *et al.*, October 31, 1977. Therefore, it does not appear that additional relief is necessary in connection with such exchanges.

The Department is of the view that the surrender by a plan, for its cash value, of an insurance or annuity contract pursuant to the terms of the contract, where the issuer of the contract is a party in interest (including a fiduciary) with respect to the plan, is not a prohibited transaction by reason of the surrender, provided that the surrender of the contract at that time is not less advantageous to the plan or its participants than the retention of the contract.

proposed. *See* 44 FR 1479, 1482 (January 5, 1979). At that time, the Department stated that it did not believe that an adequate showing had been made with respect to the burden of the condition contained in V(a), or the sufficiency of safeguards if the restriction were to be removed. Upon further consideration of this matter, including consideration of the submissions made by ICI and IDS in connection with these applications, the Department is persuaded of the merit of proposing these amendments for comment. As defined in the proposed amendments, the term "nondiscretionary trustee" does not include a person who renders investment advice with respect to any assets of the plan. The Department tentatively believes that this constraint, which is designed to limit the influence such a trustee may have over other plan officials, together with the other safeguards contained in PTE 77–9, provides adequate protection for plan participants.

The Department also proposes to add new paragraph VI(g) to PTE 77–9. This paragraph defines the terms "nondiscretionary trust services" and "nondiscretionary trustee" as those terms are used in the proposed amendments to paragraph III(f) and V(a) respectively. The latter definition includes, for purposes of the proposed amendments, a person to whom authority has been delegated by the sponsor of a master or prototype plan to amend such plan. That authority, although discretionary by nature, has been identified by the Department as a function normally incident to the sponsorship of the master or prototype plan. *See* letter to John A. Cardon, Esq., *et al., cited in* note 5, *supra.* The Department does not believe that any potential for overreaching is increased when that authority is delegated to the nondiscretionary trustee.

IV. Provision of Services

As noted above, the applicants request an exemption with respect to the provision of services to plans, including the provision of the trust or custodial services themselves, and actuarial or other consulting services. IDS has requested, in addition, relief for recommending the services to the plans.

In the Department's view, the relief provided by PTE 77–9 in connection with the transactions described in paragraphs III (a) through (d) includes relief for recommendations that lead to those transactions, but does not extend to cover other transactions, such as the provision of other services, or recommendations with respect thereto. However, the provision of such other services is permitted by, although subject to the limitations contained in, section 408(b)(2) of the Act (relating to the provision of services between a plan and a party in interest) and the Department's regulations thereunder. *See* 29 CFR 2550.408b–2. Since exemptive relief for provision of such services is available under section 408(b)(2), under conditions that appear to the Department to be appropriate, the Department is not persuaded of the necessity for, and has not proposed herein, additional relief in connection with such services.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act which require, among other things, a fiduciary to discharge his duties respecting the plan solely in the interests of participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan[s] and of the participants and beneficiaries of the plan[s]; and protective of the rights of the participants and beneficiaries or the plan[s]; and

(3) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Request for a Hearing

All interested persons are invited to submit written comments or requests for a hearing on the proposed amendments to the address and within the time period set forth above. All comments will be made a part of the record. Comments are requests for a hearing should state the reasons for the writer's interest in the proposed amendments. Comments and requests for a hearing received will be available for inspection at the address set forth above.

Proposed Amendment

On the basis of the applications referred to and summarize above, the Department proposes to amend Prohibited Transaction Exemption 77–9 by revising paragraphs III(f) and V(a), and adding new paragraph VI(g), to read as set forth below, pursuant to the authority conferred under section 408(a) of the Act, and in accordance with ERISA Procedure 75–1 (40 FR 18471, April 28, 1975).

"Exemption

* * * * *

"Section II—Prospective Application. The restrictions of section 406(a)(1)(A) through (D) and 406(b) of the Act and the taxes imposed by section 4975 of the Code do not apply to any of the transactions described in section III of this exemption in connection with purchases made after October 31, 1977, if the conditions set forth in section IV and V are met.

"Section II—Transactions."

* * * * *

"(f) The purchase, with plan assets, of securities issued by an investment company from, or the sale of such securities to, an investment company or an investment company principal underwriter, when such investment company, principal underwriter, or the investment company investment adviser is a fiduciary or a service provider (or both) with respect to the plan solely by reason of: (1) the sponsorship of a master or prototype plan; or (2) the provision of nondiscretionary trust services to the plan; or (3) both (1) and (2).

* * * * *

"Section V—Conditions for Transactions Described in Section III(a) through (d). * * *

(a) the insurance agent or broker, pension consultant, insurance company, or investment company principal underwriter is not (1) a trustee of the plan (other than a nondiscretionary trustee who does not render investment advice with respect to any assets of the plan), (2) a plan administrator (within the meaning of section 3(16)(A) of the Act and section 414(g) of the Code), (3) a fiduciary who is expressly authorized in writing to manage, acquire or dispose of the assets of the plan on a discretionary basis, or (4) for transactions described in section III(a) through (d) entered into after December 31, 1978, an employer any of whose employees are covered by the plan.

* * * * *

"Section VI—Definitions. For the purposes of this exemption:

* * * * *

"(g) The term 'nondiscretionary trust services' means custodial services and services ancillary to custodial services, none of which services are discretionary, and the term 'nondiscretionary trustee' of a plan means a trustee whose powers and duties with respect to any assets of the plan are limited to (1) the provision of nondiscretionary trust services to the plan, and (2) duties imposed on the trustee by any provision or provisions of the Act or the Code. For purposes of this exemption, a person who is otherwise a nondiscretionary trustee will not fail to be a nondiscretionary trustee solely by reason of his having been delegated, by the sponsor of a master or prototype plan, the power to amend such plan."

Signed at Washington, D.C. this 31st day of March, 1982.

Jeffrey N. Clayton,

Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 82-9167 Filed 4-5-82; 8:45 am]

BILLING CODE 4510-29-M

[Application No. D-2525]

Proposed Exemption for Certain Transactions Involving Pension Equity Growth Trust Located in Salt Lake City, Utah

AGENCY: Office of Pension and Welfare Benefit Program, Labor.

ACTION: Notice of Proposed Exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt certain prohibited transactions between Pension Equity Growth Trust (the Trust) and certain parties in interest with respect to the Trust subject to specified conditions. The proposed exemption would also exempt certain prohibited transactions between the Trust and employee benefit plans purchasing or selling an interest in the Turst. The proposed exemption, if granted, would affect the Trust, employee benefit plans which participation in the Trust and their participants and beneficiaries, parties in interest with respect to the Trust, and any other persons engaging in the described transactions.

DATES: Written comments and requests for a public hearing must be received by the Department on or before May 10, 1982.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20216, Attention: Application No. D-2525. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue NW., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Mr. David Stander of the Department, telephone (202) 523-523-8881. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the restrictions of certain sections of the Act and from certain sanctions resulting from the application of section 4975 of the Code. The proposed exemption was requested in an application filed on behalf of the Trust and its sponsors, pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Preamble

On July 25, 1980, the Department published a class exemption, Prohibited Transaction Exemption 80-51 (PTE 80-51, 45 FR 49709), which permits collective investment funds that are maintained by banks and in which employee benefit plans participate to engage in certain transactions provided that specified conditions are met. The transactions for which the applicant has requested relief are those which are the subject of PTE 80-51.

The Department stated in PTE 80-51 that a comment had been received to the proposed class exemption requesting that it be amended to apply to collective investment funds that are not maintained by banks. Relief was granted for bank collective investment funds because, among other reasons, such funds are regulated by other governmental agencies and constitute a well-defined class of funds. In the case of collective investment funds that are not maintained by banks, the Department found that the record was insufficient to determine the nature of the funds and the entities managing the funds that would comprise the class covered by such broad relief. As a result, the Department stated that it could not make the required statutory findings for such relief, and that relief for non-bank maintained collective investment funds should be dealt with on an individual rather than a class basis.

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicant.

1. The Trust is presently in the process of being established. The Trust will provide qualified pension and profit-sharing plans (Participating Plans) with a medium for pooling portions of their funds for investment. The Trust has requested a determined letter from the Internal Revenue Service that the Trust is qualified under section 401(a) of the Code and is exempt from Federal Income Tax under section 501(a) of the Code. The Trust intends to offer units of beneficial interest in the Trust on a continuous basis and register all offerings with the U.S. Securities and Exchange Commission and appropriate state securities commissions.

2. Pursuant to a proposed written agreement (Trust Agreement) Pension Equity Advisors, Incorporated will serve as the investment manager (the Investment Manager) for the Trust and Messrs. Michael S. Purles (Purles) and Richard D. Nicholls (Nicholls) will serve as the trustees (the Trustees) of the Trust. Pursuant to the terms of the proposed Trust Agreement and the proposed Investment Management Agreement (the I-M Agreement) the Trustees and the Investment Manager will be solely responsible for the conduct and management activities of the Trust. The Trustees will be solely responsible for accepting or rejecting participation in the Trust by a prospective Participating Plan, determining the fair market value of the Trust's assets and determining the amount and time of distributions to Participating Plans. The Investment Manager will qualify as such within the meaning of section 3(38) of the Act by virtue of registering as an investment adviser under the Investment Advisers Act of 1940 (the 1940 Act) and will be responsible for the daily operation and investment decision making for the

Trust. The Investment Manager is wholly owned by R–P Holding Company (R–P) which is wholly owned by R–P Holding Company (R–P) which is wholly owned by the Trustees.

3. R–P alsowholly owns Research-Planning, Incorporated (Research) which is a registered investment adviser under the 1940 Act and presently serves as an investment adviser to more than sixty (60) qualified pension and profit-sharing plans. Nearly all of Research's pension trust clients are relatively small in terms of amount of assets and level of annual employer contributions and have individual, non-bank trustees. It is expected that initially the trustees of these plans will accept offers of beneficial interests in the Trust and thereby invest portions of their respective plans' assets in the Trust. The applicant represents that the number of small employee benefit plans participating in the Trust, in the near future, may increase to approximately 100. The applicant represents that some small multiple employer plans also invest in the Trust. No investment advisory fees will be paid to Research with respect to any portion of plan assets invested in the Trust by employee benefit plans to which Research provides individual investment management services. The only investment advisory fees payable, therefore, with respect to plan assets invested in the Trust would be the plan's pro rata share of the Trust's investment advisory fee to the Investment Manager.

4. Pursuant to the Trust Agreement and the I–M Agreement the Investment Manager will receive reasonable compensation and reimbursement of certain costs for its services. The Trustees are not compensated for the provision of their services but will receive compensation from the Investment Manager for their services performed in connection with their duties as officers and directors of the Investment Manager. The Trustees shall not permit the Trust to own or have any interest in any property or asset in which an interest is owned or held by the Investment Manager or any Trustee, or any entity controlled by or controlling the Investment Manager or any Trustee, or any other related individual, corporation or entity as described within the Trust documents. As well, neither the Trustees, the Investment Manager, R–P, Research nor any of their affiliates shall receive any real estate commissions, property acquisition fees, mortgage placement fees, property management fees or similar fees in connection with the Trust's acquisition, management or disposition of properties or interest in properties.

5. The Trust will invest primarily in real estate, interests in real estate, and loans secured by interests in real estate. The Trust will also invest, to a lesser extent, in precious gems of investment grade and precious metals. The Trust will also invest in government securities and in cash and cash-type items such as certificates of deposit and money market funds. The Trustees and Investment Manager will invest no more than forty percent (40%) of the Trust's assets in investments which constitute "securities" under the Investment Company Act of 1940 in order to avoid classification of the Trust as an "Investment Company" under such Act.

6. The Trust instruments will provide that only pension and profit-sharing trusts qualified under section 401 of the Code and exempt from taxation under section 501(a) of the Code may participate in the Trust. Each Participating Plan will execute an adoption agreement causing the governing instrument of such Plan to be amended to incorporate the Trust Agreement. The fiduciaries of each Participating Plan who will be independent of the Trust, maintain complete discretion with respect to the investment in or redemption from the Trust. Further, the applicant represents that Research will not in any way influence the trustees or fiduciaries of the plans which it serves as investment adviser to invest portions of their assets in the Trust.

7. The units of beneficial interest in the Trust acquired by a Participating Plan are not assignable or otherwise transferable, but upon the request of a unitholder may be redeemed. The redemption price shall be distributed to a redeeming unitholder as soon as the money is available for such purpose as determined by the Trustees. Pursuant to the Trust documents the minimum investment in the Trust will be $10,000. The Trust documents provide that neither the sponsor-employer of a Participating Plan nor any of the trustees, administrators, officers or investment advisors of such sponsor-employer or its Plan will have any formal right or power to control or in any way participate in the operation or management of the Trust, except that pursuant to the Trust documents Participating Plans may vote to remove and replace Trustees.

8. Because each Participating Plan will incorporate as part of such plan the terms, provisions, and conditions of the Trust Agreement, the Trust will occupy a position equivalent to the trust created under such Participating Plan. Accordingly, pursuant to Internal Revenue Service Revenue Ruling 81–100, 1981–13 I.R.B. 32, it is the position of the Department that a "party in interest" or "disqualified person" as defined in the Act [1] with respect to a Participating Plan may be viewed as a party in interest with respect to the Trust. Accordingly, a transaction between such party and the Trust may be viewed as a prohibited transaction as described in section 406(a) of the Act, section 4975(c) of the Code, or both. The applicant represents that if the Trust is unable to enter into transactions with certain persons because such persons are parties in interest with respect to Participating Plans, the Trust's ability to prudently make its investments and conduct its operations solely for the benefit of the Participating Plans will be unduly restricted. The applicant represents that such transactions, because of the nature of the Trust, are difficult to identify and control, but if entered into would be in the interests of the Trust, its Participating Plans and their participants and beneficiaries. In addition, the purchase and sale of units of participation in the Trust may be considered a prohibited sale or transfer of assets between a Participating Plan and the Trustees that is not exempted by operation of the statutory exemption provided in section 408(b)(8) of the Act and section 4975(d)(8) of the Code because the Trust is not maintained by a bank or an insurance company.

9. The applicant requests prospective exemptive relief for transactions between the Trust and parties in interest who maintain no formal authority over the management and investments of the Trust, when such transactions are necessary for the Trust to prudently make its investments and conduct its operations. The applicant requests prospective exemptive relief for those classes of transactions between the Trust and certain parties in interest which were afforded exemptive relief in PTE 80–51. The applicant proposes that such classes of transactions be subject to the identical conditions, limitations, and restrictions as those delineated with respect to the transactions afforded exemptive relief in PTE 80–51.

10. The applicant represents that when the Trust becomes operational the Investment Manager will be a registered investment adviser under the 1940 Act. Therefore, certain, but not all, of the Investment Manager's activities will be

[1] For purposes of this exemption the term "party in interest" shall include a disqualified person as defined in section 4975(e)(2) of the Code.

regulated by the Securities and Exchange Commission and subject to periodic examination. The Trust Agreement provides that the Trustees shall prepare and distribute to each Participating Plan an annual report as of the end of the Trust's fiscal year which would include the Trust's balance sheet, profit and loss statement, valuation statements and a statement of changes in the Trust's financial position. All financial records of the Trust shall be kept and prepared at the expense of the Trust. Additionally, independent auditors will prepare audited reports which will be submitted annually to each Participating Plan's applicable officials.

11. In summary, the applicant represents that the proposed exemption for certain transactions between the Trust and certain parties in interest satisfies the criteria of section 408(a) of the Act because: (a) the proposed exemption would allow the Trust to enter into transactions which, although prohibited, are necessary for the Trust to prudently make its investments and conduct its operations solely for the benefit of its Participating Plans and their participants and beneficiaries; (b) the proposed exemption would only apply to those classes of prohibited transactions which were afforded relief in PTE 80–51 and would be subject to the identical conditions, limitations, and restrictions as those delineated with respect to the transactions afforded exemptive relief in PTE 80–51; (c) independent fiduciaries, unrelated to the Trust, the Trustees, the Investment Manager or any other related party will maintain complete discretion with respect to investment in or redemption of the Participating Plans' assets from the Trust; and (d) because the Trust in the near future is expected to be comprised of assets invested by numerous small employee benefit plans administered by individual non-bank trustees, the potential for any influence over the decisions of the Trustees or Investment Manager is minimized and the potential for abuse is decreased.

Notice to Interested Persons

Because the Trust is not yet operational and no employee benefit plans presently participate in the Trust publication of this notice in the Federal Register will be deemed adequate notice to interested persons.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to any transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975).

Section I.—Exemption for Certain Transaction Involving Pension Equity Growth Trust

(a) Effective the later of (a) the date of publication in the Federal Register of the grant of this exemption, or (b) the date of formal qualification of the Trust by the Internal Revenue Service (hereinafter, the Effective Date) the restrictions of sections 406(a), 406(b)(2) and 407(a) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (D) of the Code, shall not apply to the transactions described below if the applicable conditions set forth in Section IV are met.

(1) *Transactions Between Parties In Interest and the Trust: General.*—Any transaction between the Trust and a party-in-interest with respect to a plan that has an interest in the Trust, (provided that such party in interest is not the Investment Manager, the Trustees, or any other trust or fund maintained by the Investment Manager, Trustees or affiliates thereof), or any acquisition or holding by the Trust of employer securities or employer real property, if, at the time of the transaction, acquisition or holding, the interest of the plan, together with the interests of any other plans maintained by the same employer or employee organization in the Trust, does not exceed 5 percent of the total assets in the Trust.

(2) *Special Transactions Not Meeting the Criteria of Section i(a)(1) Between Employers of Employees Covered by a Multiple Employer Plan and the Trust.*—Any transaction between an employer (or an affiliate of an employer) of employees covered by a multiple employer plan that is a Participating Plan, and the Trust or any acquisition or holding by the Trust of employer securities or employer real property, if at the time of the transaction, acquisition or holding—

(a) The interest of the multiple employer plan in the Trust does not exceed 10 percent of the total assets in the Trust, and the employer is not a "substantial employer" with respect to the plan (within the meaning of Section 4001(a)(2) of the Act), or

(b) The interest of the multiple employer plan in the Trust exceeds 10 percent of the total assets in the Trust, but the employer is not a "substantial employer" with respect to the plan and would not be a "substantial employer"

within the meaning of Section 4001(a)(2) of the Act if "5 percent" were substituted for "10 percent" in that definition.

(3) *Acquisition, Sales or Holdings of Employer Securities and Employer Real Property.*—A. Except as provided in subsection (B) of this section (3), any acquisition, sale or holding of employer securities and any acquisition, sale or holding of employer real property by the Trust which does not meet the requirements of paragraphs (a)(1) and (a)(2), if no commission is paid to the Investment Manager or to the employer, or any affiliate of the Investment Manager or the employer in connection with the acquisition or sale of employer securities or the acquisition, sale or lease of employer real property; and

(i) In the case of employer real property—

(aa) Each parcel of employer real property and the improvements thereon held by the Trust are suitable (or adaptable without excessive cost) for use by different tenants, and

(bb) The property of the Trust that is leased or held for lease to others, in the aggregate, is dispersed geographically.

