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Rules and Regulations

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

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 890

Federal Employees Health Benefits Program; Benefits for Medically Underserved Areas

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: The Office of Personnel Management (OPM) is amending its regulations pertaining to benefits under the Federal Employees Health Benefits (FEHB) Program for individuals in medically underserved areas. These regulations are necessary to implement the FEHB law, as amended, which mandates special consideration for enrollees of certain FEHB plans who receive covered health service in States with critical shortages of primary care physicians.

EFFECTIVE DATE: January 1, 1982.

FOR FURTHER INFORMATION CONTACT: Lauretta Hall, Issuances and Instructions staff, (202) 632–4684.

SUPPLEMENTARY INFORMATION: On September 18, 1981, the Office of Personnel Management published in the Federal Register (46 FR 46332) an update to Subpart G under 5 CFR Part 890, as proposed regulations with a 60-day period for comments from interested parties before publication of final regulations. Subpart G pertains to administration of 5 U.S.C. 8902(m)(2), as added to the Federal Employees Health Benefits Law by Pub. L. 95–368, approved September 17, 1978, and amended by Pub. L. 96–179, approved January 2, 1980. The law provides that effective January 1, 1980, and continuing through December 31, 1984, FEHB plans (except comprehensive prepayment medical plans) whose contracts specify payment or reimbursement for care or treatment of a particular health condition, must also provide benefits up to the limits of their contracts in return for health services, when the health service is provided to a plan member "in a State where 25 percent or more of the population is located in primary medical care manpower shortage areas designated under section 332 of the Public Health Service Act." Interested persons were invited to submit written comments concerning the proposed regulations by November 17, 1981.

We received three written responses on the proposed regulations during the 60-day comment period. Two were favorable and the other suggested that because of the significant number of physician assistants serving as providers of care in rural communities the word "credentialed" be inserted in lieu of "licensed". While OPM recognizes the significant contribution physician assistants are making in health care, the suggestion cannot be adopted in view of the present statutory language in 5 U.S.C. 8902(m)(2). That section reads, in part, as follows: "* * * the carrier shall provide, pay, or reimburse up to the limits of its contract for any such health service properly provided by any person licensed under State law to provide such service * * *."

E.O. 12291, Federal Regulation

OPM has determined that this is not a major rule for the purposes of E.O. 12291, Federal Regulation, because it will not result in:

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

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

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

Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities, including small business, small organizational units and small governmental jurisdictions.

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, OPM is amending 5 CFR Part 890 by revising the definition of "medically underserved area" in § 890.701 to read as follows:

PART 890—FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM

§ 890.701 Definitions.

* * * * *

"Medically underserved area" includes any of the 50 States of the United States where the Office of Personnel Management determines that 25 percent or more of the residents are located in primary medical care manpower shortage areas designated pursuant to section 332 of the Public Health Service Act (42 U.S.C. 245e). The Office has determined that effective January 1, 1982, the following states are "medically underserved areas" for purposes of this subpart: Alabama, Alaska, Kentucky, Mississippi, Missouri, North Carolina, North Dakota, Oklahoma, South Carolina, South Dakota, and West Virginia.

(Pub. L. 96–179, 5 U.S.C. 8913)

[FR Doc. 82–11153 Filed 4–22–82; 8:45 am]
BILLING CODE 6325–01–M

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Part 210

[Amdt. No. 51]

National School Lunch Program

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final rule.

SUMMARY: This rulemaking amends and finalizes the regulations contained in the National School Lunch Program emergency final rule in the December 16, 1980, Federal Register (45 FR 82888–82889). The emergency final rule modified the food preference survey responsibilities of the State Food Distribution (SFD) Advisory Council (7

CFR 210.20) by providing the advisory council with the options of (1) determining both the method and scope of gathering information required for the food preference survey and (2) using the format determined to be most appropriate for the collection of food preference survey information. While these provisions were effective upon publication, comments were solicited for a 90-day period after publication of this document to ensure public response.

This final action provides an analysis of the comments received and defines changes in the regulations, as based upon responses.

EFFECTIVE DATE: April 23, 1982.

FOR FURTHER INFORMATION CONTACT: Gwena Kay Tibbits, Chief, Program Monitoring and Policy Development Branch, Food Distribution Division, Food and Nutrition Service, U.S. Department of Agriculture, Alexandria, Virginia 22303, (703) 756–3660.

SUPPLEMENTARY INFORMATION: In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3507), the reporting and recordkeeping provisions that are contained in this interim rule have been approved by the Office of Management and Budget through September 30, 1983. OMB No. 0584–0278.

This final action has been reviewed under Executive Order 12291 and Secretary's Memorandum No. 1512–1 and has been classified "nonmajor" because it meets none of the 3 criteria listed in the definition of "major rule" in the Executive Order; the action will not have an annual effect on the economy of $100 million or more, will not cause a major increase in costs, and will not have a significant impact on competition, employment, productivity, innovation or on the ability of U.S. enterprises to compete.

The action has also been reviewed with regard to the requirements of Pub. L. 96–354, the Regulatory Flexibility Act of 1980. Samuel J. Cornelius, Administrator, Food and Nutrition Service (FNS) has determined that this action will not have a significant economic impact on a substantial number of small entities. The primary purpose of this final rule is to decrease the paperwork burden associated with gathering and compiling the food preference survey information. This requirement impacts both on SFD Advisory Councils and school food authorities and will cause decreases in paperwork to the recipient agencies.

Introduction

Section 6 of Pub. L. 95–166, enacted November 10, 1977, amended section 14 of the National School Lunch Act, 42 U.S.C. 1755. This amendment required each State education agency (SEA) to establish an SFD Advisory Council to advise the SEA with respect to the needs of schools relating to the manner of selection and distribution of food assistance for the school lunch program.

Accordingly, Amendment 35, published on January 4, 1980, included a new § 210.20 of the National School Lunch Program regulations which required each SEA to establish the SFD Advisory Council and defined the responsibilities of the advisory council. The responsibilities, in regard to implementation of the food preference report survey are: The SFD Advisory Council shall obtain information on the most desired foods, least desired foods and recommendations for new products through a survey of all the school food authorities in the State. The advisory council's findings and recommendations are submitted to the SEA which, in turn submits the council's recommendations to FNSRO. FNS, through a state-by-state analysis of these recommendations, develops a national food preference report for the Department to use in the purchase of certain foods for distribution to schools.

Upon implementation of Amendment 35, FNS was informed that several provisions were found to be overly burdensome and needlessly complicated the information gathering process related to the food preference survey. To ensure validity of the food preference survey results, yet decrease the cost and paperwork burden, Amendment 43 was published and implemented on December 16, 1980 as an emergency final rule (45 FR 82888–82889). This rule amended § 210.20 by eliminating the requirement to survey all school food authorities and by giving the advisory council discretion in determining the scope and the method of the food preference survey as well as the survey format. As long as the required food preference survey information is collected and submitted in a timely manner, the SFD Advisory Council may determine the method and scope of the survey as seeming to be most appropriate in that State.

While these provisions were effective upon publication, a comment period was also placed in effect to ensure that FNS received public comments prior to making these provisions permanent components of the regulations.

Analysis of Comments

Interested persons and groups were given 90 days in which to submit written comments, suggestions or objections regarding the emergency final rule. A total of 3 comments were received, all concurring with the changes made in this rule. Two of the comments, both from State agencies responsible for school food distribution, made no additional suggestions. The third comment, received from an FNS Regional Office (FNSRO), supports the changes but believes additional guidance should be provided to the FNSRO for their use in reviewing the State's implementation of these provisions.

FNSRO Reviews

The FNSRO comment expressed the need for additional guidance in monitoring the SFD Advisory Council food preference survey for validity of data and effectiveness. FNSRO's monitoring function will encompass a review of the records maintained at SEA, thus ensuring the advisory council's survey scope and method of implementation were in conformance with these regulations. Additional guidance will be provided to the FNSRO's as a part of the management evaluation guidance.

Other Issues

This final rulemaking is not significantly different from the emergency rule issued on December 16. The single change made is aimed at clarifying the process by which the SFD Advisory Council's findings and recommendations are submitted through appropriate FNS channels.

List of Subjects in 7 CFR Part 210

Food assistance programs, Children, Nutrition, National School Lunch Program, Grant programs-social programs, Reporting and recordkeeping requirements, Surplus agricultural commodities.

PART 210—NATIONAL SCHOOL LUNCH PROGRAM

Accordingly, § 210.20 of Part 210 of Title 7 CFR is amended by revising the last sentence of paragraph (a) as follows:

§ 210.20 State food distribution advisory councils.