(ii) In the case of employer securities—

(aa) The Investment Manager is not an affiliate of the issuer of the security, and

(bb) If the security is an obligation of the issuer, either:

1. The Trust owns the obligation at the time the plan acquires an interest in the Trust, and interests in the Trust are offered and redeemed in accordance with valuation procedures of the Trust applied on a uniform or consistent basis, or

2. Immediately after acquisition of the obligation: (1) not more than 25 percent of the aggregate amount of obligations issued in the issue and outstanding at the time of acquisition is held by such plan, and (2) in the case of an obligation that is a restricted security within the meaning of Rule 144 under the Securities Act of 1933, at least 50 percent of the aggregate amount of obligations issued in the issue and outstanding at the time of acquisition is held by persons independent of the issuer. The Investment Manager, its affiliates and the Trust shall be considered to be persons independent of the issuer if the Investment Manager is not an affiliate of the issuer.

B. In the case of a Participating Plan that is not an eligible individual account plan (as defined in section 407(d)(3) of the Act), the exemption provided in subsection (A) of this paragraph (3) shall be available only if, immediately after the acquisition of the securities or real property, the aggregate fair market value of employer securities and employer real property with respect to which the Investment Manager or its affiliates has investment discretion does not exceed 10 percent of the fair market value of all the assets of the Participating Plan with respect to which the Investment Manager has such investment discretion.

C. For purposes of the exemption contained in subsection (A) of this pragraph (3), the term "employer securities" shall include securities issued by, and the term "employer real property" shall include real property leased to, a person who is a party-in-interest with respect to a Participating Plan by reason of a relationship to the employer described in section 3(14) (E), (G), (H), Or (I) of the Act.

(b) Effective upon the Effective Date, the restrictions of section 406(a)(1) (A), (B), (C), and (D) and section 406(b) (1) and (2) of the Act and the sanctions resulting from the application of section 4975 of the Code by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to the transactions described below, if the conditions of Section IV are met.

(1) *Transactions with Persons Who Are Parties in Interest by Virtue of Being Certain Service Providers or Certain Affiliates of Service Providers.*

Any transaction between the Trust and a person who is a party-in-interest with respect to a plan that has an interest in the Trust, if—

(a) The person is a party-in-interest (including a fiduciary) solely by reason of providing services to the plan, or solely by reason of a relationship to a service provider described in section 3(14) (F), (G), (H) or (I), of the Act, or both, and the person neither exercised not has any discretionary authority, control, responsibility or influence with respect to the investment of plan assets in, or held by, the Trust, and

(b) The person is not an affiliate of the Investment Manager.

(2) *Certain Leases and Goods.*—The furnishng of goods to the Trust by a party-in-interest with respect to a Participating Plan or the leasing of real property owned by the Trust to such party-in-interest and the incidental furnishing of goods to such party-in-interest by the Trust, if—

(a) In the case of goods, they are furnished to or by the Trust in connection with real property owned by the Trust;

(b) The party-in-interest is not the Investment Manager or any affiliate of the Investment Manager, or any other collective investment fund maintained by the Investment Manager; and

(c) The amount involved in the furnishing of goods or leasing of real property in any calendar year (including the amount under any other lease or arrangement for the furnishing of goods in connection with the real property investments of the Trust with the same party-in-interest, or any affiliate thereof) does not exceed the greater of $25,000 or 0.5 percent of the fair market value of the assets of the Trust on the most recent valuation date of the Trust prior to the transaction.

(3) *Management of Real Property.*—Any services provided to the Trust by the Investment Manager or by an affiliate of the Investment Manager in connection with the management of the real property owned by the Trust, if the compensation paid to the Investment Manager of its affiliate does not exceed the cost of the services to the Investment Manager or its affiliate.

(4) *Transactions Involving Places of Public Accommodation.*The furnishing of services, facilities and any goods incidental to such services and facilities by a place of public accommodation owned by the Trust, to a party-in-interest with respect to a plan that has an interest in the Trust, if the services, facilities and incidental goods are furnished on a comparable basis to the general public.

Section II.—Excess Holdings Exemption for Employee Benefit Plans.

(a) Effective upon the Effective Date, the restrictions of sections 406(a), 406(b)(2) and 407(a) of the Act and the sanctions imposed by section 4975 of the Code shall not apply to any acquisition or holding of qualifying employer securities or qualifying employer real property (other than through the Trust) by a plan that has an interest in the Trust, if (1) the acquisition or holding constitutes a prohibited transaction solely by reason of being aggregated with employer securities or employer real property held by the Trust; (2) the requirements of either paragraph (a)(1) or paragraph (a)(2) of Section I of this exemption are met; and (3) the applicable conditions set forth in Section IV of this exemption are met.

Section III.—Exemption for Certain Transactions Involving the Purchase and Sale of Units of Beneficial Interest in the Trust

Effective upon the Effective Date, the restrictions of section 406(a)(1)(A) and 406(a)(1)(D) of the Act and section 4975(c)(1)(A) and section 4975(c)(1)(D) of the Code shall not apply to the purchase and sale of units of beneficial interest in the Trust if no more than reasonable

compensation is paid therefore and each pruchase and sale is authorized in writing by a fiduciary of the employee benefit plan who is independent of the Investment Manager and any of its affiliates, if the applicable conditions of Section IV are met.

Section IV.—General Conditions

(a) At the time the transaction is entered into, and at the time of any subsequent renewal thereof that requires the consent of the Investment Manager or any affiliate, the terms of the transaction are not less favorable to the Trust than the terms generally avilable in arm's-length transactions between unrelated parties.

(b) the Investment Manager or any affiliate maintains for a period of six years from the date of the transaction the records necessary to enable the persons described in paragraph (c) of this Section IV to determine whether the conditions of this exemption have been met, except that (1) a prohibited transaction will not be considered to have occurred if, due to circumstances beyond the control of the Investment Manager or any affiliate, the records are lost or destroyed prior to the end of the six-year period, and (2) no party in interest shall be subject to the civil penalty that may be assessed under section 502(i) of the Act, or to the taxes imposed by section 4975 (a) and (b) of the Code, if the records are not maintained, or are not available for examination as required by paragraph (c) below.

(c)(1) Except as provided in section 2 of this paragraph (c) and notwithstanding any provisions of sub-sections (a)(2) and (b) of section 504 of the Act, the records referred to in paragraph (b) of this Section IV are unconditionally available at their customary location for examination during normal business hours by:

(A) any duly authorized employee or representative of the Department or the Internal Revenue Service,

(B) any fiduciary of a Participating Plan who has authority to acquire or dispose of the interests in the Trust of the Participating Plan or any duly authorized employee or representative of such fiduciary,

(C) any contributing employer to any Participating Plan or any duly authorized employee or representative of such employer, and

(D) any participant or beneficiary of any Participating Plan, or any duly authorized employee or representative of such participant or beneficiary.

(2) None of the persons described in subparagraphs (B) through (D) of this paragraph (c) shall be authorized to examine trade secrets of the Investment Manager or any affiliate, or commercial or financial information which is privileged or confidential.

Section V.—Definitions and General Rules

For the purposes of this exemption,

(a) An "affiliate" of a person includes—

(1) any person directly or indirectly through one or more intermediaries, controlling, controlled by, or under common control with the person,

(2) any officer, director, employee, relative of, or partner in any such person, and

(3) any corporation or partnership of which such person is an officer, director, partner or employee.

(b) The term "control" means the power to exercise a controlling influence over the management or policies of a person other than an individual.

(c) The term "relative" means a "relative" as that term is defined in section 3(15) of the Act (or a "member of the family" as that term is defined in section 4975(e)(6) of the Code), or a brother, a sister, or a spouse of a brother or sister.

(d) The term "multiple employer plan" means an employee benefit plan that satisfies at least the requirements of section 3(37)(A) (i), (ii) and (v) of the Act and section 414(f)(1) (A), (B) and (E) of the Code.

(e) The time as of which any transaction, acquisition or holding occurs is the date upon which the transaction is entered into, the acquisition is made or the holding commences. In addition, in the case of a transaction that is continuing, the transaction shall be deemed to occur until it is terminated. If any transaction is entered into, or an acquisition is made, on or after the date of granting of this exemption, or a renewal that requires the consent of the Trust occurs on or after the date of granting of this exemption, and the requirments of this exemption are satisfied at the time the transaction is entered into or renewed, respectively, or at the time the acquisition is made, the requirements will continue to be satisfied thereafter with respect to the transaction or acquisition and the exemption shall apply thereafter to the continued holding of the property so acquired. Notwithstanding for foregoing, this exemption shall cease to apply to a holding exempt by virtue of Section I(a)(1) at such time as the interest of the Participating Plan exceeds the percentage interest limitation of Section I(a)(1), unless no portion of such excess results form an increase in the assets allocated to the Trust by the Participating Plan. For the purpose, assets allocated do not include the reinvestment of Trust earnings. Nothing in this paragraph (e) shall be construed as exempting a transaction entered into by the Trust which becomes a transaction described in section 406 of the Act or section 4975 of the Code while the transaction is continuing, unless the conditions of the exemption were met either at the time the transaction was entered into or at the time the transaction would have become prohibited but for this exemption.

(f) Each Participating Plan shall be considered to own the same proportionate interest in each asset of the Trust as its apportionate interest in the total assets of the Trust as calculated on the most recent preceding valuation date of the Trust.

The proposed exemption, if granted, will be subject to the express conditions that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transactions to be consummated pursuant to the exemption.

Signed at Washington, D.C., this 31st day of March, 1982.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 82-9169 Filed 4-5-82; 8:45 am]

BILLING CODE 4510-29-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Federal Council on the Arts and the Humanities; Arts and Artifacts Indemnity Panel Advisory Committee; Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, as amended) notice is hereby given that a meeting of the Arts and Artifacts Indemnity Panel of the Federal Council on the Arts and the Humanities will be held at the Columbia Plaza Building, 2401 E Street, NW., Washington, D.C. 20506, in room 1422 from 9:00 a.m. to 5:30 p.m. on May 10, 1982.

The purpose of the meeting is to review indemnity applications for exhibitions scheduled to begin after July 1, 1982.

Because the proposed meeting will consider commercial and financial data and because it is important to keep

values of objects, methods of transportation, and security measures confidential, pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated April 16, 1978, I have determined that the meeting would fall within exemptions (4) and (9) of 5 U.S.C. 552b(c) and that it is essential to close the meeting to protect the free exchange of internal view and to avoid interference with operation of the Committee.

It is suggested that those desiring more specific information contact the Advisory Committee Management Officer, Mr. Stephen J. McCleary, 806 15th Street, NW., Washington, D.C. 20506, or call (202) 724–0367.

Stephen J. McCleary,

Advisory Committee Management Officer.

[FR Doc. 82-9204 Filed 4-5-82; 8:45 am]

BILLING CODE 7536-01-M

NUCLEAR REGULATORY COMMISSION

[Byproduct Material License No. 34–06943–01 EA 81–65]

Dayton X-Ray Co.; Order Rescinding Order To Show Cause

I

Dayton X-Ray Company (the "licensee"), 1150 West Second Street, Dayton, Ohio 45407, is the holder of Byproduct Material License No. 34–06943–01 (the "license") issued by the Nuclear Regulatory Commission (the "Commission"). The license authorizes the possession and use of byproduct material for industrial radiography. The license was originally issued on December 20, 1960 and will expire on April 30, 1985.

II

As a result of the manner in which licensed material was used and particularly the licensee's inability or unwillingness over a period of almost six years to ensure that radiographic procedures were performed only by authorized personnel, an Order to Show Cause requesting the licensee to show cause why License No. 34–06943–01 should not be revoked was issued to the licensee on November 27, 1981. The licensee responded by filing a written answer to the Order, dated December 21, 1981, and requesting an amendment to its license dated March 8, 1982. In this answer the licensee described changes in management controls, responsibilities of the Radiation Safety Officer, and unannounced audits of radiography personnel which were intended to ensure adequate control of the licensee's activities.

After a careful review of the licensee's December 21, 1981 answer and requested license amendment, NRC determined that the proposed corrective procedures appear to be adequate to ensure management control of the licensee's byproduct material program. Accordingly, I have determined that the November 27, 1981 Order to Show Cause should be rescinded.

III

In view of the foregoing and pursuant to sections 81 and 161(b) of the Atomic Energy Act of 1954, as amended, and the regulations in 10 CFR Parts 2, 20, 30 and 34, it is hereby ordered that:

The November 27, 1981 Order to Show Cause requesting the licensee to show cause why License No. 34–06943–01 should not be revoked is rescinded.

Dated at Bethesda, Maryland this 25th day of March 1982.

For the Nuclear Regulatory Commission.

Richard C. DeYoung,

Director, Office of Inspection and Enforcement.

[FR Doc. 82-9193 Filed 4-5-82; 8:45 am]

BILLING CODE 7590-01-M

Draft Regulatory Guide; Issuance and Availability

The Nuclear Regulatory Commission has issued for public comment a draft of a new guide planned for its Regulatory Guide Series together with a draft of the associated value/impact statement. This series has been developed to describe and make available to the public methods acceptable to the NRC staff of implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

The draft guide, temporarily identified by its task number, IC 126–5 (which should be mentioned in all correspondence concerning this draft guide), is intitled "Instrument Sensing Lines" and its intended for Division 1, "Power Reactors." It is being developed to describe a method acceptable to the NRC staff for complying with the Commission's regulations with regard to the design and installation of instrument sensing lines important to safety in nuclear power plants. The guide endorses, with certain exceptions, ISA–S67.02, "Nuclear-Safety-Related Instrument Sensing Line Piping and Tubing Standards for Use in Nuclear Power Plants," which was developed by the Instrument Society of America.

This draft guide and the associated value/impact statement are being issued to involve the public in the early stages of the development of a regulatory position in this area. They have not received complete staff review and do not represent an official NRC staff position.

Pubic comments are being solicited on both drafts, the guide (including any implementation schedule) and the draft value/impact statement. Comments on the draft value/impact statement should be accompanied by supporting data. Comments on both drafts should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch, by May 28, 1982.

Although a time limit is given for comments on these drafts, comments and suggestions in connection with (1) items for inclusion in guides currently being developed or (2) improvements in all published guides are encouraged at any time.

Regulatory guides are available for inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. Requests for single copies of draft guides (which may be reproduced) or for placement on an automatic distribution list for single copies of future draft gudies in specific divisions should be made in writing to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Technical Information and Document Control. Telephone requests cannot be accommodated. Regulatory guides are not copyrighted, and Commission approval is not required to reproduce them.

(5 U.S.C. 552(a))

Dated at Rockville, Maryland this 30th day of March 1982.

For the Nuclear Regulatory Commission.

Karl R. Goller,

Director, Division of Facility Operations, Office of Nuclear Regulatory Research.

[FR Doc. 82-9196 Filed 4-5-82; 8:45 am]

BILLING CODE 7590-01-M

[Dockets Nos. 50-269, 50-270, and 50-287]

Duke Power Co.; Issuance of Amendments to Facility Operating Licenses And Granting of Relief from ASME Section XI Inservice Testing Requirements

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendments Nos. 109, 109 and 106 to Facility Operating Licenses Nos. DPR-38, DPR-47 and DPR-55, respectively, issued to Duke Power Company (the licensee), which revised the Technical Specifications (TSs) for operation of the Oconee Nuclear Station, Units Nos. 1, 2, and 3, located in Oconee County, South Carolina. The amendments are effective as of the date of issuance.

These amendments incorporate the provisions of the approved inservice testing (IST) program into the TSs.

By letter dated March 25, 1982, as supported by the related Safety Evaluation, the Commission has also granted to the licensee relief from certain requirements of the ASME Code, Section XI, "Rules for Inservice Inspection of Nuclear Power Plant Components". The relief relates to the inservice testing program for the Station. The ASME Code requirements are incorporated by reference into the Commission's rules and regulations in 10 CFR Part 50. The relief is effective as of its date of issuance.

The applications for the amendments and requests for relief comply with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments and letter granting relief. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determinated that the issuance of these amendments and the granting of this relief will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with the issuance of this action.

For further details with respect to this action, see (1) the applications for amendements dated October 1, 1976 and July 8, 1977, as supplemented on May 26 and September 21, 1977, March 6 and April 27, 1978, May 15, May 30, and July 18, 1979 and December 4, 1980, (2) Amendments Nos. 109, 109, and 106 to Licenses Nos. DPR-38, DPR-47 and DPR-55, respectively, (3) the Commission's related Safety Evaluation and (4) the Commission's letter to the licensee dated March 25, 1982. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Oconee County Library, 501 West Southbroad Street, Walhalla, South Carolina. A copy of items (2), (3) and (4) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 25th day of March 1982.

For the Nuclear Regulatory Commission.

John F. Stolz.

Chief, Operating Reactors Branch No. 4, Division of Licensing.

[FR Doc. 82-9194 Filed 4-5-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-361]

Southern California Edison Co., et al.; Issuance of Amendment Facility Operating License No. NPF-10

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 1 to Facility Operating License No. NPF-10, issued to Southern California Edison Company, San Diego Gas and Electric Company, The City of Riverside, California and The City of Anaheim, California (licensees) for the San Onofre Nuclear Generating Station, Unit 2 (the facility) located in San Diego County, California. The amendment is effective as of March 13, 1982.

This amendment clarifies the Technical Specification setpoint requirements for the Shutdown Cooling System relief valve.

Issuance of this amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations. The Commission has made appropriate findings as required by the Act and the Commission's regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) Southern California Edison Company's letter dated March 12, 1982, (2) Amendment No. 1 to Facility Operating License No. NPF-10, and (3) the Commission's related Safety Evaluation.

These items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., and the Mission Viejo Branch Library, 24851 Chrisanta Drive, Mission Viejo, California 02676. A copy of these items may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 30th day of March, 1982.

For the Nuclear Regulatory Commission.

Frank J. Miraglia,

Chief, Licensing Branch No. 3, Division of Licensing.

[FR Doc. 82-9195 Filed 4-5-82; 8:45 am]

BILLING CODE 7590-01-M

PENSION BENEFIT GUARANTY CORPORATION

Pendency of Request for Exemption From Bond/Escrow Requirement Relating to Sale of Assets by an Employer That Contributes to a Multiemployer Plan

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Notice of Pendency of Request.