* * * * *

(a) * * * The State agency shall inform FNSRO of the SFD Advisory Council's recommendations no later than February 15 of each year after the school year beginning July 1, 1980.

* * * * *

(Catalog of Federal Domestic Assistance No. 10.555)

(Sec. 6, Pub. L. 95–166 (42 U.S.C. 1771 note))

Dated: April 20, 1982.

Samuel J. Cornelius,

Administrator.

[FR Doc. 82-11286 Filed 4-22-82; 8:45 am]

BILLING CODE 3410-30-M

Agricultural Marketing Service

7 CFR Part 910

[Lemon Reg. 356; Lemon Reg. 355, Amdt. 1]

Lemons Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action establishes the quantity of California-Arizona lemons that may be shipped to the fresh market during the period April 25–May 1, 1982, and increases the quantity of lemons that may be shipped during the period April 18–24, 1982. Such action is needed to provide for orderly marketing of fresh lemons for the periods specified due to the marketing situation confronting the lemon industry.

EFFECTIVE DATE: The regulation becomes effective April 25, 1982 and the amendment is effective for the period April 18–24, 1982.

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

SUPPLEMENTARY INFORMATION: This rule has been reviewed under Secretary's Memorandum 1512–1 and Executive Order 12291 and has been designated a "non-major" rule. This regulation and amendment are issued under the marketing agreement, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The action is based upon the recommendations and information submitted by the Lemon Administrative Committee and upon other available infomation. It is hereby found that this action will tend to effectuate the declared policy of the act.

This action is consistent with the marketing policy for 1981–82. The marketing policy was recommended by the committee following discussion at a public meeting on July 7, 1981. The committee met again publicly on April 20, 1982, at Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of lemons deemed advisable to be handled during the specified weeks. The committee reports the demand for lemons is very active.

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

List of Subjects in 7 CFR Part 910

Agricultural marketing service, Marketing agreements and orders, California, Arizona, lemons.

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

1. Section 910.656 is added as follows:

§ 910.656 Lemon Regulation 356.

The quantity of lemons grown in California and Arizona which may be handled during the period April 25, 1982, through May 1, 1982, is established at 285,000 cartons.

2. Section 910.655 Lemon Regulation 355 (47 FR 16315) is revised to read as follows:

§ 910.655 Lemon Regulation 355.

The quantity of lemons grown in California and Arizona which may be handled during the period April 18, 1982, through April 24, 1982, is established at 305,000 cartons.

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

Dated: April 21, 1982.

D. S. Kuryloski,

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

[FR Doc. 82-11389 Filed 4-22-82; 12:12 pm]

BILLING CODE 3410-02-M

Farmers Home Administration

7 CFR Parts 1822, 1872, 1930, 1944, and 1951

Section 502 Rural Housing Loan Policies, Procedures and Authorizations; Correction

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule; correction.

SUMMARY: This document corrects a final rule regarding a revision and redesignation of section 502 Rural Housing Loan Policies, Procedures and Authorizations that appeared at page 61988 of the **Federal Register** of Monday, December 21, 1981 (46 FR 61988). This action is necessary to correct sections that were revised erroneously, to remove reference changes that were included erroneously, and to add reference changes that were inadvertently omitted.

DATES: Effective date: April 23, 1982. Written comments on the final rule were to be received on or before February 19, 1982.

ADDRESS: Submit written comments in duplicate to the Chief, Directives Management Branch, Farmers Home Administration, USDA, Room 6348, South Agriculture Building, 14th and Independence Avenue, SW, Washington, DC 20250.

FOR FURTHER INFORMATION CONTACT: Daryl L. Grove, Director, Single Family Housing Processing Division, Farmers Home Administration, USDA, Room 5345, South Agriculture Building, 14th and Independence Avenue, SW, Washington, DC 20250. Telephone: 202–382–1474.

SUPPLEMENTARY INFORMATION: The following corrections are made in Federal Register Document 81–35827 appearing on page 61988 in the issue of December 21, 1981:

PART 1822—RURAL HOUSING LOANS AND GRANTS

Subpart B—Section 502 Rural Housing Weatherization Loans

Exhibit A to Subpart B [Amended]

1. Item number 5 appearing in the third column of page 61989 is revised to read as follows:

Paragraph A.2 is amended by changing the reference from "the moderate-income limit for the State, as set forth in Exhibit D of Subpart A of this part" to "the maximum moderate-income limit for the area as set forth in Exhibit C of Subpart A of Part 1944."

PART 1872—REAL ESTATE SECURITY

Subpart A—Servicing and Liquidation of Real Estate Security for Loans to Individuals and Certain Note-Only Cases

§ 1872.23 [Amended]

2. Item number 10 appearing in the third column of page 61989 is revised to read as follows:

§ 1872.23 is amended by changing the reference from "§ 1822.3(e)" to "§ 1944.2 (d) of Subpart A of Part 1944."

PART 1930—GENERAL

Subpart C—Management and Supervision of Multiple Family Housing Borrowers and Grant Recipients

Exhibit B to Subpart C [Amended]

3. Item number 20 appearing in the second column of page 61990 is revised to read as follows:

Paragraph II Q is amended by changing the reference from "the maximum limit stated in Exhibit C of Subpart A of Part 1822 (FmHA Instruction 444.1)" to "the maximum low-income limit for the area as set forth in Exhibit C of Subpart A of Part 1944."

4. Item number 21, appearing in the second column of page 61990 is revised to read as follows:

Paragraph II R is amended by changing the reference from "the maximum limit stated in Exhibit D of Subpart A of Part 1822 (FmHA Instruction 444.1)" to "the maximum moderate-income limit for the area as set forth in Exhibit C of Subpart A of Part 1944."

PART 1944—HOUSING

Subpart A—Section 502 Rural Housing Loan Policies, Procedures and Authorizations

§ 1944.4 [Corrected]

5. On page 61993, column one, in the first sentence of § 1944.4(b) the reference to "Subpart G of Part 1951 of this chapter" is corrected to read "Subpart A of Part 1955 of this chapter."

Exhibit C [Corrected]

6. On page 62027, under "Maximum adjusted incomes for rural housing programs in Guam," the low-income amount "13,500" is corrected to read "14,000," and the moderate-income amount, "19,000" is corrected to read "19,500."

FR Doc. 81–35827 appearing on page 61988 in the issue of December 21, 1981, is corrected by adding reference changes numbers 7, 8, 9, 11, 12, 13 and 14 below and removing references changes indicated in number 10 below as follows:

Subpart E—Rural Rental Housing Loan Policies, Procedures, and Authorizations

Exhibit C to Subpart E [Amended]

7. Paragraph II A is amended by changing the reference from "§ 1822.3(n) of Part 1822 Subpart A (paragraph III N of FmHA Instruction 444.1)" to "1944.2(c) of Subpart A of Part 1944."

8. Paragraph II C is amended by changing the reference from "the limit established for the State as indicated in Exhibit C to Part 1822 Subpart A (FmHA Instruction 444.1)" to "the maximum low-income limit for the area as set forth in Exhibit C of Subpart A of Part 1944."

9. Paragraph VI B is amended by changing the reference from "the limits established for the State as indicated in Exhibit C to Part 1822 Subpart A (FmHA Instruction 444.1)" to "the maximum low-income limit for the area as set forth in Exhibit C of Subpart A of Part 1944."

PART 1951—SERVICING AND COLLECTIONS

Subpart A—Account Servicing Policies

10. Items number 38, 39, and 40 appearing in the first column of page 61991 are removed.

Subpart G—Borrower Supervision, Servicing and Collection of Single Family Housing Loan Accounts

§ 1951.312 [Amended]

11. § 1951.312(b) is amended by changing the reference from "Exhibit E of Subpart A of Part 1822 of this Chapter (FmHA Instruction 444.1)" to "§ 1944.34 of Subpart A of Part 1944."

§ 1951.313 [Amended]

12. § 1951.313(a)(2)(i)(B) is amended by changing the reference from "§ 1822.3(n) of Subpart A of Part 1822 of this Chapter (FmHA Instruction 444.1)" to "§ 1944.2 of Subpart A of Part 1944."

13. § 1951.313(b)(1)(i) is amended by changing the reference from "§ 1822.11(c) of this Chapter (FmHA Instruction 444.1)" to "§ 1944.26(c) of Subpart A of Part 1944."

14. § 1951.313(b)(6) is amended by changing the reference from "Exhibit E of Subpart A of Part 1822 of this Chapter (FmHA Instruction 444.1)" to "§ 1944.34 of Subpart A of Part 1944."

(42 U.S.C. 1480; 7 CFR 2.23; 7 CFR 2.70)

Dated: April 5, 1982.

Charles W. Shuman,

Administrator, Farmers Home Administration.