SUMMARY: This notice advises interested persons that the Pension Benefit Guaranty Corporation has received a request from Kohlberg, Kravis, Roberts and Company for an exemption from the bond/escrow requirement of section 4204(a)(1)(B) of the Employee Retirement Income Security Act of 1974, as amended by the Multiemployer Pension Plan Amendments Act of 1980. Section 4204(a)(1) provides that the sale of assets by an employer that contributes to a multiemployer pension plan will not constitute a complete or partial withdrawal from the plan if certain conditions are met. One of these conditions is that the purchaser post a bond or make a deposit in escrow for five plan years beginning after the sale. The PBGC is authorized to grant exemptions from this requirement. Prior to granting an exemption, the PBGC is required to give interested persons an

opportunity to comment on the exemption request. The effect of this notice is to advise interested persons of this exemption request and to solicit their views on it.

DATE: Comments must be submitted on or before May 21, 1982.

ADDRESSES: All written comments (at least three copies) should be addressed to: Assistant Executive Director for Policy and Planning (140), Pension Benefit Guaranty Corporation, 2020 K Street, NW., Washington, D.C. 20006. The request for an exemption and the comments received will be available for public inspection at the PBGC Public Affairs Office, Suite 7100, at the above address, between the hours of 9:00 a.m. and 4:00 p.m.

FOR FURTHER INFORMATION CONTACT: David Weingarten, Office of the Executive Director, Policy and Planning (140), Pension Benefit Guaranty Corporation, 2020 K Street, NW., Washington, D.C. 20006; (202) 254–4860. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION:

The Statute

The Multiemployer Pension Plan Amendments Act of 1980, Pub. L. 96–364, 94 Stat. 1208 (the "Multiemployer Act") became law on September 26, 1980 and amended the Employee Retirement Income Security Act of 1974 ("ERISA"), 29 U.S.C. 1001 *et seq.* As a result of the Multiemployer Act, an employer that withdraws, or partially withdraws, from a multiemployer pension plan covered under Title IV of ERISA may be liable to the plan for a portion of the plan's unfunded vested benefits. The withdrawal liability rules generally apply to withdrawals occurring after April 28, 1980.

Section 4204 of ERISA, 29 U.S.C. 1384, provides that the sale of assets of a contributing employer in a bona fide arm's-length transaction to an unrelated party will not be considered a withdrawal if three conditions are met. These conditions, enumerated in section 4202(a)(1)(A)–(C), are that—

(A) the purchaser has an obligation to contribute to the plan for substantially the same number of contribution base units for which the seller was obligated to contribute;

(B) the purchaser obtains a bond or places an amount in escrow, for a period of five plan years after the sale, in an amount equal to the greater of the seller's average required annual contribution to the plan for the three plan years preceding the year in which the sale occurred or the seller's required annual contribution for the plan year preceding the year in which the sale occurred; and

(C) the contract of sale provides that if the purchaser withdraws from the plan within the first five plan years beginning after the sale and fails to pay any of its liability to the plan, the seller shall be secondarily liable for the liability it (the seller) would have had but for section 4204.

The bond or escrow amount described above would be paid to the plan if the purchaser withdraws from the plan or fails to timely make any required contributions to the plan within the first five plan years beginning after the sale.

Section 4204(c) of ERISA authorizes the Pension Benefit Guaranty Corporation ("PBGC") to grant individual or class variances or exemptions from the purchaser's bond/escrow requirement of section 4204(a)(1)(B) and the contract-provision requirement of section 4204(a)(1)(C) if the variance would "more effectively or equitably carry out the purposes of (Title IV)." The legislative history of section 4204 indicates a Congressional intent that the sales rules be administered in a manner that assures protection of the plan with the least practicable intrusion into normal business transactions. The granting of an exemption or variance from the requirements of section 4204(a)(1) (B) or (C) does not constitute a finding by PBGC that the transaction satisfies the other requirements of section 4204(a)(1).

Under 2643.3(a) of the PBGC's regulation on procedures for variances for sales of assets (46 FR 46127, September 17, 1981), the PBGC shall approve a request for a variance or exemption if it determines that approval of the request—

(1) would more effectively or equitably carry out the purposes of Title IV of ERISA; and

(2) would not significantly increase the risk of financial loss to the plan.

Section 4204(c) and 2643.3(b) of the regulation require the PBGC to publish a notice of the pendency of a request for a variance or exemption in the **Federal Register**, and to provide interested parties with an opportunity to comment on the proposed variance or exemption.

The Request

The PBGC has received a request from Kohlberg, Kravis, Roberts and Company ("KKR"), a private investment firm, to waive the bond/escrow requirement of section 4204(a)(1)(B) of ERISA. In the request, KKR represents, among other things, that:

1. On December 11, 1981, FMI Acquisition Corporation ("Acquisition"), certain of its subsidiaries, and Fred Meyer Real Estate Properties Ltd. ("Properties") purchased substantially all the assets of Fred Meyer, Inc. ("Fred Meyer"), subject to substantially all of its liabilities. Acquisition acquired the operations of Fred Meyer. Properties acquired the real estate, certain leaseholds, leasehold improvements and certain other fixed assets of Fred Meyer. The shareholders of Fred Meyer approved the sale on December 10, 1981, based on a Proxy Statement dated November 12, 1981 and an Asset Purchase Agreement dated September 25, 1981 among Fred Meyer, Acquisition and Properties.

2. Acquisition is a newly-formed Delaware corporation and Properties is a newly-formed Oregon limited partnership. Both were organized by KKR for the purpose of acquiring Fred Meyer, an Oregon corporation. Acquisition and Properties are owned by investors consisting of affiliates of and investors associated with KKR, the Metropolitan Life Insurance Company, the State of Oregon Public Employees' Retirement Fund and nine members of the present management of Fred Meyer.

3. Acquisition and Properties obtained financing of approximately $435 million to consummate the sale and to provide for their future cash needs. This financing was obtained from bank borrowings, the sale of debt securities and the sale of Acquisition common stock and partnership interests in Properties.

4. Acquisition and Properties intend to continue to operate the business of Fred Meyer substantially as it was previously conducted, using the same management and employees. Acquisition has changed its name to Fred Meyer, Inc. Under the Asset Purchase Agreement, Acquisition and Properties agree: (1) to honor all collective bargaining agreements to which Fred Meyer or any subsidiary was a party; and (2) to contribute to those multiemployer plans for which Fred Meyer had an obligation to contribute in accordance with the provisions of such plans. Further, under the Asset Purchase Agreement, Acquisition agreed to guarantee the payment of all of the liabilities of Fred Meyer assumed by Properties, and Properties agreed to guarantee the payment of all of the liabilities of Fred Meyer assumed by Acquisition.

5. The following chart lists the eight multiemployer plans for which an exemption is requested, the estimated amount of the seller's withdrawal liability as determined by each such plan and the amount of the bond/escrow, as determined by Fred Meyer, that would be required under section

4204(a)(1)(B) of ERISA with respect to each such plan:

Plan	Estimate of seller's liability	Amount of bond/ escrow
Oregon Hospitality Service Pension Trust (AKA Hotel, Restaurant and Beverage Employees Pension Plan)[1]	$152,000	$54,969
Bakery and Confectionary Union and Industry International pension fund [2]	502,913	143,613
Oregon Federation of Butchers pension trust [2]	252,000	[4] 170,683
Oregon Retail Employees pension trust [2]	4,700,000	1,642,166
Western Conference of Teamsters pension fund [2]	4,663,723	2,154,216
Clark County Employers and Retail Clerks Union, local 942, pension trust [2]	782,474	171,176
Intermountain Retail Store Employees pension trust [2]	19,000	29,700
Retail Clerks pension trust (Washington) [2]	153,899	288,098
Total	11,226,009	4,654,621

[1] KKR represents that no subsidiary of Fred Meyer made contributions to this plan.
[2] KKR represents that contributions were made to this plan by Fred Meyer and one of its subsidiaries.
[3] KKR represents that one of Fred Meyer's subsidiaries made contributions to this plan, but that Fred Meyer did not.
[4] Estimate.

The PBGC takes no position as to whether there has been or will be a complete or partial withdrawal with respect to each of these eight mutliemployer plans as a result of the sale of assets described in this notice.

6. Fred Meyer "has received letters concerning its potential withdrawal liability from all multiemployer plans in which it participates. Other than those from the eight plans which are the subject of (this) request, the letters state either that the plans have no unfunded vested liabilities or that Fred Meyer would not owe any withdrawal liability as of their last actuarial valuations."

7. According to its certified consolidated financial statements for its fiscal years ended December 30, 1978, December 29, 1979 and January 31, 1981,[1] Fred Meyer, Inc. and its subsidiaries had net income before and after taxes as follows:

	Fiscal year		
	1978	1979	1980
Net income before taxes	$32,533,000	$38,564,000	$46,868,000
Net income after taxes	17,801,000	21,500,000	25,812,000

The Proxy Statement contains two financial projections of net income before and after taxes for the next five fiscal years made by Fred Meyer for purposes of its discussions with KKR. Under the more conservative assumptions, Fred Meyer estimated for the fiscal year ending in January 1982, net income before taxes of $56,000,000 and net income after taxes of $30,800,000, and for the fiscal year ending in January 1983, net income before taxes of $58,500,000 and net income after taxes of $32,300,000.

Acquisition will annually incur two additional expenses in connection with the acquisition that are not reflected in the Fred Meyer figures. First is $37,000,000 for additional lease rentals, representing additional rental expenses resulting from Acquisition leasing from Properties the premises originally owned by Fred Meyer and transferred to Properties in the sale. Second is $26,350,000 for interest incurred on the acquisition debt, based on a 17 percent interest rate on $155,000,000 of debt incurred by Acquisition in connection with the purchase.

8. The net tangible assets of Acquisition are valued at at least $48 million.

9. KKR has caused or will cause Acquisition and Properties to satisfy section 4204(a)(1)(B) with respect to each plan for which an exemption is requested, pending action by PBGC on its request to waive the bond/escrow requirement of section 4204(a)(1)(B).

10. KKR has sent a copy of the request to the 8 multiemployer plans for which a variance is being requested and to the collective bargaining representatives of Fred Meyer's employees participating in these plans.

Comments

All interested persons are invited to submit written comments on the pending exemption to the above address, on or before May 24, 1982. All comments will be made a part of the record. Comments received, as well as the application for exemption, will be available for public inspection at the address set forth above.

Issued at Washington, D.C. on this 31st day of March 1982.

Robert E. Nagle,

Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 82-9160 Filed 4-5-82; 8:45 am]

BILLING CODE 7708-01-M

[1] According to its certified consolidated financial statements, in 1980 Fred Meyer changed from a fiscal year ending on the Saturday nearest to December 31 to a fiscal year ending on the Saturday nearest to January 31. The fiscal year ended on January 31, 1981 is referred to as fiscal year 1980.

POSTAL RATE COMMISSION

Notice of Visits

March 30, 1982.

Notice is hereby given that Chairman Steiger and Commissioners Bright, Crutcher, and Folsom, will visit Time Inc., in New York City and Reuben Donnelley, Inc., in Old Saybrook, CN, on April 12, 1982, and Readers Digest in Pleasantville, N.Y., on April 13, 1982, for the purpose of acquiring general knowledge of publishing operations.

A report of the visits will be on file in the Commission's docket room.

David F. Harris,

Secretary.

[FR Doc. 82-9159 Filed 4-5-82; 8:45 am]

BILLING CODE 7715-01-M

SELECTIVE SERVICE SYSTEM

Privacy Act of 1974; Notice of Systems of Records, Proposed Revision of System of Records

AGENCY: Selective Service System.

ACTION: Proposed Revision of System of Records.

SUMMARY: The Selective Service System proposes to revise its system of records SSS–8 necessitated by the initiation of a program of full compliance with the registration provisions of the Military Selective Service Act (50 U.S.C. App. 453). The system that will be revised pertains to suspected violators of the Military Selective Service Act.

COMMENT DATE: Comments are due on or before May 7, 1982.

ADDRESS FOR SUBMISSION OF COMMENTS: Selective Service System, ATTN: Associate Director, Policy Development, Washington, D.C. 20435.

EFFECTIVE DATE: The routine uses of this system will become effective as herein proposed, without further notice, on May 3, 1982, unless the Selective Service System receives comments before that date which would result in substantial change to the system or its uses.

FOR FURTHER INFORMATION CONTACT: Edward A. Frankle, Associate Director, Policy Development, Selective Service System, Washington, D.C. 20435. Phone (202) 724–0844.

SUPPLEMENTARY INFORMATION: The system of records, SSS–8, that will be revised appears at 46 FR 26727.

Thomas K. Turnage,

Director of Selective Service.

March 31, 1982.

SSS–8

SYSTEM NAME:

Suspected Violator Inventory System (SVIS)—SSS.

SYSTEM LOCATION:

National Headquarters, Selective Service System, Washington, D.C. 20435.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Alleged violators of the Military Selective Service Act (50 U.S.C. App. 451 *et seq.*).

CATEGORIES OF RECORDS IN THE SYSTEM:

Automated records created by matches between records contained in SSS–10 and other computer files, and other records related to non-registrants. Each record may contain the name, address, Selective Service Number (if any), Social Security Account Number (if any), date of birth, status, and disposition data relating to possible violations of the Military Selective Service Act.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 10(b)(3) of the Military Selective Service Act (50 U.S.C. App. 460(b)(3)).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The names of individuals identified as alleged violators of the Military Selective Service Act will be checked against the SSS–10 registrant file. If the individual has registered, the incoming communication will be destroyed and no further action will be taken. If the individual is not listed in the registrant file or cannot be identified therein, the incoming communication will be forwarded to the Department of Justice for investigation and, if applicable, prosecution. When computer matches of Selective Service files result in production of a list of possible non-registrants, that list may be provided to the Department of Defense and the Department of Transportation to eliminate from the list individuals not required to register. The list may also be provided to the Internal Revenue Service to obtain current addresses of suspected non-registrants. After processing, the information pertaining to suspected non-registrants will be forwarded to the Department of Justice for investigation and, if applicable, prosecution.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Upon receipt of unsolicited communications regarding alleged violators of the Military Selective Service Act who are not listed in the SSS registrant file, two files will be created. One will be a paper file, maintained in file folders, containing the original correspondence. This correspondence will be maintained only until sent to the Department of Justice. The second file will be an automated tracking system which contains the name of the alleged violator, his Social Security Account Number if available, the date sent to the Department of Justice, the final disposition when received, and the case number.

When computer matches between Selective Service and other files produce lists of possible non-registrants, the computer file will be produced and maintained. As the list is processed the paper file will be produced containing correspondence between possible non-registrants and Selective Service. These paper files will be maintained only until the name of the individual involved is sent to the Department of Justice. A computerized tracking file of cases referred will be maintained.

RETRIEVABILITY:

Indexed by Selective Service Number, Social Security Account Number, name and case number (if any).

SAFEGUARDS:

(a) Records are available to authorized Selective Service personnel only. Authorized personnel include the Director, Deputy Director, Associate Director for Policy Development and Administrative Legal Systems, Associate Director for Management Information Systems, the General Counsel, computer operators involved in processing the information, and other personnel specifically authorized to have access to the information by the Director, the Deputy Director, the Associate Directors or the General Counsel to have access to the information.

(b) Paper records and file folders are kept in a locked file cabinet accessible only to authorized personnel.

(c) Building is secured and patrolled after normal business hours.

(d) Computer files will be maintained at the Joint Computer Center at Great Lakes, Illinois.

(i) Security guards for the building will allow access to authorized personnel only.

(ii) Computer room will be secured with cypher locks.

(iii) Terminal access to the computer system will be restricted to those with valid user ID and password.

(iv) A Customer Information Control System will require additional password for interactive access to data base information.

(v) A software security package will protect access to data in the system.

(vi) Access to the violator section of the data base will not be possible without specific authorization by the Data Base Administrator.

RETENTION AND DISPOSAL:

Upon receipt of information regarding an alleged violation of the Military Selective Service Act, SSS will check the registrant file for the individual's name. If the individual has registered, the incoming correspondence will be destroyed and no record will be made or retained by SSS. If the individual is not listed in the registrant file, the individual will be entered in the automated tracking system and the incoming correspondence will be sent to the Department of Justice. SSS will not retain copies of the incoming correspondence or any record identifying the source of the information regarding an alleged violation. When computer matches identify persons as possible non-registrants, processing may result in the production of a paper file of correspondence and/or other information. SSS will not retain copies of this information when cases are referred to the Department of Justice. Once the Department of Justice has disposed of the case, as it deems appropriate, the Department will notify SSS, and the individual's name and related data will be deleted from the tracking system.

All paper forms and correspondence will be destroyed by maceration, shredding or burning after the appropriate information has been recorded. Computer printouts distributed to SSS National Headquarters are destroyed when they have served their temporary purpose by maceration, shredding or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Director of Selective Service, National Headquarters, Selective Service System, Washington, D.C. 20435.

NOTIFICATION PROCEDURE:

If information in the system is desired, write to the system manager listed above and furnish the following information in order to identify the individual whose records are requested:

a. Full name.

b. Date of birth.

c. Selective Service Number or Social Security Account Number.

d. Mailing address to which the reply should be mailed.

RECORD ACCESS PROCEDURES:

An individual can obtain information on the procedures for gaining access to

and contesting records through: Director Selective Service, National Headquarters, Selective Service System, Washington, D.C. 20435, Attn: Records Manager.

CONTESTING RECORD PROCEDURES:

Same as above.

RECORD SOURCE CATEGORIES:

The information in this system of records regarding alleged violators of the Military Selective Service Act is received via correspondence, telephone calls and computer matches of lists of potential registrants.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Pursuant to 5 U.S.C. 552a(k)(2) and 32 CFR 1665.8, the Selective Service System will not reveal to the suspected violator the informant's name or other identifying information relating to the informant.

[FR Doc. 82-8984 Filed 4-5-82; 8:45 am]

BILLING CODE 8015-01-M

SMALL BUSINESS ADMINISTRATION

[License No. 02/02-0443]

American Commercial Capital Corp.; Application for a License To Operate as a Small Business Investment Company

Notice is hereby given that an application has been filed with the Small Business Administration pursuant to § 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1981)), under the name of American Commercial Capital Corporation (Applicant), for a license to operate as a small business investment company (SBIC) under the provisions of the Small Business Investment Act of 1958, as amended, and the Rules and Regulations promulgated thereunder.

The Applicant is incorporated under the laws of the State of New York, and it will commence operations with a proposed capitalization of $1,000,000.

The Applicant will have its place of business at 310 Madison Avenue, New York 10017, and it intends to conduct operations primarily in the State of New York. Applicant intends to furnish small business concerns with equity capital and long-term loans including equity features to enable them to grow and expand their operations.