[FR Doc. 82–11209 Filed 4–22–82; 8:45 am]

BILLING CODE 3410–07–M

FEDERAL HOME LOAN BANK BOARD

12 CFR Part 545

[No. 82–266]

Correspondent Activities of Federal Associations

Dated: April 15, 1982.

AGENCY: Federal Home Loan Bank Board.

ACTION: Final rule.

SUMMARY: The Federal Home Loan Bank Board is amending its regulations to authorize federally chartered savings and loan associations and mutual savings banks (both referred to as "federal associations") to provide correspondent services primarily to other depository institutions and to establish accounts at other thrift institutions. These amendments will grant federal associations greater flexibility in providing services to other depository institutions and will broaden the field of potential suppliers of correspondent services to savings and loan associations.

EFFECTIVE DATE: May 21, 1982.

FOR FURTHER INFORMATION CONTACT: Michael D. Schley, (202–377–6444), Attorney, Office of General Counsel, Federal Home Loan Bank Board, 1700 G Street, NW., Washington, D.C. 20552.

SUPPLEMENTARY INFORMATION: On November 25, 1981, the Board proposed to amend its regulations to facilitate correspondent activities of federal associations (Resolution No. 81–722; 46 FR 59256, December 4, 1981). The Board received thirty responses to its request for comments: twenty-one from federal associations, five from state-chartered savings and loan associations insured by the Federal Savings and Loan Insurance Corporation ("FSLIC"), three from thrift industry trade associations, and one from a provider of data processing services. The details of the proposal, the comments received, and the Board's final action are explained below.

Provision of Correspondent Services

The Board's regulations do not specifically address the general authority of federal associations to provide correspondent services to other

institutions. Furthermore, those regulations that deal with activities traditionally considered a part of correspondent banking do not implement a uniform policy. For example, one traditional correspondent service, participation lending, is expressly authorized in certain circumstances (*see* 12 CFR 545.6), but another regulation prohibits the provision of data processing services on a for-profit basis (12 CFR 545.16–1).

In its November 1981 proposal, the Board cited the benefits that can result from the provision of correspondent services by federal associations. The Board proposed to eliminate existing regulatory obstacles and to affirmatively authorize federal associations to offer correspondent services. Comments received in response to the proposal were overwhelmingly favorable.

The Board is adopting new 12 CFR 545.30(a) as proposed, which will expressly authorize federal associations to "provide correspondent services primarily to other depository institutions to the extent such activity is consistent with the purposes set forth in the (Home Owners' Loan) Act and does not violate other (Board) regulations * * * or any other provisions of law." Some commenters raised questions regarding the scope of this regulatory authorization. Generally, this provision permits a federal association to provide to others services that it would be authorized to generate in-house for itself in the course of its regular business. The Supreme Court has summarized correspondent banking as follows: Among the services typically provided within a conventional correspondent arrangement are check clearing, help with bill collections, participation in large loans, legal advice, help in building securities portfolios, counseling as to personnel policies, staff training, help in site selection, auditing, and the provision of electronic data processing." *United States v. Citizens & Southern National Bank*, 422 U.S. 86, 115 (1975). No exclusive list of correspondent services for financial institutions can be created, because the activities and needs of financial institutions are constantly changing in response to the demands of the public they serve. By explicitly authorizing correspondent activities, the Board hopes to promote economies of scale within the thrift industry.

The concept of correspondent banking activities does not include dealings with the general public; rather, in its broadest sense it encompasses only relationships between institutions that engage in the business of financial intermediation. Section 545.30(a) restricts the scope of a federal association's correspondent services primarily to serving other depository institutions. As used in this context, the term "depository institutions" means: savings and loan associations, mutual savings banks, commercial banks, credit unions, and other institutions with deposit-taking and lending functions. Correspondent authority is focused on this group of entities because their day-to-day business is more similar to that of federal associations than are the operations of other financial intermediaries such as insurance companies and money market mutual funds. However, the Board also recognizes that it may be mutually beneficial for federal associations to provide correspondent services to financial intermediaries other than depository institutions. This is especially true now that the differences between services offered by depository institutions and other financial intermediaries are rapidly disappearing, and cooperative relationships between these types of institutions are becoming increasingly common. Accordingly, by requiring federal associations to restrict the provision of correspondent services "primarily" to depository institutions, the Board is implicitly permitting the provision of services to other financial intermediaries as long as such business does not constitute more than fifty percent of an association's correspondent services business.