The officers, directors and proposed one hundred (100%) percent stockholder of the Applicant will be:

President, Director (100%), Gerald J. Grossman, 631 Orienta Avenue, Mamaroneck, N.Y. 10543

Treasurer, Secretary, Director, *Barbara Grossman, 631 Orienta Avenue, Mamaroneck, N.Y. 10543

Director, Sidney Hyman, 2077 Center Avenue, Fort Lee, N.J. 07024

*Wife of Gerald J. Grossman.

Matters involved in SBA's consideration of the application include the general business reputation of the owner and management, and the probability of successful operation of the new company, in accordance with the Act and Regulations.

Notice is further given that any person may, not later than April 21, 1982, submit to SBA, in writing, relevant comments on the proposed licensing of this company. Any such communication should be addressed to: Acting Deputy Associate Administrator for Investment, Small Business Administration, 1441 "L" Street, N.W., Washington, D.C. 20416.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: March 30, 1982.

Robert G. Lineberry,

Acting Deputy Associate Administrator for Investment.

[FR Doc. 82-9096 Filed 4-5-82; 8:45 am]

BILLING CODE 8025-01-M

[License No. 05/05-0142]

Claremont/LaSalle Corp.; Surrender of License

Notice is hereby given that, pursuant to § 107.105 of the SBA Regulations governing Small Business Investment Companies (13 CFR 107.105 (1981)), Claremont/LaSalle Corporation (Claremont/LaSalle), 29 South LaSalle Street, Suite 430, Chicago, Illinois 60603, has surrendered its license to operate as a Small Business Investment Company (SBIC) under the Small Business Investment Act of 1958, as amended (the Act). Claremont/LaSalle was licensed by the Small Business Administration (SBA) on April 18, 1980.

Claremont/LaSalle has complied with all conditions set forth by the SBA for surrender of its license. Therefore, under the authority vested by the Act, and pursuant to the above-cited Regulation, the license of Claremont/LaSalle was accepted effective March 12, 1982, and it is no longer licensed to operate as a SBIC.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: March 30, 1982.

Robert G. Lineberry,

Acting Deputy Associate Administrator for Investment.

[FR Doc. 82-9097 Filed 4-5-82; 8:45 am]

BILLING CODE 8025-01-M

[License No. 09/09-0184]

Grocers Capital Company, Inc.; Application for Approval of Conflict of Interest Transaction Between Associates

Notice is hereby given that Grocers Capital Company (Grocers) 2601 S. Eastern Avenue, Los Angeles, California 90040, a Federal Licensee under the Small Business Investment Act of 1958, as amended, has filed an application with the Small Business Administration pursuant to § 107.1004 of the regulations governing small business investment companies (13 CFR 107.1004 (1982)) for approval of two conflict of interest transactions.

Grocers proposes to loan $300,000 to Farm Boys Market, 4033 Slauson Avenue, Maywood, California 90270 and ($160,000 to Frazier Park Market, 250 Laguna Trail, Frazier Park, California 93225. The proceeds of the loan will be used to purchase equipment of inventory from Grocers Equipment Company (G.E.C.) and/or Certified Grocers of California, Ltd. (Certified), Associates of the Licensee.

All of Grocers' stock is owned by subsidiaries of Certified, a retailer owned grocery cooperative. G.E.C., a subsidiary of Certified, is a 41 percent shareholder of Grocers and is defined as an Associate by § 107.3 of the SBA rules and regulations.

As a result, Grocers' financing to Boys and Frazier fall within the purview of §§ 107.3 and 107.1004(b)(5) of the SBA Regulations. Grocers' loan to Boys and Frazier requires prior written approval of SBA.

Notice is hereby given that any person may not later than April 16, 1982 submit written comments to the Acting Deputy Associate Administrator for Investment, Small Business Administration, 1441 "L" Street, Washington, D.C. 20416.

A similar Notice shall be published in a newspaper of general circulation in both the Maywood and Frazier Park, California areas.

(Catalog of Federal Domestic Assistance Program No. 95.011, Small Business Investment Companies)

SYSTEM LOCATION:

National Headquarters, Selective Service System, Washington, D.C. 20435.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Alleged violators of the Military Selective Service Act (50 U.S.C. App. 451 *et seq.*).

CATEGORIES OF RECORDS IN THE SYSTEM:

Automated records created by matches between records contained in SSS–10 and other computer files, and other records related to non-registrants. Each record may contain the name, address, Selective Service Number (if any), Social Security Account Number (if any), date of birth, status, and disposition data relating to possible violations of the Military Selective Service Act.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 10(b)(3) of the Military Selective Service Act (50 U.S.C. App. 460(b)(3)).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The names of individuals identified as alleged violators of the Military Selective Service Act will be checked against the SSS–10 registrant file. If the individual has registered, the incoming communication will be destroyed and no further action will be taken. If the individual is not listed in the registrant file or cannot be identified therein, the incoming communication will be forwarded to the Department of Justice for investigation and, if applicable, prosecution. When computer matches of Selective Service files result in production of a list of possible non-registrants, that list may be provided to the Department of Defense and the Department of Transportation to eliminate from the list individuals not required to register. The list may also be provided to the Internal Revenue Service to obtain current addresses of suspected non-registrants. After processing, the information pertaining to suspected non-registrants will be forwarded to the Department of Justice for investigation and, if applicable, prosecution.

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STORAGE:

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When computer matches between Selective Service and other files produce lists of possible non-registrants, the computer file will be produced and maintained. As the list is processed the paper file will be produced containing correspondence between possible non-registrants and Selective Service. These paper files will be maintained only until the name of the individual involved is sent to the Department of Justice. A computerized tracking file of cases referred will be maintained.

RETRIEVABILITY:

Indexed by Selective Service Number, Social Security Account Number, name and case number (if any).

SAFEGUARDS:

(a) Records are available to authorized Selective Service personnel only. Authorized personnel include the Director, Deputy Director, Associate Director for Policy Development and Administrative Legal Systems, Associate Director for Management Information Systems, the General Counsel, computer operators involved in processing the information, and other personnel specifically authorized to have access to the information by the Director, the Deputy Director, the Associate Directors or the General Counsel to have access to the information.

(b) Paper records and file folders are kept in a locked file cabinet accessible only to authorized personnel.

(c) Building is secured and patrolled after normal business hours.

(d) Computer files will be maintained at the Joint Computer Center at Great Lakes, Illinois.

(i) Security guards for the building will allow access to authorized personnel only.

(ii) Computer room will be secured with cypher locks.

(iii) Terminal access to the computer system will be restricted to those with valid user ID and password.

(iv) A Customer Information Control System will require additional password for interactive access to data base information.

(v) A software security package will protect access to data in the system.

(vi) Access to the violator section of the data base will not be possible without specific authorization by the Data Base Administrator.

RETENTION AND DISPOSAL:

Upon receipt of information regarding an alleged violation of the Military Selective Service Act, SSS will check the registrant file for the individual's name. If the individual has registered, the incoming correspondence will be destroyed and no record will be made or retained by SSS. If the individual is not listed in the registrant file, the individual will be entered in the automated tracking system and the incoming correspondence will be sent to the Department of Justice. SSS will not retain copies of the incoming correspondence or any record identifying the source of the information regarding an alleged violation. When computer matches identify persons as possible non-registrants, processing may result in the production of a paper file of correspondence and/or other information. SSS will not retain copies of this information when cases are referred to the Department of Justice. Once the Department of Justice has disposed of the case, as it deems appropriate, the Department will notify SSS, and the individual's name and related data will be deleted from the tracking system.

All paper forms and correspondence will be destroyed by maceration, shredding or burning after the appropriate information has been recorded. Computer printouts distributed to SSS National Headquarters are destroyed when they have served their temporary purpose by maceration, shredding or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Director of Selective Service, National Headquarters, Selective Service System, Washington, D.C. 20435.

NOTIFICATION PROCEDURE:

If information in the system is desired, write to the system manager listed above and furnish the following information in order to identify the individual whose records are requested:

a. Full name.

b. Date of birth.

c. Selective Service Number or Social Security Account Number.

d. Mailing address to which the reply should be mailed.

RECORD ACCESS PROCEDURES:

An individual can obtain information on the procedures for gaining access to

and contesting records through: Director Selective Service, National Headquarters, Selective Service System, Washington, D.C. 20435, Attn: Records Manager.

CONTESTING RECORD PROCEDURES:

Same as above.

RECORD SOURCE CATEGORIES:

The information in this system of records regarding alleged violators of the Military Selective Service Act is received via correspondence, telephone calls and computer matches of lists of potential registrants.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Pursuant to 5 U.S.C. 552a(k)(2) and 32 CFR 1665.8, the Selective Service System will not reveal to the suspected violator the informant's name or other identifying information relating to the informant.

[FR Doc. 82-8984 Filed 4-5-82; 8:45 am]

BILLING CODE 8015-01-M

SMALL BUSINESS ADMINISTRATION

[License No. 02/02-0443]

American Commercial Capital Corp.; Application for a License To Operate as a Small Business Investment Company

Notice is hereby given that an application has been filed with the Small Business Administration pursuant to § 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1981)), under the name of American Commercial Capital Corporation (Applicant), for a license to operate as a small business investment company (SBIC) under the provisions of the Small Business Investment Act of 1958, as amended, and the Rules and Regulations promulgated thereunder.

The Applicant is incorporated under the laws of the State of New York, and it will commence operations with a proposed capitalization of $1,000,000.

The Applicant will have its place of business at 310 Madison Avenue, New York 10017, and it intends to conduct operations primarily in the State of New York. Applicant intends to furnish small business concerns with equity capital and long-term loans including equity features to enable them to grow and expand their operations.

The officers, directors and proposed one hundred (100%) percent stockholder of the Applicant will be:

President, Director (100%), Gerald J. Grossman, 631 Orienta Avenue, Mamaroneck, N.Y. 10543

Treasurer, Secretary, Director, *Barbara Grossman, 631 Orienta Avenue, Mamaroneck, N.Y. 10543

Director, Sidney Hyman, 2077 Center Avenue, Fort Lee, N.J. 07024

*Wife of Gerald J. Grossman.

Matters involved in SBA's consideration of the application include the general business reputation of the owner and management, and the probability of successful operation of the new company, in accordance with the Act and Regulations.

Notice is further given that any person may, not later than April 21, 1982, submit to SBA, in writing, relevant comments on the proposed licensing of this company. Any such communication should be addressed to: Acting Deputy Associate Administrator for Investment, Small Business Administration, 1441 "L" Street, N.W., Washington, D.C. 20416.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: March 30, 1982.

Robert G. Lineberry,

Acting Deputy Associate Administrator for Investment.

[FR Doc. 82-9096 Filed 4-5-82; 8:45 am]

BILLING CODE 8025-01-M

[License No. 05/05-0142]

Claremont/LaSalle Corp.; Surrender of License

Notice is hereby given that, pursuant to § 107.105 of the SBA Regulations governing Small Business Investment Companies (13 CFR 107.105 (1981)), Claremont/LaSalle Corporation (Claremont/LaSalle), 29 South LaSalle Street, Suite 430, Chicago, Illinois 60603, has surrendered its license to operate as a Small Business Investment Company (SBIC) under the Small Business Investment Act of 1958, as amended (the Act). Claremont/LaSalle was licensed by the Small Business Administration (SBA) on April 18, 1980.

Claremont/LaSalle has complied with all conditions set forth by the SBA for surrender of its license. Therefore, under the authority vested by the Act, and pursuant to the above-cited Regulation, the license of Claremont/LaSalle was accepted effective March 12, 1982, and it is no longer licensed to operate as a SBIC.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: March 30, 1982.

Robert G. Lineberry,

Acting Deputy Associate Administrator for Investment.

[FR Doc. 82-9097 Filed 4-5-82; 8:45 am]

BILLING CODE 8025-01-M

[License No. 09/09-0184]

Grocers Capital Company, Inc.; Application for Approval of Conflict of Interest Transaction Between Associates

Notice is hereby given that Grocers Capital Company (Grocers) 2601 S. Eastern Avenue, Los Angeles, California 90040, a Federal Licensee under the Small Business Investment Act of 1958, as amended, has filed an application with the Small Business Administration pursuant to § 107.1004 of the regulations governing small business investment companies (13 CFR 107.1004 (1982)) for approval of two conflict of interest transactions.

Grocers proposes to loan $300,000 to Farm Boys Market, 4033 Slauson Avenue, Maywood, California 90270 and ($160,000 to Frazier Park Market, 250 Laguna Trail, Frazier Park, California 93225. The proceeds of the loan will be used to purchase equipment of inventory from Grocers Equipment Company (G.E.C.) and/or Certified Grocers of California, Ltd. (Certified), Associates of the Licensee.

All of Grocers' stock is owned by subsidiaries of Certified, a retailer owned grocery cooperative. G.E.C., a subsidiary of Certified, is a 41 percent shareholder of Grocers and is defined as an Associate by § 107.3 of the SBA rules and regulations.

As a result, Grocers' financing to Boys and Frazier fall within the purview of §§ 107.3 and 107.1004(b)(5) of the SBA Regulations. Grocers' loan to Boys and Frazier requires prior written approval of SBA.

Notice is hereby given that any person may not later than April 16, 1982 submit written comments to the Acting Deputy Associate Administrator for Investment, Small Business Administration, 1441 "L" Street, Washington, D.C. 20416.

A similar Notice shall be published in a newspaper of general circulation in both the Maywood and Frazier Park, California areas.

(Catalog of Federal Domestic Assistance Program No. 95.011, Small Business Investment Companies)

Dated: March 30, 1982.

Robert G. Lineberry,

Acting Deputy Associate Administrator for Investment.

[FR Doc. 82-9098 Filed 4-5-82; 8:45 am]

BILLING CODE 8025-01-M

[Application No. 01/01-0320]

RIHT Capital Corp.; Application for a License To Operate as a Small Business Investment Company

Notice is hereby given that an application has been filed with the Small Business Administration pursuant to § 107.102 of the regulations governing small business investment companies (CFR 107.102 (1981)) under the name of RIHT Capital Corporation, One Hospital Trust Plaza, Providence, Rhode Island 02903, (and a Branch Office in Cleveland, Ohio), for a license to operate as a small business investment company, under the provisions of the Small Business Investment Act of 1958, as amended (the Act), (15 U.S.C. 661 *et seq.*), and the Rules and Regulations promulgated thereunder.

The proposed officers, directors and stockholders are as follows:

President, Director (9%), Peter Van Oosterhout, 19001 Shelburne Road, Shaker Heights, Ohio
Secretary, Frank A. Hassell, One Hospital Trust Plaza, Providence, R.I. 02903
Treasurer, Dag O. Johnnessen, One Hospital Trust Plaza, Providence, R.I. 02903
Director, Henry S. Woodbridge, Jr., One Hospital Trust Plaza, Providence, R.I. 02903
Director, Donald C. Freeman, Jr., c/o C.R. Bard, Inc., P.O. Box 8500, Cranston, R.I. 02920
Director, Alden M. Anderson, One Hospital Trust Plaza, Providence, R.I. 02903
Director, Malcolm G. Chace III, 731 Hospital Trust Bldg., Providence, R.I. 02903

Rhode Island Hospital Trust National Bank (the Bank) will own 91 percent of the issued and out-standing stock of the Applicant. Hospital Trust Corporation (Trust) owns 100 percent of the voting stock of the Bank. No person or entity owns beneficially 10 percent or more of the voting securities of the "Trust."

The applicant which is a Delaware Corporation, proposes to commence operations with private capital of $3,297,000 and intends to emphasize equity investments or other securities of small business concerns principally in the States of Ohio and Rhode Island and other areas within the United States.

Matters involved in SBA's consideration of the application include the general business reputations of the owner and management, and the probability of successful operations of the new company, in accordance with the Act and regulations.

Notice is further given that any person may, not later than April 21, 1982, submit to SBA, in writing, relevant comments on the proposed licensing of this company. Any such communications should be addressed to: Acting Deputy Associate Administrator for Investment, 1441 "L" Street, N.W., Washington, D.C. 20416.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: March 29, 1982.

Robert G. Lineberry,

Acting Deputy Associate Administrator for Investment.

[FR Doc. 82-9099 Filed 4-5-82; 8:45 am]

BILLING CODE 8025-01-M

[Application No. 04/04-5210]

Southern Capital Funding Corp.; Application for a License To Operate as a Small Business Investment Company

An application 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 (15 U.S.C. 661 *et seq.*), has been filed by Southern Capital Funding Corporation with the Small Business Administration (SBA), pursuant to 13 CFR 107.102 (1981).

The officers, directors and sole stockholder are:

Name and address	Title	Ownership of corporation (percent)
Alan J. Swindall, Box 37, Dadeville, AL 36853.	President and Chairman of the Board.	100
Alan J. Swindall, Jr., Rt. 2 Box 30F, Pearson Circle, Dadeville, AL 36853.	Secretary, Treasurer, and Director.	
Emma M. Swindall, Box 37, Dadeville, AL 36853.	Vice President and Director.	

Southern Capital Funding Corporation, an Alabama corporation, with its principal place of business to be located at Office Complex, Suite 105, Jct. I-85 & US 280, Opelika, Alabama 33801, will begin operations with $1.0 million of net paid-in capital and paid-in surplus dervied from the sale of common stock to Alan J. Swindall.

Southern Capital Funding Corporation will conduct its activities principally in the State of Alabama.

As a small business investment company under section 301(d) of the Act, the Applicant has been organized and chartered solely for the purpose of performing the functions and conducting the activities contemplated under the Small Business Investment Act of 1958, as amended, from time to time, and will provide assistance solely to small business concerns which will contribute to a well-balanced national economy by facilitating ownership in such concerns by persons whose participation in the free enterprise system is hampered because of social or economic disadvantages.

Matters involved in SBA's consideration of the Applicant include the general business reputation and character of the proposed owner and management, and the probability of successful operation of the Applicant under this management, including adequate profitability and financial soundness, in accordance with the Small Business Investment Act and the SBA Rules and Regulations.

Notice is hereby given that any person may, not later than April 21, 1982, submit to SBA written comments on the proposed Applicant. Any such communication shall be addressed to the Acting Deputy Associate Administrator for Investment, Small Business Administration, 1441 "L" Street, NW., Washington, D.C. 20416.

A copy of this notice shall be published in a newspaper of general circulation in Opelika, Alabama.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: March 30, 1982.

Robert G. Lineberry,

Acting Deputy Associate Administrator for Investment.

[FR Doc. 82-9100 Filed 4-5-82; 8:45 am]

BILLING CODE 8025-01-M

[License App. No. 09/09-0310]

Vista Capital Corp.; Application for a License To Operate as a Small Business Investment Company

Notice is hereby given that an application has been filed with the Small Business Administration (SBA) pursuant to § 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1981)), under the name of Vista Capital Corporation, 484 Prospect Street, La Jolla, California 92038, for a license to operate as a small business investment company (SBIC) under the provisions of the Small Business Investment Act of 1958, as amended (the Act), (15 U.S.C. 661 *et seq.*), and the rules and regulations promulgated thereunder.

The proposed officers, directors, and major shareholder of the Applicant are as follows:

Frederick J. Howden, Jr., 7716 Lookout Drive, La Jolla, CA 92037—Chairman of the Board, Chief Executive Officer

Leslie S. Buck, 1039 South Coast Blvd., La Jolla, CA 92037—President, Director

Lloyd L. Dunlap, Jr., 425 San Lucas Drive, Solana Beach, CA 92075—Vice President, Treasurer, Secretary

Vista Partners, Inc., 484 Prospect Street, P.O. Box 2768, La Jolla, CA 92038—24.4 percent shareholder

Vista Partners, Inc. is a privately-held investment banking and venture capital firm. Messrs. Howden and Buck own 57 percent and 43 percent, respectively, of Vista Partners' issued and outstanding stock. There will be no more than 35 individual owners of Applicant's stock, and possibly a few institutions. It is expected that no investor, other than Vista Partners, Inc., will own as much as 10 percent of that stock.

Applicant has one class of stock authorized: 50,000 shares of common stock. Initially, only 7,940 shares will be sold with a resultant private capital of $676,190.

Applicant proposes to conduct its operations principally in the State of California. It will be required to have a minimum of three directors at all times.

Matters involved in SBA's consideration of the application include the general business reputation and character of shareholders and management, and the probability of successful operation of the new company in accordance with the Act and Regulations.

Notice is further given that any person may, not later than April 21, 1982, submit to SBA, in writing, comments on the proposed licensing of this company. Any such communications should be addressed to: Acting Deputy Associate Administrator for Investment, Small Business Administration, 1441 "L" Street, N.W., Washington, D.C. 20416.

A copy of this notice shall be published by the Applicant in a newspaper of general circulation in La Jolla, California.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: March 30, 1982.

Robert G. Lineberry,

Acting Deputy Associate Administrator for Investment.

[FR Doc. 82-9101 Filed 4-5-82; 8:45 am]

BILLING CODE 8025-01-M

Sunshine Act Meetings

Federal Register
Vol. 47, No. 66
Tuesday, April 6, 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

CIVIL AERONAUTICS BOARD

[M-346, Amdt. 1]

Addition of Closed Item to the April 1, 1982 Meeting

TIME AND DATE: 9:30 a.m., April 1, 1982.

PLACE: Room 1027 (open); Room 1012 (closed), 1825 Connecticut Avenue, N.W., Washington, D.C. 20428.

SUBJECT: 35a. Docket 40576, Application of World Airways, Inc. for an Exemption.

STATUS: Closed.

PERSON TO CONTACT: Phyllis T. Kaylor, The Secretary, (202) 673-5068.

March 31, 1982.

[S-490-82 Filed 4-2-82; 3:20 pm]

BILLING CODE 6320-01-M

2

CIVIL AERONAUTICS BOARD

[M-346, Amdt. 2]

March 31, 1982.

Deletions From the April 1, 1982 Meeting

TIME AND DATE: 9:30 a.m., April 1, 1982.

PLACE: Room 1027 (open); Room 1012 (closed), 1825 Connecticut Avenue, N.W., Washington, D.C. 20428.

SUBJECT:

4. Overview of CAB Civil Rights Enforcement Program (Memo 1150, OGC, BDA, BCAA, OCCCA, OC)

5. Revisions of the Board's rule implementing Title VI of the Civil Rights Act of 1964. (Memo 1160, OGC, BCAA, OCCCA)

9. Docket 38585, Joint Fares: draft final rule. (OGC, BDA)

STATUS: Open.

PERSON TO CONTACT: Phyllis T. Kaylor, The Secretary, (202) 673-5068.

[S-491-82 Filed 4-2-82; 3:20 pm]

BILLING CODE 6320-01-M

3

CONSUMER PRODUCT SAFETY COMMISSION

TIME AND DATE: 10:00 a.m., Commission Meeting Wednesday, April 7, 1982, Third Floor Hearing Room, 1111 18th Street, NW., Washington, D.C.

STATUS: Open to the Public.

MATTERS TO BE CONSIDERED:

1. *Regulatory Review of Standard for the Flammability of Clothing Textiles (16 CFR Part 1610)*

The Commission will consider possible revisions to the regulations implementing the Standard for the Flammability of Clothing Textiles. The staff has recommended several revisions following a review of the standard and regulations to determine if any burden which they may impose on the textile industry can be eliminated. The Commission was briefed by the staff on this matter on April 1, 1982.

2. *Toy Chests*

Commission staff will brief the Commission on possible actions to address a strangulation risk from falling toy chest lids, including the options of initiating a rulemaking proceeding by issuing an advance notice of proposed rulemaking (ANPR), and developing outreach activities.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Deputy Secretary, Office of the Secretary, Suite, 342, 5401 Westbard Avenue, Bethesda, MD 20207, Telephone (301) 492-6800.

[S-489-82 Filed 4-2-82; 2:40 pm]

BILLING CODE 6355-01-M

4

FEDERAL MARITIME COMMISSION

"FEDERAL REGISTER" CITIATION OF PREVIOUS ANNOUNCEMENT: April 1, 1982, 47 FR 13955.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 9:00 a.m., April 7, 1982.

CHANGE IN THE MEETING: Addition of the following item to the open session:

6. Operations of TSI Intermodal

[S-488-82 Filed 4-2-82; 8:45 am]

BILLING CODE 6310-01-M

5

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 47 FR 13279, Monday, March 29, 1982.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: Approximately 11:00 a.m., Thursday, April 1, following a recess at the conclusion of the open meeting.

CHANGES IN THE MEETING: One of the items announced for inclusion at this meeting was consideration of any agenda items carried forward from a previous meeting; the following such closed item(s) was added:

1. Request by the General Accounting Office for Board comment on a draft report regarding the bank merger process. (This item was originally announced for a meeting on Monday, March 22, 1982.)

2. Proposed acquisition of computer equipment within the Federal Reserve System. (This item was originally announced for a meeting on Monday, March 29, 1982.)

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204.

Dated: April 1, 1982.

James McAfee,

Associate Secretary of the Board.

[S-487-82 Filed —82; 8:45 am]

BILLING CODE 6210-01-M

federal register

Tuesday
April 6, 1982

Part II

Postal Service

Department of Defense

Office of the Secretary

Mail Security

POSTAL SERVICE

39 CFR Parts 10, 111, and 233

Military Postal System Overseas; Mail Security and Mail Cover Regulations

AGENCY: Postal Service.

ACTION: Proposed rule.

SUMMARY: The Postal Service proposes to amend its regulations to defer to a request from the Department of Defense to have specialized mail security and mail privacy regulations for the military postal system overseas. The Department proposes these regulations elsewhere in this issue. These changes respond to the need expressed by the Department of the Defense to deal under its own authority with the flow of narcotics, weapons, explosives, black market goods, and other contraband through the military postal system overseas; to improve relations with foreign governments allowing U.S. Forces to be stationed in their territory; and generally to perfect the jurisdiction and control of the Department of Defense over U.S.military activities overseas.

DATE: Comments must be received on or before June 4, 1982.

ADDRESS: Written comments should be sent to the Assistant General Counsel, Special Projects Division, Law Department, U.S. Postal Service, Washington, D.C. 20260–1100. Comments will be available for public inspection and photocopying outside Room 9010, 475 L'Enfant Plaza West, S.W., Washington, D.C. from 9 a.m. to 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Charles R. Braun, (202) 245–4620.

SUPPLEMENTARY INFORMATION: This proposal, and a companion rulemaking proposal published elsewhere in this issue by the Department of Defense, would implement recommendations by the General Counsels of the United States Postal Service and the Department of Defense following a review of ways and means to reduce the flow of contraband in the military postal system overseas. The two proposals represent a coordinated effort by the two agencies to meet military law enforcement and foreign relations requirements in the military postal service overseas under legal authority and within applicable constitutional and legal constraints.

Presently, the Department of Defense, in cooperation with the United States Postal Service, operates military post offices overseas. Under the Postal Agreement between the two agencies, the military postal system overseas is integrated with the postal system at home in order to extend, insofar as practicable, the equivalent of civilian postal services to the Armed Forces overseas and to certain other U.S. entities and personnel allowed to use the military postal system due to their close association with the national defense effort. The Department's overseas postal operations, except those in naval ships at sea, are conducted with the cooperation and consent of the sovereign countries in which U.S. Forces are stationed. The interagency Postal Agreement, however, now requires the Department to "attempt to furnish mail service to the military equal to that provided the civilian population in the United States" and to * * * [a]dminister the military postal service in accordance * * * with policies and regulations of the Postal Service * * *."[1] The present agreement was concluded in 1980, and present postal privacy and security regulations were adopted in 1978.[2]

Last October, the Secretary of Defense advised the Postmaster General that domestic postal mail security regulations unduly restrict legitimate military law enforcement activities and inadequately address the Department's "special problems or circumstances overseas * * *."[3] In response, the Postmaster General proposed the formation of an interagency legal group in order to review these problems cooperatively and propose joint recommendations for resolving them.[4] In accordance with the Postmaster General's suggestion, a legal group headed by the General Counsels of both agencies was created in November, 1981.

The solution recommended was that the Postal Agreement and implementing regulations should be changed to state that the Department of Defense would formulate policies and regulations within its legal authority concerning mail privacy and mail security. The Department would then adapt the civilian postal rules concerning mail privacy and security, which have been tailored to the domestic mail system, to suit the military postal system overseas. Among the significant differences in circumstances overseas are the absence of civilian courts and magistrates empowered to issue the federal search warrants required domestically;[5] the broad authority of a military commander concerning the inspection, screening, and search of persons and property on an installation under his or her jurisdiction overseas;[6] and the obligations assumed under Status of Forces Agreements with foreign governments which admit U.S. Forces and postal services on their soil. The Postal service has deferred to the Department of Defense concerning the special needs of the military postal system and the specific rules which are required to meet those needs. The Department's proposed mail security and mail cover regulations are published elsewhere in this issue.

The changes which the Postal Service proposes to make to its regulations are to add provisions to the mail cover and mail security regulations explaining that these regulations do not apply to the military postal system overseas or to persons performing military postal duties overseas; include a notice that information about regulations prescribed by the Department of Defense for the military postal system overseas may be obtained from the Department of Defense; and amend mail indemnity provisions to specify that postal indemnities for insured or registered articles will not be paid if the mail article or part or all of its contents are officially seized while in the military postal system overseas.

Although exempt from the requirements of the Administrative Procedure Act (5 U.S.C. 553(b), (c)) regarding proposed rulemaking by 39 U.S.C. 410(a), the Postal Service invites public comment on the following proposed revisions of title 39, CFR; of the International Mail Manual, which is incorporated by reference in the Federal Register, see 39 CFR 10.1; and of the Domestic Mail Manual, which is incorporated by reference in the Federal Register, see 39 CFR 111.1.

List of Subjects

39 CFR Part 10
Foreign Relations
Postal Service
39 CFR Part 111
Postal Service
39 CFR Part 233
Crime
Postal Service

[1] Postal Agreement between the United States Postal Service and the Department of Defense §§ III.B and IV.A.3, USPS Publication 38, at p. 3 (February 1980). The Department and the Postal Service have agreed to revise the Postal Agreement as necessary if the proposed rule is to be adopted.

[2] 43 FR 14,308–14.315 (1978).

[3] Letter, Secretary of Defense to Postmaster General, October 12, 1981, p. 1.

[4] Letter, Postmaster General to Secretary of Defense, October 26, 1981.

[5] Fed. R. Crim. P. 41(a); 28 U.S.C. 132(1976); Domestic Mail Manual 115.61, incorporated by reference at 39 CFR 111.1 (1981).

[6] Military Rules of Evidence, Rule 314–315, Exec. Order No. 12,198, 45 FR 16,932 (1980).

PART 10—INTERNATIONAL POSTAL SERVICE

1. In part 932 of the International Mail Manual, add new *j.* reading as follows:

Part 932—General Exceptions to Payment—Insured Parcel Post and Registered Postal Union Mail

Indemnity may not be paid:

* * * * *

j. For an article or parcel which was officially seized while it was in the military postal system overseas.

PART 111—GENERAL INFORMATION ON POSTAL SERVICE

2. Revise the Domestic Mail Manual as follows:

Part 115—Mail Security

a. In 115.9, revise .93 to read as follows:

.93 Military Postal System. This part does not apply to the military postal system overseas or to persons performing military postal duties overseas. See 125.3.

Part 125—Mail Addressed From, To, or Between Military Post Offices Overseas

b. In part 125, add new 125.3 to read as follows:

125.3 Privacy of Mail in the Military Postal System Overseas. Information about mail security and mail cover regulations prescribed by the Department of Defense for mail in the military postal system overseas may be obtained from the Department of Defense.

Part 149—Indemnity Claims

c. In 149.252 add new *s.* reading as follows:

.252 Nonpayable Claims. * * * Indemnity will not be paid in the following situations:

* * * * *

s. The mail article or part or all of its contents were officially seized while in the military postal system overseas.

PART 233—INSPECTION SERVICE AUTHORITY

3. In § 233.3 of title 39, Code of Federal Regulations, add new paragraph (j) reading as follows:

§ 233.3 Mail covers.

* * * * *

(j) *Military Postal System.* Section 233.3 does not apply to the military postal system overseas or to persons performing military postal duties overseas. Information about regulations prescribed by the Department of Defense for the military postal system overseas may be obtained from the Department of Defense.

Amendments to 39 CFR 10.3, 111.3, and 233.3 will be published if this proposal is adopted.

(39 U.S.C. 401(2), 401(3), 403(a), 406, 411 (1976))

W. Allen Sanders,

Associate General Counsel, Office of General Law and Administration.

[FR Doc. 82-9171 Filed 4-5-82; 8:45 am]

BILLING CODE 7710-12-M

DEPARTMENT OF DEFENSE

Office of the Secretary

Security of Mail in APO/FPO System Overseas

AGENCY: Office of the Secretary (Military Postal Service), DoD.

ACTION: Notice.

SUMMARY: Pursuant to a proposed agreement between the United States Postal Service (USPS) and the Department of Defense (DOD), DOD will be responsible for mail security matters in the Military Postal System overseas. DOD will implement the proposed agreement, if adopted, with a statement of policy that will permit DOD officials to inspect, search, and collect information concerning mail when consistent with the Fourth Amendment to the U.S. Constitution, the Uniform Code of Military Justice, and the Manual for Courts-Martial. The new policy should assist DOD in reducing the flow of contraband in the Military Postal System.

DATES: Written comments must be received by June 7, 1982.

ADDRESSES: Send comments to: General Counsel, Department of the Army, Room 2E729, The Pentagon, Washington, D.C. 20310.

FOR FURTHER INFORMATION CONTACT: Thomas C. Wright, Office of General Counsel, Department of the Army, Room 2E729, The Pentagon, Washington, D.C. 20310, (202) 695–2253.

SUPPLEMENTARY INFORMATION: For many years the Department of Defense has recognized the need to control contraband in APO/FPO mail overseas. However, many regulations of the USPS, designed to apply primarily to domestic mail, did not provide for or permit effective measures to effectuate such control in the Military Postal System overseas. A new proposed agreement has been negotiated between USPS and DOD that will give DOD the responsibility of determining its own policies and regulations for the privacy and security of mail and information about mail in the Military Postal System overseas. The new policy recognizes the responsibility of the United States under Status of Forces Agreements to take steps necessary to assure that the customs, tax, and other laws of the host country are not abused by personnel authorized to use the military postal facilities. The customs and tax exemptions accorded our military personnel and civilian employees under these agreements are valuable benefits which should be protected.

The new policy will enable military law enforcement personnel to seek and execute search authorizations, issued pursuant to law and upon a showing of probable cause, for mail matter. At the same time, the privacy of mail shall be preserved. The new policy will also provide mechanisms for military mail covers, similar to the process currently used by USPS domestically. Provisions for random inspection of mail bags and parcels are included in order to stem the flow of drugs and contraband through the mail. The policy does not permit opening of any piece of mail except under limited circumstances.

Finally, the policy recognizes the authority of United States personnel to cooperate with and assist host country authorities who may have a legitimate interest in inspecting the mail. USPS regulations, concerned primarily with domestic mail, did not address this point specifically.

Notice of the new policy and an opportunity to comment thereon is not required as a matter of law. This opportunity to comment is intended only to imporve the internal management of the U.S. Government, and is not intended to create any right or benefit, substantive or procedural, enforceable by law by a party against the United States, its agencies, its officers, or any person.

For the reasons stated above, DOD is considering adoption of the following new policy:

(a) *Mail Security.* This policy applies only to the Military Postal System overseas. For mail security matters concerning the civilian postal system not overseas, see Part 115 of the Domestic Mail Manual (DMM). For purposes of this policy overseas means any place outside the United States, as defined in 10 U.S.C. 101, in which the USPS does not operate a civilian post office. The terms mail sealed against inspection, sealed mail, mail not sealed against inspection, and unsealed mail have the respective meanings given to them by Section 115.23 DMM.

(1) *Preserving Mail Security.* DOD personnel shall preserve and protect the security of all mail in its custody from unauthorized opening, inspection, reading of contents or covers, tampering, delay, or other unauthorized acts. A military servicemember or a civilian postal employee who commits or allows any such unauthorized act may be subject to prosecution under the Uniform Code of Military Justice or by federal civilian authorities or to other disciplinary or administrative action. An employee having a question about proper mail security procedures, which is not clearly and specifically answered by this policy or by timely direction by his supervisor, shall resolve the question by protecting the mail in all respects and moving it, or letting it move, without interruption, to its destination.

(2) *Opening, Reading, and Searching Mail. (i) Mail Sealed Against Inspection.* No person may open, read, search, or divulge the contents of mail sealed against inspection, even though such mail may be believed to contain criminal or otherwise nonmailable matter or evidence of the commission of a crime, except in the following circumstances:

(A) When a military postal clerk or postal officer acts with the consent of the addressee or sender.

(B) When an authorized person executes a search warrant or search authorization in accordance with paragraphs (a)(6) or (10).

(C) When a military official conducts a customs inspection under paragraph (a)(10)(ii) or under other circumstances prescribed by the Assistant Secretary of Defense (Manpower, Reserve Affairs, and Logistics).

(D) When an authorized person acts under paragraph (a)(4).

(ii) *Mail Not Sealed Against Inspection.* No person may open, read, search, or divulge the contents of mail not sealed against inspection, except in the following circumstances:

(A) When such action would be authorized with respect to mail sealed against inspection under paragraph (a)(i).