The authority to engage in correspondent activities, like all implied powers of federal associations, is limited by the purposes set forth in the Home Owners' Loan Act of 1933 (12 U.S.C. 1461 *et seq.*). Thus, federal associations may not avoid express restrictions set forth in the 1933 Act, such as limitations on investment authority, on the basis that the activity in question is integral to a correspondent relationship. The provision of correspondent services is also limited by other regulations of the Board, and other provisions of state and federal law. Examples of such legal restrictions are found at 12 CFR 545.8–4 (loan servicing) and 12 U.S.C. 378 (dealing in securities).

In addition to providing explicit general authorization for correspondent services, the Board is also eliminating an existing regulatory obstacle relating to data processing services. The Board's regulations at 12 CFR 545.16–1 currently authorize federal associations to establish data processing offices, either as solely-owned facilities or as cooperative ventures with other financial institutions; but § 545.16–1 prohibits the provision of data processing services through such an office on a for-profit basis. In its proposed rule, the Board noted that this section effectively prevents federal associations from providing correspondent services, such as check collection and processing, that involve data processing. The Board proposed to revise § 545.16–1 to permit the establishment of data processing offices as profit-making ventures, provided that (1) data processing services may be provided only to other financial institutions, (2) a partner or joint venturer in the establishment or maintenance of the office must be a financial institution, and (3) such a partner or joint venturer that controls the office and is not a federally regulated financial institution must agree to examination of the office by the Board.

The final amendment adopted by the Board permits federal associations to provide data processing on a for-profit basis if it is a correspondent service authorized by new § 545.30(a). Thus, federal associations will be permitted to offer check processing, electronic funds transfer services, account maintenance, and other services that involve data processing. However, revised § 545.16–1 does not authorize the provision of data processing on a for-profit basis to the general public.[1]

Upon the suggestion of commenters, the Board has not adopted its proposed requirement that a federal association's partner or joint venturer in operating a data processing office must be a financial institution. As long as the provision of data processing is limited to correspondent services, there is no apparent reason to prevent a federal association from combining its expertise with that of a data processing company; the comments pointed out that such a combination could result in better service to the financial institutions industry. The Board's supervisory interests will be adequately protected by its ability to examine such a data processing office.

Correspondent Accounts

In its November proposal, the Board recognized that the correspondent account traditionally has been the cornerstone of correspondent banking relationships. Many correspondent services cannot be performed unless the

[1] It may be appropriate for federal associations to provide data processing services of a financial nature to the general public. The Board is currently studying this issue, with a view toward possible regulatory action in the near future.

user institution maintains an account with the provider institution for settlement purposes. In addition, a compensating balance is a form of payment for services that may in some cases be preferable to fee compensation.

In the interest of facilitating correspondent relationships, the Board proposed to eliminate the prohibition in § 545.9–2 of its regulations (12 CFR 545.9–2) against investment by federal associations in the accounts of thrift institutions. The Board noted that this section is based on the limited investment authority of federal associations, as set forth in section 5(c) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(c)). Since promulgation of that regulation, Congress has enacted section 409 of the National Housing Act (12 U.S.C. 1730b), which provides that, notwithstanding any provision of law but subject to any regulatory authority otherwise applicable, the accounts of institutions insured by the FSLIC shall be lawful investments "for the funds of all corporations organized under the laws of the United States," including federal associations. Accordingly, the Board requested comments regarding (1) whether the prohibition in § 545.9–2 should be modified to permit federal associations to maintain non-interest-bearing correspondent accounts at thrift institutions, and (2) whether the prohibition should be further lifted to permit investment in *any* account at an FSLIC-insured institution.

In light of the strongly favorable comments received, the Board has decided to adopt both aspects of its proposal. This will permit, first, the investment by a federal association in any account at an FSLIC or FDIC-insured institution, to the extent such account is insured. Secondly, a federal association will be permitted to maintain a non-interest-bearing account at any depository institution whose accounts are insured by the FSLIC or FDIC. Thirdly, a federal association will be able to maintain a non-interest-bearing correspondent account at an institution whose accounts are insured pursuant to a state deposit insurance program. This last provision is warranted primarily by the fact that such authority is a necessary prerequisite to cooperative ventures, such as shared remote service unit facilities, between federal associations and state-insured financial institutions.