(B) When an authorized military postal clerk or postal officer takes such action in order to determine the mailability of the contents or whether the correct postage has been paid.

(iii) *Correspondence Permitted to be Enclosed in Unsealed Mail.* The contents of correspondence permitted to be sent by the blind in special or raised characters, or in the form of sound recording, and by school children at the international printed matter rate, shall not be divulged except to a military postal clerk or postal officer acting with the consent of the addressee or sender, or to an authorized person executing a search warrant or search authorization in accordance with paragraph (a)(6).

(3) *Permissible Detention of Mail.* No person may detain mail except:

(i) A military postal clerk or postal officer upon reasonable suspicion, for a brief period of time, so that military officials acting diligently and without avoidable delay, may assemble evidence sufficient to satisfy the probable cause requirement for a search authorization in accordance with

paragraph (a)(6), and to apply for, obtain, and execute the authorization.

(ii) A military postal clerk or postal officer acting in strict accordance with this policy (for example, paragraphs(a)(4), (6), and (7) of (10)(i)).

(iii) A military postal clerk or postal officer acting with the express consent of the addressee or sender.

(iv) A military postal clerk or postal officer acting under an order issued under 39 U.S.C. 3005, relating to false representations, lotteries, and unlawful matter.

(v) A military postal clerk conducting a mail count by direction of his supervisor.

(vi) A military postal clerk or postal officer acting under an order of a Federal court or military judge or magistrate.

(4) *Mail Reasonably Suspected of Being Dangerous to Persons or Property.* Any military postal clerk or postal officer of military law enforcement official may detain, open, remove from postal custody, and process or treat mail, sealed or unsealed, reasonably suspected of posing an immediate danger to life or limb, or an immediate and substantial danger to property, without a search warrant or authorization, but only to the extent necessary to determine and eliminate the danger, and only if a complete written and sworn statement of the detention, opening, removal, or treatment, and the circumstances that prompted it, signed by the person purporting to act under this subsection, is promptly forwarded to the service's senior military postal official in the theatre.

(5) *Disclosure of Information About Mail Sent or Received By Particular Senders or Addresses.* Except as provided in paragraphs (a)(5)(i) through (v), below, no military postal clerk or postal officer shall disclose information from the outside cover of any piece of mail; information obtained from any inspection of the contents of mail; or any other information which concerns any mail sent or received by any particular sender, addressee, or group of senders or addressees, which he obtains or controls in the performance of his official duties. A military postal clerk or postal officer may disclose such information:

(i) To appropriate military officials for their official use, including appropriate reference to law enforcement authorities, when there is a reasonable basis to suspect that such information is evidence of the commission of a crime, including a violation of the Uniform Code of Military Justice (10 U.S.C. 880–934).

(ii) Under paragraph (a)(8) regarding mail covers.

(iii) Under search warrant or search authorization in accordance with paragraph (a)(6).

(iv) Under an order of a federal court of military judge or magistrate.

(v) With the consent of the sender or addressee, of the authorized agent or either.

(6) *Execution of Search Warrants and Authorizations.*

(i) *Warrant Issued By Federal Court or Served By Federal Officer and Search Authorizations.*

(A) A search warrant duly issued under Rule 41 of the Federal Rules of Criminal Procedure shall be executed as provided in Section 115.62. DMM. Usually, a warrant issued by a federal court or served by a federal officer is issued under Rule 41 and is duly issued if signed and dated within the past ten days.

(B) A written search authorization under Military Rule or Evidence 315 shall be executed as provided in paragraph (a)(6)(ii). For purposes of this policy, a search authorization may be issued only by the following officials: (*1*) A commanding offcer authorized to convene a special court-martial under Article 23(a), Uniform Code of Military Justice, who has control over the military postal facility where the mail to be searched is located; or (*2*) a military judge or magistrate authorized by service regulations to issue search authorizations. Requests for initiation of written search authorizations shall be referred to the appropriate military investigative or law enforcement agency or to the appropriate chain-of-command official for action.

(C) No military postal clerk or postal officer shall permit the execution of a search warrant issued by a State court and served by a State officer. If in doubt, the military postal clerk or postal officer should detain the mail in question temporarily and promptly call his supervisor for guidance.

(ii) *Execution Procedures for Search Warrants and Search Authorizations*

(A) A military official may execute a search authorization only when accompanied by a military postal clerk or postal officer.

(B) A duly authorized official may execute a search warrant under Section 115.62, DMM.

(C) Mail may be taken from postal custody under the authority of a search warrant or search authorization only if the person executing the warrant leaves a copy of the warrant or authorization and a receipt or inventory, made out in the presence of the military postal clerk or postal officer accompanying him, which particularly describes each piece of mail taken, including all service endorsements on the cover (such as, return receipt requested) and any official postal identity numbers (such as registry, insurance, or certified mail numbers). The receipt or inventory may be attached to the copy of the warrant or authorization, or written on the reverse side of the copy of the warrant or authorization. A report of seizure shall be submitted as outlined in paragraph (a)(ii).

(7) *Cooperation With Federal Agencies for Access to Mail.* A military postal clerk or postal officer receiving a request from a federal law enforcement, intelligence, or other agency, or from a foreign government, for access to, or information about, particular mail matter of any class in the custody of the military postal service shall refer the request to the military postal official authorized to order mail covers under paragraph (a)(8), with the explanation that such official is responsible for liaison with all government agencies with respect to a request of this kind. The military postal official shall comply with such a request only as authorized by this policy. If the conditions described in paragraph (a)(8) exist, a mail cover may be ordered following the provisions of paragraph (a)(8). If the agency or foreign government seeks a search authorization, the military postal official should refer the agency or foreign government to the appropriate military law enforcement or investigative agency for action under paragraph (a)(6)(i).

(8) *Mail Covers.* (i) *Military Mail Cover Authority.* The senior military postal official of each major overseas command within each of the respective services, and not more than three designees (of each official) in grade O–5 or above, pursuant to delegations in writing, may order mail covers within the geographical area of their commands. A mail cover may be ordered only when a written request is received from a military law enforcement or investigative authority or from the commanding officer of the person whose mail is to be subjected to the mail cover process. The request may be granted only if it demonstrates reasonable grounds for determining that the mail cover (A) would aid in locating a fugitive, or (B) would assist in obtaining information concerning the commission or attempted commission of a crime.

(ii) *Oral Orders and Requests.* When time is critical, the senior military postal official or designee may issue an oral mail cover order upon an oral request to

be confirmed by the requesting authority in writing within 2 working days. However, no information may be released until an appropriate written order is received from the official who issued the oral order.

(iii) *Forwarding Order and Justification.* The official who orders a mail cover shall insure that a copy of the written justification and order for the mail cover is forwarded via the most expeditious means (for example, an electrical message system) to the service's senior military postal official in the major overseas command.

(iv) *Compilation of Record.* Information shall be compiled by the MPO supervisor or by a designated postal clerk. Information collected shall not be released to the military investigative agency, or any other agency, until release is authorized by the official who ordered the mail cover.

(v) *Disposition of Record.* Disposition of the compiled record of the mail cover shall be as directed by the official who ordered the mail cover. No other record (file) shall be maintained, nor is reproduction of any portion of the file authorized.

(9) *Random Inspection.* Mail bags and parcels in the military postal system abroad may be subjected to random inspection by fluoroscope or other reasonable technological or natural aids (such as metal detectors and narcotics detention dogs) in accordance with Military Rule of Evidence 313(b), or with 314(c) if applicable, when ordered by an official authorized to issue a search authorization under paragraph (a)(6)(i)(B). If there is a reasonable suspicion that unlawful weapons, contraband (including unlawful drugs), or other evidence of crime are contained in a particular mail bag or parcel, such official may authorize the opening of mail bags and inspection by fluoroscope or other reasonable technological or natural aids, but not the opening, of individual letters and parcels. Mail matter shall not be opened, nor shall mail be read, except under the provisions of paragraph (a)(2).

(10) *Foreign Customs Inspection of U.S. Mail Overseas.*

(i) *Submission of Mail to Host Country Customs.* Status of Forces Agreements provide for cooperation between sending State and host State authorities in conducting investigations, collection of evidence, and other matters involving the law enforcement process in foreign countries. U.S. authorities have authority to cooperate with foreign authorites in any necesary inspection by them of APO or FPO mail. A military postal clerk shall be present when host country officials inspect or in any way detain the mail. Military postal clerks shall not disclose any information about mail which he or she submits for clearance, or which is otherwise in his or her custody, except in accordance with this policy.

(ii) *Submission of Mail to U.S. Military Customs Officials.* To the extent that an applicable SOFA or other agreement or understanding exempts any or all categories of mail from customs clearance by host country officials in exchange for an undertaking by the United States to open and examine such mail for purposes of customs clearance, military postal clerks may submit such mail to military customs officials for customs clearance. No customs personnel may read, allow any other person to read, divulge, or transfer to any other person any correspondence contained in sealed mail, unless such action is authorized under a search warrant or authorization as described in paragraph (a)(6).

(11) *Seizure Reports.* The MPO or Mail Control Activity (MCA) Supervisor shall submit written seizure reports to the Service's senior postal official in the theatre and to the Military Postal Service Agency (DAAG–MP), Washington, D.C., on all mail confiscated under the provisions of this policy within 15 days of the seizure. The addressee shall also be notified of such seizure.

(i) *Mail Seizures by Military Authority.* Reports resulting from actions described in paragraph (a)(6)(ii)(C) shall include a copy of the receipt or inventory and a copy of the warrant or authorization.

(ii) *Mail Seizures by Host Country Officials.* In the event mail is confiscated by host government officials while in MPS channels, the MPO or MCA supervisor shall attempt to obtain a receipt for the article or articles. Reports involving accountable mail shall include the following information:

(A) Accountable number.

(B) Sender's name and address.

(C) Addressee's name and address.

(D) Post Ofice of origin.

(E) Description of items.

(iii) *Notice to Sender.* If the cover of domestic mail had been endorsed and stamped to show that the sender has requested and paid for a return receipt, the sender shall be notified of the seizure of the mail under the search warrant, search authorization, or under authority of the host government, by an endorsement to that effect on the return receipt, or on a duplicate if the original receipt is taken. The receipt shall be dispatched as soon as possible, unless the officer executing the warrant presents an order to delay the dispatch. In that event, the dispatch shall be delayed in accordance with the order.

(iv) *Office File Corps.* One copy may be retained by the office responsible for submitting the report, but no information in the report shall be disclosed, except in accordance with postal regulations authorizing such disclosure.

(b) Reserved.

April 1, 1982.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 82-9172 Filed 4-5-82; 8:45 am]

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Tuesday
April 6, 1982

Part III

Office of Personnel Management

Federal Employees Health Benefits Program; Final Rulemaking

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 890

Federal Employees Health Benefits Program

AGENCY: Office of Personnel Management.

ACTION: Final rulemaking.

SUMMARY: The Office of Personnel Management ("OPM") is amending its regulations on the Federal Employees Health Benefits ("FEHB") Program (1) to provide for an open season from May 3, 1982, through May 28, 1982; (2) to provide for an open season from November 22, 1982, through December 10, 1982; (3) to provide for an open season as to rates or benefits or both, from the Monday of the second full workweek in November through the Friday of the first full workweek in December in all future years, unless otherwise announced by the Director of OPM through the issuance of a Federal Personnel Manual ("FPM") Bulletin; and and (4) to eliminate the two deductibles that an enrollee (and eligible family members) had to meet prior to 1981 when the enrollee changed health benefits plans during an open season and, before the open season enrollment change became effective the following January, incurred covered expenses subject to a deductible. These regulations will grant eligible Federal employees opportunities to enroll in health benefits plans. Currently enrolled employees and annuitants will have opportunities to make desired changes in their enrollments. The regulations will also remove an inequity which required an enrollee who changed plans to meet two deductibles in a single contract year. Because of the situation recognized by the District of Columbia Court of Appeals noted below, and of the lead time required to print and distribute open season instructions, plan comparison booklets, and other materials, OPM is unable to authorize an open season earlier than May 1982.

As a result of public hearings held in February 1982, decisions were made on a number of proposals for administrative actions related to the open season. No pre-existing condition restrictions or transfer fees will be imposed on enrollees who change plans. No carrier will be required to offer certain benefits which other carriers are not required to offer. OPM will propose to carriers that 1983 contracts be amended to require all plans to accept annuitants, and to encourage greater plan use of utilization controls. OPM will also direct more of its audit attention on carriers to audits of claims paid.

Generally, a new enrollment or change in enrollment made during the May, 1982, open season will become effective on the first day of the first pay period beginning on or after July 1, 1982. The effective date of new enrollments made during subsequent November/December open seasons will be the first day of the first pay period which begins in January of the next following year and which follows a pay period during any part of which the employee is in a pay status. Changes in enrollment will be effective the first day of the first pay period which begins in January of the next following year.

EFFECTIVE DATE: April 6, 1982.

FOR FURTHER INFORMATION CONTACT: Lauretta Hall, Issuances and Instructions Branch, (202) 632–4684.

SUPPLEMENTARY INFORMATION:

(I)—History of Interim Regulations.

On December 30, 1980, OPM published interim regulations, effective January 1, 1981, to require that when an enrollee changes plans during an open season and his/her open season change becomes effective after January 1, any covered expenses incurred from January 1 to the effective date of the open season change shall count toward the deductible of the losing carrier for the prior year. If the covered expenses are in excess of the prior year deductible or family limit on deductibles, the enrollee (or eligible family member) shall be eligible for reimbursement from the losing carrier based on contractual obligations for the current contract year. Interested parties were invited to submit written comments concerning these interim regulations by March 2, 1981.

Also, on November 12, 1981, there were published in the **Federal Register** (46 FR 55679) interim regulations, effective November 12, 1981, providing that the open season scheduled for 1981 was postponed to a time to be announced later or to the applicable period during 1982, whichever was earlier. Interested persons were invited to submit written comments concerning these regulations by December 14, 1981.

Subsequent to the publication on November 12, 1981, of these interim regulations, the United States Disrict Court for the District of Columbia ordered the United States Government to hold an open season for a minimum of two weeks beginning on December 7, 1981. Pursuant to the court's order, a notice was published in the **Federal Register** (46 FR 59227) on December 4, 1981, announcing that an open season was to be held December 7, 1981, through December 31, 1981, and the OPM's actions postponing the 1981 open season were rescinded.

Before commencement of the general open season ordered by the District Court to begin on December 7, 1981, however, the United States Court of Appeals for the District of Columbia Circuit on December 4, 1981, stayed the prior order of the District Court and further directed the United States Government to hold an open season limited to persons not presently enrolled under the FEHB Program. A notice was published in the **Federal Register** (46 FR 61066) on December 15, 1981, announcing this modification.

On February 19, 1982, the Court of Appeals ruled that OPM had "good cause" to postpone open season and issue interim regulations without prior notice and comment. In addition, the court concluded that "OPM's decision to postpone the scheduled open season was substantively valid; it was not arbitrary, capricious, or an abuse of discretion, and it did not violate the contracts between OPM and the health plan carriers."

The Court of Appeals also said that OPM was correct in asserting that unless the scheduled open season for 1981 had been postponed, "the agency would have been compelled to take action which was not only impracticable but also potentially harmful." It also held that OPM properly took the view that pending litigation had created a situation under which "the eventual terms of the 1982 health plan contracts were entirely uncertain," justifying a postponement of the open enrollment period.

The Court of Appeals also found reasonable OPM's view that the agency was faced with an "emergency" situation within the meaning of applicable law, and that "the agency's action was required by events and circumstances beyond its control." The court added that "If open season had been held as scheduled, the resulting actuarial disarray might have posed a serious threat to the financial stability of the benefit program."

(II) Comments on Open Season and Proposed Administrative Changes

In response to OPM's notice and request for comments, numerous written comments were received regarding the open season regulations. (A few comments written prior to OPM's December 4, 1981, notice were also received.) Several expressed no opinion on the interim regulations but commented on other phases of the FEHB

Program. One commenter agreed with the interim regulations. The majority of the commenters opposed the interim regulations.

While their reasons varied, most commenters who opposed the interim regulations contended that OPM should not have the flexibility to alter the regularly scheduled open season in future years by the mere issuance of an FPM Bulletin, but that a change in regulations should be required.

In addition to the written comments received on the interim regulations, OPM held public hearings on February 22 and 23, 1982, on the then proposed FEHB open season and other administrative changes to the FEHB Program. A summary of the comments made on the issues, as listed in the order in which they appeared in the Federal Register (47 FR 6283) announcement of the hearings, is presented below.

A. *The proposal to conduct a general open season from May 3, 1982, to and including May 28, 1982, with enrollment changes becoming effective for employees on the first day of the first pay period in July, 1982, and for annuitants on July 1, 1982.*

Two Senators and four Congressmen commented that they thought that there should be a May open season because:

—People should be given the right to choose the coverage for which they are forced to pay.

—Many people have to change current coverage because they cannot afford it and/or because it no longer meets their medical needs.

The two Government-wide plans, Blue Cross-Blue Shield and Aetna, were not opposed to a May open season. Aetna and other commenters recommended that enrollees who made an open season change in May should not have to meet the new plan's deductible if they have already met the losing plan's deductible over the first half of 1982.

One employee organization plan, the National Association of Government Employees ("NAGE"), stated that it wanted a March open season; another participating employee organization plan, Mail Handlers Benefit Plan ("Mail Handlers"), did not address the proposal of a May open season, but stated that there should be an annual open season and that OPM should have called hearings before cancelling the November 1981 open season. A representative from the National Alliance of Postal and Federal Employees ("NAPFE") said that an open season should be held as soon as possible because fewer people would have to pay two deductibles.

The Kaiser Foundation Health Plan ("KFHP"), a comprehensive plan recommended that there be a May open season. Another comprehensive plan, Group Health Association, Inc. ("GHA"), said that the open season should be held as soon as possible, preferably in March. GHA argued that there had been an adverse impact on the Federal employee and that it was an injustice to abolish the choice that should have been afforded by the November open season.

A number of representatives of the American Federation of Government Employees ("AFGE") said that there should have been an immediate March open season because:

—The decrease in health benefits coverage meant that the 13 percent increase in premiums was actually larger than 13 percent.

—When the November, 1981, open season was cancelled, a contract that had been entered into by two parties was broken by one party without even informing the other party.

—OPM must act to restore the trust that employees formerly had in the Federal government as employer.

—People are no longer performing at their highest level.

The National Association of Retired Federal Employees ("NARFE") stated that it wanted a March open season because of its view that recent increases in cost and reductions in benefits had created a financial burden for retirees.

The National Association of Alcoholism Treatment Programs stated that it wanted an open season as soon as possible for the following reasons:

—Employees should be able to get the treatment they need.

—To defer the open season would be to abandon the Congressional mandate imposed on OPM.

—Postponing the open season will, in the long run, be costly to OPM.

Two citizens speaking for themselves wanted an open season as soon as possible. The others did not address the question of whether a May open season was desirable.

(1) *What effects, if any, will this have on the stability of the FEHB Program, particularly with respect to the phenomena of adverse selection and demographic imbalance?*

Only six participants addressed this problem. A Congressman said that he felt that OPM should be able to take some action (unspecified) to be sure that the adverse impact of a May open season is minimal. Blue Cross-Blue Shield stated that a May open season would have an adverse impact on the plans; changes would have to be made to take demographic imbalances into account. The Mail Handlers stated that OPM's concern should be the effect of the open season on Federal and Postal employees, rather than on any particular health benefits carrier. The three other participants who addressed this issue stated that they did not believe that a May open season would have a negative impact on the FEHB Program.

(2) *Should the regularly-scheduled open season which normally occurs in November–December 1982 also be held if open season is held in May 1982?*

None of the Congressmen specifically addressed this issue. Of the Government-wide plans, only Aetna addressed the issue and it stated that it would rather not have a November open season. One employee organization plan, the Mail Handlers, felt that there would be insufficient claims experience on which to base a November open season. The Mail Handlers' representative asserted that OPM call letters require that the prior year's experience be used to set rates and benefits. NAPFE stated that a November 1982 open season would be unnecessary if there were an immediate open season. KFHP and GHA want an open season this November and every succeeding November. NARFE wants an open season in November if there are to be any changes in premiums and/or benefits. A number of AFGE union representatives commented on this issue; some wanted a November open season and some did not.

(3) *Will there be sufficient claims experience to establish rates and benefits for an open season in November–December 1982 if an open season is held in May 1982?*

Six commenters on this issue said that there would not be enough claims experience to set rates and benefits for a November open season. The Mail Handlers pointed out that OPM call letters require that carriers set rates and benefits on the prior year's experience. Several comprehensive plans stated that a November open season would pose no problems for them, as their rates are based on community experience.

(4) *With what frequency and at what times should future open seasons be held?*

Two commenters said that future open seasons should be held biennially, but that rates should be adjusted annually. All other commenters stated, without qualification, that there should be an open season once a year or at least in advance of any change in benefits and/or rates.

B. *A proposal to institute a number of other changes to improve the overall*

administration of the FEHB Program. Among these are:

(1) *To discontinue the practice of requiring carriers to offer selected benefits not required of all carriers.*

All commenters on this issue, including Members of Congress, Government-wide plans, employee organization plans, comprehensive plans, and union representatives, said that the requirements that applied to one plan should apply to all others. Some commenters said that a requirement for a minimum level of benefits should be imposed by OPM. In response to a question about how OPM could require a certain benefits package, the Association for Advancement of Psychology stated that it would furnish additional information on a required benefits package.

(2) *To levy a transfer fee on enrollees who change plans during an open season.*

Several commenters said that this proposal was too vague to evaluate. All who commented on this proposal opposed it. A number of commenters felt that it would be illegal and that no such barriers designed to discourage employees and annuitants from taking advantage of the open season should be imposed.

(3) *To permit carriers to exclude certain pre-existing health conditions for enrollees who change plans.*

Almost everyone who commented on this proposal opposed it. Some commenters said that it would be illegal. One wrote that it would be especially unfair to persons whose plans terminated their coverage of a certain medical condition, since persons who had previously relied on that coverage would be left with no coverage and no recourse. Kitsap Physicians Service, a comprehensive medical plan, stated that it could consider a proposal either to exclude pre-existing illnesses for a six month period or to require losing carriers to continue coverage of an enrollee for six months after he or she transfers to another plan.

(4) *To require all plans in the program to accept annuitants.*

All who commented on this issue said that each plan would should be required to accept annuitants. Blue Cross-Blue Shield stated that premiums and Government contributions should be set by age group, with lower premiums for younger employees and higher premiums for older enrollees. However, the commenter noted that this would need further exploration before establishing definitive employee/Government contribution criteria. Aetna also stated that there should be special rates for persons who were covered by Medicare.

(5) *To impose certain utilization controls such as requiring second surgical opinions and pre-admission diagnostic testing.*

Almost everyone who commented on this issue favored utilization controls in most instances. Several commenters also stated that utilization controls should be encouraged by OPM, but not mandated (since different controls were applicable to different kinds of plans). GHA stated that these controls were already required for comprehensive plans. Several commenters, including Aetna, NARFE, and GEHA, noted that there were instances in which it might not be reasonable to require a second surgical opinion or preadmission diagnostic testing.

(6) *To focus more audit effort on claims paid by plans rather than on administrative expenses.*

Aetna, Mail Handlers, and Kaiser agreed that more attention should be focused on claims payments. The other three commenters on this issue said that additional attention to claims payment was not necessary.

C. *Summary.* In summary, virtually all commenters supported OPM's proposal for an open season in May, 1982. Most also favored an annual open season to be held at the same time and for the same length of time each year in advance of any change in benefits and/or rates. In addition, most commenters opposed transfer fees, exclusions for pre-existing conditions, and requirements (i.e., to offer certain benefits) that did not apply to all carriers. On the other hand, most commenters supported the proposal that OPM direct all plans to accept annuitants, encourage greater plan use of utilization controls, and increase audit attention to claims paid.

(III) Comments on Two Deductible Rule

Written comments on the interim enrollee deductible regulations published in December, 1980, were received from FEHB carriers, agencies, and individuals. The two agencies which responded offered no objections and supported the amendment. Of the three individuals who responded, two supported the amendment and one suggested that premiums might be increased because of the change. OPM examined that concern and concluded that, because of the relatively few individuals who are normally affected by this revision, there should be no practical effect on premium rates.

On the eight FEHB carriers which responded, most supported or expressed a willingness to support the amendment, but objected that it was being imposed unilaterally, through regulation, rather than through contractual negotiation. Some carriers indicated understanding that the urgent need to resolve this long-standing problem before another group of employees, who transferred between plans during the November/December, 1980, open season, encountered the same problem, precluded earlier notice and negotiation with affected carriers.

Several carriers noted administrative difficulties which might arise or be exacerbated by this change; for example, subscribers may experience some delays in receiving payment because of the delays within payroll offices in forwarding health benefits forms to the various FEHB carriers. Other carriers suggested differing effective dates or alternate methods of relieving the problem in question.

One carrier suggested that consideration be given to defining "timely" so that its meaning is clear. We have adopted this suggestion and have included such a definition in the regulations. Other recommended and considered changes have been made to the amendment, resulting in significant clarification.

(IV) OPM Consideration of Comments

OPM has carefully considered the written comments received on its interim regulations; the oral presentations made during the February, 1982, hearings; information brought forward in the course of recent, relevant litigation; the recent decisions made by the courts; and information brought forward in recent Congressional hearings. On the basis of all this material, OPM has concluded that the interim regulations should be incorporated in final rulemaking to ensure that future open seasons will be conducted fairly and efficiently; that the interests of all Federal employees and annuitants will be adequately and fairly protected in the conduct of future open seasons; that the financial stability and integrity of the FEHB Program will not be undermined by the improper and untimely conduct of open season; and that no enrollee (or eligible family member) will have to meet two deductibles during a single contract year.

Pursuant to section 553(d)(3) of title 5 of the United States Code, the Director finds that good cause exists to make this amendment effective in less than 30 days. The regulation is being made effective immediately to provide for an orderly implementation of the May 2, 1982 open season.

E.O. 12291, Federal Regulation

OPM has determine 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, individuals, industries, Federal, State, or local government agencies, or geographic regions, or

(3) Significant adverse effect 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 of the Office of Personnel Management certifies that these regulations will not have a significant economic impact on a substantial number of small entities, including small business, small organizational units, and small governmental jurisdictions.

List of Subjects in 5 CFR Part 890

Administrative practice and procedure, Government employees, Health insurance, Retirement, Claims.

Office of Personnel Management.

Donald J. Devine,

Director.

Accordingly, Title 5 of the Code of the Federal Regulations, Part 890, is amended as follows:

PART 890—FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM

1. OPM is revising § 890.201(a)(10) of Title 5 of the Code of Federal Regulations to read as follows:

§ 890.201 Minimum standards for health benefits plans.

(a) * * *

(10) Provide that when an employee or annuitant changes enrollment from one health benefits plan which has an annual deductible to another plan during an open season and the open season change becomes effective after January 1, any covered expenses incurred from January 1 to the effective date of the open season change shall count toward the prior year deductible of the losing carrier. If the prior year deductible or family limit on deductibles of the losing carrier had previously been met, the enrolled employee or annuitant (and eligible family members) shall be eligible for reimbursement by the losing carrier of covered expenses incurred during the current year. Reimbursement of covered expenses shall apply only to covered expenses incurred from January 1 to the effective date of the enrolled employee's or annuitant's open season change.

(i) This subsection shall apply only when timely filing has been made of November/December open season changes permitted under subsection 890.301(d) of this Part. It shall not apply to changes for which untimely filing has been made; to belated open season changes; or to any other permissible changes made during a contract year.

(ii) "Timely filing," as used in this section, means that the open season change made on a Health Benefits Registration Form (Standard Form 2809) must be received by the employing office no later than the last day of the open season as announced by the Office of Personnel Management.

(iii) For the open season in May, 1982, the following special provisions will apply: For an employee or annuitant who changes enrollment from one health benefits plan which has an annual deductible to another plan during the open season held from May 3, 1982, through May 28, 1982, any covered expenses incurred under the old plan from January 1, 1982, to the effective date of the May, 1982, open season change shall count toward any new deductible of the new plan.

* * * * *

2. Paragraph (d) of § 890.301 is revised to read as follows:

§ 890.301 Opportunities to register to enroll and change enrollment.

* * * * *

(d) *Open season.* An open season will be held from May 3, 1982, through May 28, 1982, and from November 22, 1982, through December 10, 1982, and in all future years from the Monday of the second full workweek in November through the Friday of the first full workweek in December, unless otherwise announced by the Director of the Office of Personnel Management for reasons, based on conditions, and with effective dates specified in a Federal Personnel Manual (FPM) Bulletin. During open season:

(1) An eligible unenrolled employee may register to be enrolled.

(2) An enrolled employee or annuitant may change to another plan, another option, or from self only to self and family, or may make any combination of these changes.

* * * * *

3. Section 890.306 is revised by amending paragraph (c)(1) and (2) to read as follows:

§ 890.306 Effective dates.

* * * * *

(c)(1) The effective date of a change in enrollment under § 890.301(d)(2) is the first day of the first pay period which begins in January of the next following year, except that a change in enrollment for the open season ending May 28, 1982, is effective on the first day of the first pay period which begins on or after July 1, 1982.

(2) The effective date of a new enrollment under § 890.301(d)(1) is the first day of the first pay period which begins in the next following year and which follows a pay period during any part of which the employee is in a pay status, except that the effective date of a new enrollment for the open season ending May 28, 1982, is the first day of the first pay period which begins on or after July 1, 1982, and which follows a pay period during any part of which the employee is in pay status.

(5 U.S.C. 8913)

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Tuesday
April 6, 1982

Part IV

The President

Executive Order 12356—National Security Information

Federal Register
Vol. 47, No. 66
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Presidential Documents

Title 3—

The President

Executive Order 12356 of April 2, 1982

National Security Information

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This Order prescribes a uniform system for classifying, declassifying, and safeguarding national security information. It recognizes that it is essential that the public be informed concerning the activities of its Government, but that the interests of the United States and its citizens require that certain information concerning the national defense and foreign relations be protected against unauthorized disclosure. Information may not be classified under this Order unless its disclosure reasonably could be expected to cause damage to the national security.

NOW, by the authority vested in me as President by the Constitution and laws of the United States of America, it is hereby ordered as follows:

Part 1

Original Classification

Section 1.1 *Classification Levels.*

(a) National security information (hereinafter "classified information") shall be classified at one of the following three levels:

(1) "Top Secret" shall be applied to information, the unauthorized disclosure of which reasonably could be expected to cause exceptionally grave damage to the national security.

(2) "Secret" shall be applied to information, the unauthorized disclosure of which reasonably could be expected to cause serious damage to the national security.

(3) "Confidential" shall be applied to information, the unauthorized disclosure of which reasonably could be expected to cause damage to the national security.

(b) Except as otherwise provided by statute, no other terms shall be used to identify classified information.

(c) If there is reasonable doubt about the need to classify information, it shall be safeguarded as if it were classified pending a determination by an original classification authority, who shall make this determination within thirty (30) days. If there is reasonable doubt about the appropriate level of classification, it shall be safeguarded at the higher level of classification pending a determination by an original classification authority, who shall make this determination within thirty (30) days.

Sec. 1.2 *Classification Authority.*

(a) *Top Secret.* The authority to classify information originally as Top Secret may be exercised only by:

(1) the President;

(2) agency heads and officials designated by the President in the **Federal Register**; and

(3) officials delegated this authority pursuant to Section 1.2(d).

(b) *Secret.* The authority to classify information originally as Secret may be exercised only by:

(1) agency heads and officials designated by the President in the **Federal Register**;

(2) officials with original Top Secret classification authority; and

(3) officials delegated such authority pursuant to Section 1.2(d).

(c) *Confidential.* The authority to classify information originally as Confidential may be exercised only by:

(1) agency heads and officials designated by the President in the **Federal Register**;

(2) officials with original Top Secret or Secret classification authority; and

(3) officials delegated such authority pursuant to Section 1.2(d).

(d) *Delegation of Original Classification Authority.*

(1) Delegations of original classification authority shall be limited to the minimum required to administer this Order. Agency heads are responsible for ensuring that designated subordinate officials have a demonstrable and continuing need to exercise this authority.

(2) Original Top Secret classification authority may be delegated only by the President; an agency head or official designated pursuant to Section 1.2(a)(2); and the senior official designated under Section 5.3(a)(1), provided that official has been delegated original Top Secret classification authority by the agency head.

(3) Original Secret classification authority may be delegated only by the President; an agency head or official designated pursuant to Sections 1.2(a)(2) and 1.2(b)(1); an official with original Top Secret classification authority; and the senior official designated under Section 5.3(a)(1), provided that official has been delegated original Secret classification authority by the agency head.

(4) Original Confidential classification authority may be delegated only by the President; an agency head or official designated pursuant to Sections 1.2(a)(2), 1.2(b)(1) and 1.2(c)(1); an official with original Top Secret classification author-

ity; and the senior official designated under Section 5.3(a)(1), provided that official has been delegated original classification authority by the agency head.

(5) Each delegation of original classification authority shall be in writing and the authority shall not be redelegated except as provided in this Order. It shall identify the official delegated the authority by name or position title. Delegated classification authority includes the authority to classify information at the level granted and lower levels of classification.

(e) *Exceptional Cases.* When an employee, contractor, licensee, or grantee of an agency that does not have original classification authority originates information believed by that person to require classification, the information shall be protected in a manner consistent with this Order and its implementing directives. The information shall be transmitted promptly as provided under this Order or its implementing directives to the agency that has appropriate subject matter interest and classification authority with respect to this information. That agency shall decide within thirty (30) days whether to classify this information. If it is not clear which agency has classification responsibility for this information, it shall be sent to the Director of the Information Security Oversight Office. The Director shall determine the agency having primary subject matter interest and forward the information, with appropriate recommendations, to that agency for a classification determination.

Sec. 1.3 *Classification Categories.*

(a) Information shall be considered for classification if it concerns:

(1) military plans, weapons, or operations;

(2) the vulnerabilities or capabilities of systems, installations, projects, or plans relating to the national security;

(3) foreign government information;

(4) intelligence activities (including special activities), or intelligence sources or methods;

(5) foreign relations or foreign activities of the United States;

(6) scientific, technological, or economic matters relating to the national security;

(7) United States Government programs for safeguarding nuclear materials or facilities;

(8) cryptology;

(9) a confidential source; or

(10) other categories of information that are related to the national security and that require protection against unauthorized disclosure as determined by the President or by agency heads or other officials who have been delegated original classification authority by the President. Any determination made under this subsection shall be reported promptly to the Director of the Information Security Oversight Office.

(b) Information that is determined to concern one or more of the categories in Section 1.3(a) shall be classified when an original classification authority also determines that its unauthorized disclosure, either by itself or in the context of other information, reasonably could be expected to cause damage to the national security.

(c) Unauthorized disclosure of foreign government information, the identity of a confidential foreign source, or intelligence sources or methods is presumed to cause damage to the national security.

(d) Information classified in accordance with Section 1.3 shall not be declassified automatically as a result of any unofficial publication or inadvertent or unauthorized disclosure in the United States or abroad of identical or similar information.

Sec. 1.4 *Duration of Classification.*

(a) Information shall be classified as long as required by national security considerations. When it can be determined, a specific date or event for declassification shall be set by the original classification authority at the time the information is originally classified.

(b) Automatic declassification determinations under predecessor orders shall remain valid unless the classification is extended by an authorized official of the originating agency. These extensions may be by individual documents or categories of information. The agency shall be responsible for notifying holders of the information of such extensions.

(c) Information classified under predecessor orders and marked for declassification review shall remain classified until reviewed for declassification under the provisions of this Order.

Sec. 1.5 *Identification and Markings.*

(a) At the time of original classification, the following information shall be shown on the face of all classified documents, or clearly associated with other forms of classified information in a manner appropriate to the medium involved, unless this information itself would reveal a confidential source or relationship not otherwise evident in the document or information:

(1) one of the three classification levels defined in Section 1.1;

(2) the identity of the original classification authority if other than the person whose name appears as the approving or signing official;

(3) the agency and office of origin; and

(4) the date or event for declassification, or the notation "Originating Agency's Determination Required."

(b) Each classified document shall, by marking or other means, indicate which portions are classified, with the applicable classification level, and which portions are not classified. Agency heads may, for good cause, grant and revoke waivers of this requirement for specified classes of documents or information. The Director of the Information Security Oversight Office shall be notified of any waivers.

(c) Marking designations implementing the provisions of this Order, including abbreviations, shall conform to the standards prescribed in implementing directives issued by the Information Security Oversight Office.

(d) Foreign government information shall either retain its original classification or be assigned a United States classification that shall ensure a degree of protection at least equivalent to that required by the entity that furnished the information.

(e) Information assigned a level of classification under predecessor orders shall be considered as classified at that level of classification despite the omission of other required markings. Omitted markings may be inserted on a document by the officials specified in Section 3.1(b).

Sec. 1.6 *Limitations on Classification.*

(a) In no case shall information be classified in order to conceal violations of law, inefficiency, or administrative error; to prevent embarrassment to a person, organization, or agency; to restrain competition; or to prevent or delay the release of information that does not require protection in the interest of national security.

(b) Basic scientific research information not clearly related to the national security may not be classified.

(c) The President or an agency head or official designated under Sections 1.2(a)(2), 1.2(b)(1), or 1.2(c)(1) may reclassify information previously declassified and disclosed if it is determined in writing that (1) the information requires protection in the interest of national security; and (2) the information

may reasonably be recovered. These reclassification actions shall be reported promptly to the Director of the Information Security Oversight Office.

(d) Information may be classified or reclassified after an agency has received a request for it under the Freedom of Information Act (5 U.S.C. 552) or the Privacy Act of 1974 (5 U.S.C. 552a), or the mandatory review provisions of this Order (Section 3.4) if such classification meets the requirements of this Order and is accomplished personally and on a document-by-document basis by the agency head, the deputy agency head, the senior agency official designated under Section 5.3(a)(1), or an official with original Top Secret classification authority.

Part 2

Derivative Classification

Sec. 2.1 *Use of Derivative Classification.*

(a) Derivative classification is (1) the determination that information is in substance the same as information currently classified, and (2) the application of the same classification markings. Persons who only reproduce, extract, or summarize classified information, or who only apply classification markings derived from source material or as directed by a classification guide, need not possess original classification authority.

(b) Persons who apply derivative classification markings shall:

(1) observe and respect original classification decisions; and

(2) carry forward to any newly created documents any assigned authorized markings. The declassification date or event that provides the longest period of classification shall be used for documents classified on the basis of multiple sources.

Sec. 2.2 *Classification Guides.*

(a) Agencies with original classification authority shall prepare classification guides to facilitate the proper and uniform derivative classification of information.

(b) Each guide shall be approved personally and in writing by an official who:

(1) has program or supervisory responsibility over the information or is the senior agency official designated under Section 5.3(a)(1); and

(2) is authorized to classify information originally at the highest level of classification prescribed in the guide.

(c) Agency heads may, for good cause, grant and revoke waivers of the requirement to prepare classification guides for specified classes of documents or information. The Director of the Information Security Oversight Office shall be notified of any waivers.

Part 3

Declassification and Downgrading

Sec. 3.1 *Declassification Authority.*

(a) Information shall be declassified or downgraded as soon as national security considerations permit. Agencies shall coordinate their review of classified information with other agencies that have a direct interest in the subject matter. Information that continues to meet the classification requirements prescribed by Section 1.3 despite the passage of time will continue to be protected in accordance with this Order.

(b) Information shall be declassified or downgraded by the official who authorized the original classification, if that official is still serving in the same position; the originator's successor; a supervisory official of either; or officials delegated such authority in writing by the agency head or the senior agency official designated pursuant to Section 5.3(a)(1).

(c) If the Director of the Information Security Oversight Office determines that information is classified in violation of this Order, the Director may require the information to be declassified by the agency that originated the classification. Any such decision by the Director may be appealed to the National Security Council. The information shall remain classified, pending a prompt decision on the appeal.

(d) The provisions of this Section shall also apply to agencies that, under the terms of this Order, do not have original classification authority, but that had such authority under predecessor orders.

Sec. 3.2 *Transferred Information.*

(a) In the case of classified information transferred in conjunction with a transfer of functions, and not merely for storage purposes, the receiving agency shall be deemed to be the originating agency for purposes of this Order.

(b) In the case of classified information that is not officially transferred as described in Section 3.2(a), but that originated in an agency that has ceased to exist and for which there is no successor agency, each agency in possession of such information shall be deemed to be the originating agency for purposes of this Order. Such information may be declassified or downgraded by the agency in possession after consultation with any other agency that has an interest in the subject matter of the information.

(c) Classified information accessioned into the National Archives of the United States shall be declassified or downgraded by the Archivist of the United States in accordance with this Order, the directives of the Information Security Oversight Office, and agency guidelines.

Sec. 3.3 *Systematic Review for Declassification.*

(a) The Archivist of the United States shall, in accordance with procedures and timeframes prescribed in the Information Security Oversight Office's directives implementing this Order, systematically review for declassification or downgrading (1) classified records accessioned into the National Archives of the United States, and (2) classified presidential papers or records under the Archivist's control. Such information shall be reviewed by the Archivist for declassification or downgrading in accordance with systematic review guidelines that shall be provided by the head of the agency that originated the information, or in the case of foreign government information, by the Director of the Information Security Oversight Office in consultation with interested agency heads.

(b) Agency heads may conduct internal systematic review programs for classified information originated by their agencies contained in records determined by the Archivist to be permanently valuable but that have not been accessioned into the National Archives of the United States.

(c) After consultation with affected agencies, the Secretary of Defense may establish special procedures for systematic review for declassification of classified cryptologic information, and the Director of Central Intelligence may establish special procedures for systematic review for declassification of classified information pertaining to intelligence activities (including special activities), or intelligence sources or methods.

Sec. 3.4. *Mandatory Review for Declassification.*

(a) Except as provided in Section 3.4(b), all information classified under this Order or predecessor orders shall be subject to a review for declassification by the originating agency, if:

(1) the request is made by a United States citizen or permanent resident alien, a federal agency, or a State or local government; and

(2) the request describes the document or material containing the information with sufficient specificity to enable the agency to locate it with a reasonable amount of effort.

(b) Information originated by a President, the White House Staff, by committees, commissions, or boards appointed by the President, or others specifically providing advice and counsel to a President or acting on behalf of a President is exempted from the provisions of Section 3.4(a). The Archivist of the United States shall have the authority to review, downgrade and declassify information under the control of the Administrator of General Services or the Archivist pursuant to sections 2107, 2107 note, or 2203 of title 44, United States Code. Review procedures developed by the Archivist shall provide for consultation with agencies having primary subject matter interest and shall be consistent with the provisions of applicable laws or lawful agreements that pertain to the respective presidential papers or records. Any decision by the Archivist may be appealed to the Director of the Information Security Oversight Office. Agencies with primary subject matter interest shall be notified promptly of the Director's decision on such appeals and may further appeal to the National Security Council. The information shall remain classified pending a prompt decision on the appeal.

(c) Agencies conducting a mandatory review for declassification shall declassify information no longer requiring protection under this Order. They shall release this information unless withholding is otherwise authorized under applicable law.

(d) Agency heads shall develop procedures to process requests for the mandatory review of classified information. These procedures shall apply to information classified under this or predecessor orders. They shall also provide a means for administratively appealing a denial of a mandatory review request.

(e) The Secretary of Defense shall develop special procedures for the review of cryptologic information, and the Director of Central Intelligence shall develop special procedures for the review of information pertaining to intelligence activities (including special activities), or intelligence sources or methods, after consultation with affected agencies. The Archivist shall develop special procedures for the review of information accessioned into the National Archives of the United States.

(f) In response to a request for information under the Freedom of Information Act, the Privacy Act of 1974, or the mandatory review provisions of this Order:

(1) An agency shall refuse to confirm or deny the existence or non-existence of requested information whenever the fact of its existence or non-existence is itself classifiable under this Order.

(2) When an agency receives any request for documents in its custody that were classified by another agency, it shall refer copies of the request and the requested documents to the originating agency for processing, and may, after consultation with the originating agency, inform the requester of the referral. In cases in which the originating agency determines in writing that a response under Section 3.4(f)(1) is required, the referring agency shall respond to the requester in accordance with that Section.

Part 4

Safeguarding

Sec. 4.1 *General Restrictions on Access.*

(a) A person is eligible for access to classified information provided that a determination of trustworthiness has been made by agency heads or designated officials and provided that such access is essential to the accomplishment of lawful and authorized Government purposes.

(b) Controls shall be established by each agency to ensure that classified information is used, processed, stored, reproduced, transmitted, and destroyed only under conditions that will provide adequate protection and prevent access by unauthorized persons.

(c) Classified information shall not be disseminated outside the executive branch except under conditions that ensure that the information will be given protection equivalent to that afforded within the executive branch.

(d) Except as provided by directives issued by the President through the National Security Council, classified information originating in one agency may not be disseminated outside any other agency to which it has been made available without the consent of the originating agency. For purposes of this Section, the Department of Defense shall be considered one agency.

Sec. 4.2 *Special Access Programs.*

(a) Agency heads designated pursuant to Section 1.2(a) may create special access programs to control access, distribution, and protection of particularly sensitive information classified pursuant to this Order or predecessor orders. Such programs may be created or continued only at the written direction of these agency heads. For special access programs pertaining to intelligence activities (including special activities but not including military operational, strategic and tactical programs), or intelligence sources or methods, this function will be exercised by the Director of Central Intelligence.

(b) Each agency head shall establish and maintain a system of accounting for special access programs. The Director of the Information Security Oversight Office, consistent with the provisions of Section 5.2(b)(4), shall have non-delegable access to all such accountings.

Sec. 4.3 *Access by Historical Researchers and Former Presidential Appointees.*

(a) The requirement in Section 4.1(a) that access to classified information may be granted only as is essential to the accomplishment of authorized and lawful Government purposes may be waived as provided in Section 4.3(b) for persons who:

(1) are engaged in historical research projects, or

(2) previously have occupied policy-making positions to which they were appointed by the President.

(b) Waivers under Section 4.3(a) may be granted only if the originating agency:

(1) determines in writing that access is consistent with the interest of national security;

(2) takes appropriate steps to protect classified information from unauthorized disclosure or compromise, and ensures that the information is safeguarded in a manner consistent with this Order; and

(3) limits the access granted to former presidential appointees to items that the person originated, reviewed, signed, or received while serving as a presidential appointee.

Part 5

Implementation and Review

Sec. 5.1 *Policy Direction.*

(a) The National Security Council shall provide overall policy direction for the information security program.

(b) The Administrator of General Services shall be responsible for implementing and monitoring the program established pursuant to this Order. The Administrator shall delegate the implementation and monitorship functions of this program to the Director of the Information Security Oversight Office.

Sec. 5.2 *Information Security Oversight Office.*

(a) The Information Security Oversight Office shall have a full-time Director appointed by the Administrator of General Services subject to approval by the President. The Director shall have the authority to appoint a staff for the Office.

(b) The Director shall:

(1) develop, in consultation with the agencies, and promulgate, subject to the approval of the National Security Council, directives for the implementation of this Order, which shall be binding on the agencies;

(2) oversee agency actions to ensure compliance with this Order and implementing directives;

(3) review all agency implementing regulations and agency guidelines for systematic declassification review. The Director shall require any regulation or guideline to be changed if it is not consistent with this Order or implementing directives. Any such decision by the Director may be appealed to the National Security Council. The agency regulation or guideline shall remain in effect pending a prompt decision on the appeal;

(4) have the authority to conduct on-site reviews of the information security program of each agency that generates or handles classified information and to require of each agency those reports, information, and other cooperation that may be necessary to fulfill the Director's responsibilities. If these reports, inspections, or access to specific categories of classified information would pose an exceptional national security risk, the affected agency head or the senior official designated under Section 5.3(a)(1) may deny access. The Director may appeal denials to the National Security Council. The denial of access shall remain in effect pending a prompt decision on the appeal;

(5) review requests for original classification authority from agencies or officials not granted original classification authority and, if deemed appropriate, recommend presidential approval;

(6) consider and take action on complaints and suggestions from persons within or outside the Government with respect to the administration of the information security program;

(7) have the authority to prescribe, after consultation with affected agencies, standard forms that will promote the implementation of the information security program;

(8) report at least annually to the President through the National Security Council on the implementation of this Order; and

(9) have the authority to convene and chair interagency meetings to discuss matters pertaining to the information security program.

Sec. 5.3 *General Responsibilities.*

Agencies that originate or handle classified information shall:

(a) designate a senior agency official to direct and administer its information security program, which shall include an active oversight and security education program to ensure effective implementation of this Order;

(b) promulgate implementing regulations. Any unclassified regulations that establish agency information security policy shall be published in the **Federal Register** to the extent that these regulations affect members of the public;

(c) establish procedures to prevent unnecessary access to classified information, including procedures that (i) require that a demonstrable need for access to classified information is established before initiating administrative clearance procedures, and (ii) ensure that the number of persons granted access to classified information is limited to the minimum consistent with operational and security requirements and needs; and

(d) develop special contingency plans for the protection of classified information used in or near hostile or potentially hostile areas.

Sec. 5.4 *Sanctions.*

(a) If the Director of the Information Security Oversight Office finds that a violation of this Order or its implementing directives may have occurred, the Director shall make a report to the head of the agency or to the senior official

designated under Section 5.3(a)(1) so that corrective steps, if appropriate, may be taken.

(b) Officers and employees of the United States Government, and its contractors, licensees, and grantees shall be subject to appropriate sanctions if they:

(1) knowingly, willfully, or negligently disclose to unauthorized persons information properly classified under this Order or predecessor orders;

(2) knowingly and willfully classify or continue the classification of information in violation of this Order or any implementing directive; or

(3) knowingly and willfully violate any other provision of this Order or implementing directive.

(c) Sanctions may include reprimand, suspension without pay, removal, termination of classification authority, loss or denial of access to classified information, or other sanctions in accordance with applicable law and agency regulation.

(d) Each agency head or the senior official designated under Section 5.3(a)(1) shall ensure that appropriate and prompt corrective action is taken whenever a violation under Section 5.4(b) occurs. Either shall ensure that the Director of the Information Security Oversight Office is promptly notified whenever a violation under Section 5.4(b) (1) or (2) occurs.

Part 6

General Provisions

Sec. 6.1 *Definitions.*

(a) "Agency" has the meaning provided at 5 U.S.C. 552(e).

(b) "Information" means any information or material, regardless of its physical form or characteristics, that is owned by, produced by or for, or is under the control of the United States Government.

(c) "National security information" means information that has been determined pursuant to this Order or any predecessor order to require protection against unauthorized disclosure and that is so designated.

(d) "Foreign government information" means:

(1) information provided by a foreign government or governments, an international organization of governments, or any element thereof with the expectation, expressed or implied, that the information, the source of the information, or both, are to be held in confidence; or

(2) information produced by the United States pursuant to or as a result of a joint arrangement with a foreign government or governments or an international organization of governments, or any element thereof, requiring that the information, the arrangement, or both, are to be held in confidence.

(e) "National security" means the national defense or foreign relations of the United States.

(f) "Confidential source" means any individual or organization that has provided, or that may reasonably be expected to provide, information to the United States on matters pertaining to the national security with the expectation, expressed or implied, that the information or relationship, or both, be held in confidence.

(g) "Original classification" means an initial determination that information requires, in the interest of national security, protection against unauthorized disclosure, together with a classification designation signifying the level of protection required.

Sec. 6.2 *General.*

(a) Nothing in this Order shall supersede any requirement made by or under the Atomic Energy Act of 1954, as amended. "Restricted Data" and "Formerly Restricted Data" shall be handled, protected, classified, downgraded, and

declassified in conformity with the provisions of the Atomic Energy Act of 1954, as amended, and regulations issued under that Act.

(b) The Attorney General, upon request by the head of an agency or the Director of the Information Security Oversight Office, shall render an interpretation of this Order with respect to any question arising in the course of its administration.

(c) Nothing in this Order limits the protection afforded any information by other provisions of law.

(d) Executive Order No. 12065 of June 28, 1978, as amended, is revoked as of the effective date of this Order.

(e) This Order shall become effective on August 1, 1982.

Ronald Reagan

THE WHITE HOUSE,
April 2, 1982.

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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR NOTICE 41 FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY	USDA/ASCS		DOT/SECRETARY	USDA/ASCS
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DOT/FAA	USDA/REA		DOT/FAA	USDA/REA
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DOT/MA	LABOR		DOT/MA	LABOR
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Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday. Comments on this program are still invited.

Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

List of Public Laws

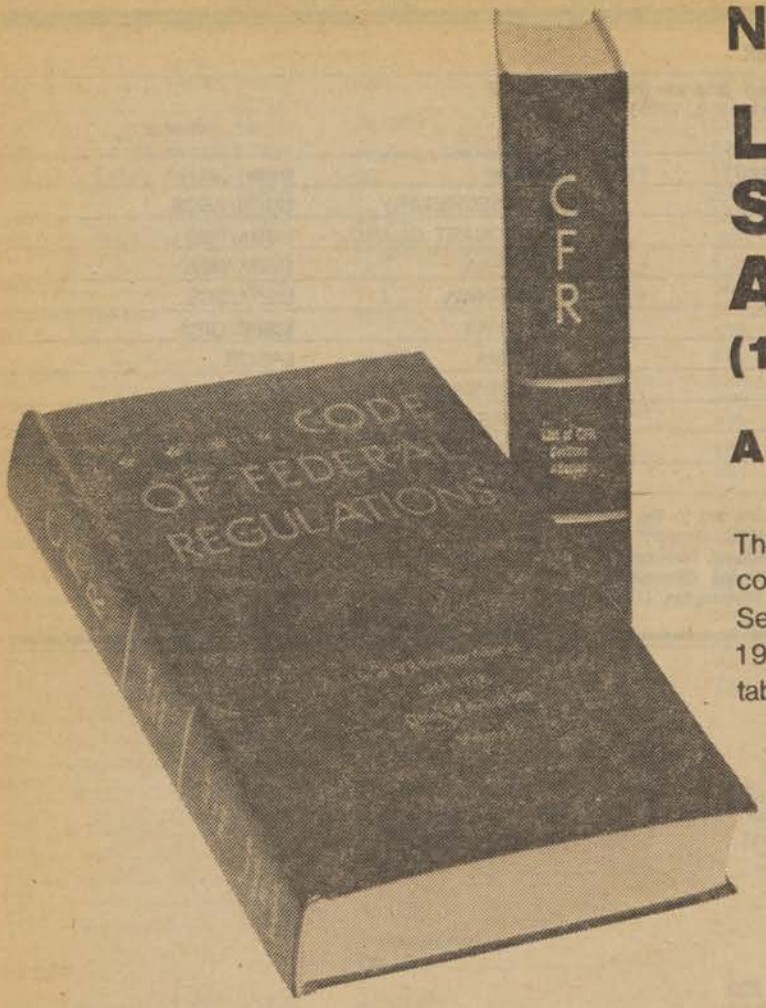
Last Listing April 5, 1982

This is a continuing list of public bills from the current session of Congress which have become Federal laws. The text of laws is not published in the **Federal Register** but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 (telephone 202–275–3030).

S. 892/Pub. L. 97–162 To amend the Federal Grant and Cooperative Agreement Act (April 1, 1982; 96 Stat. 23) Price: $1.50.

S. 1937/Pub. L. 97–163 To extend the expiration date of section 252 of the Energy Policy and Conservation Act. (April 1, 1982; 96 Stat. 24) Price: $1.50.

H.R. 4482/Pub. L. 97–164 Federal Courts Improvement Act of 1982. (April 2, 1982; 96 Stat. 25) Price: $2.50.



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