Institutions that are members of the Federal Home Loan Bank System may have less incentive to invest in the time and savings deposits of FSLIC-insured institutions than in the deposits of FDIC-insured banks, as only the latter may be used to satisfy liquidity requirements. See U.S.C. 1425a(b)(1)(B), 12 CFR 523.10(g)(4). Because this treatment is required by statute, Congressional action will be necessary to achieve equal treatment. The Board has brought this disparity to the attention of Congress with a view to obtaining appropriate corrective action.

The Board also proposed to authorize federal associations to receive non-interest-bearing correspondent deposits from correspondent institutions. Such deposits could, at the option of the association, be payable on demand and subject to withdrawal by check, as such features may be necessary to the usefulness of such a deposit as a correspondent account. For example, the correspondent service being provided may include, as an integral part, the drawing of drafts by a user institution against its account at a provider federal association. Furthermore, notice-of-withdrawal requirements, which were fashioned to distinguish savings accounts held for thrift purposes from transaction accounts, serve no meaningful purpose in the context of correspondent accounts used for settlement of collected items or similar purposes. In light of the overwhelmingly supportive comments received, the Board is adopting new § 545.30(b) as proposed.

It should be noted that the correspondent accounts authorized by new §545.30(b) are "insured accounts" for purposes of the Board's regulations relating to FSLIC insurance. If, at the option of the association, a correspondent account is subject to withdrawal by check, it would be an insured "checking account" described in 12 CFR 561.11a; otherwise, it would be an insured withdrawable deposit within the scope of 12 CFR 561.11.

Regulatory Flexibility Act Certification

Pursuant to section 3 of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Board certifies that this final rule will not have a significant economic impact on a substantial number of small entities. By broadening the field of potential suppliers of correspondent services to small institutions, however, the amendments are expected to benefit such institutions. This final rule does not impose any new restrictions that might have an adverse economic impact on small institutions.

List of Subjects in 12 CFR Part 545

Savings and loan associations.

Accordingly, the Board hereby amends Part 545, Subchapter C, Chapter V of Title 12, Code of Federal Regulations, as set forth below.

PART 545—OPERATIONS

1. Revise § 545.9–2 to read as follows:

§ 545.9–2 Investment in insured accounts.

A Federal association may invest in an interest-bearing account at a savings and loan association, building and loan association, homestead association, cooperative bank, or savings bank if, and to the extent that, such account is insured by the Federal Savings and Loan Insurance Corporation or the Federal Deposit Insurance Corporation. A Federal association may maintain a non-interest-bearing account at any institution whose accounts are insured by the Federal Savings and Loan Insurance Corporation or the Federal Deposit Insurance Corporation; and a Federal association may maintain such an account at an institution whose accounts are insured pursuant to a state deposit insurance program if such account is necessary or incidental to a correspondent relationship.

2. Remove paragraph (c) of § 545.16.1, and revise paragraph (b) to read as follows:

§ 545.16–1 Data processing services.

* * * * *

(b) *Data processing office.* (1) An association may establish or maintain a data processing office with functions limited to providing data processing services for its own use and/or primarily for other depository institutions without observing the application and approval procedures for branch offices set forth in this part. Data processing services may be provided to others on a for-profit basis only if they are authorized by § 545.30(a) of this part.

(2) An association may participate with others in establishing or maintaining a data processing office: *Provided,* That the association may participate in establishing or maintaining a data processing office controlled by an entity not subject to examination by a Federal agency regulating financial institutions only if such entity has agreed in writing with the Board that it will permit and pay for such examination of the office as the Board deems necessary, and that it will make available for such purposes any records in its possession relating to the operation of the office.

3. Add a new heading and new § 545.30, to read as follows:

Correspondent Activities

§ 545.30 Correspondent services and accounts.

(a) *General.* A Federal association may provide correspondent services primarily to other depository institutions to the extent such activity is consistent with the purposes set forth in the Act and does not violate other regulations in this Chapter or any other provisions of law.

(b) *Correspondent accounts.* An association may receive non-interest-bearing deposits from correspondent institutions for use as compensating balances, for settlement purposes, or for other purposes incidental to a correspondent relationship. Such deposits may be payable on demand and subject to withdrawal by negotiable or transferable instrument, order, or authorization. Such deposits shall not give rise to voting rights or other rights of membership in a Federal mutual association.

(12 U.S.C. 1425a(b)(1)(E), 1431(e)(2)(C), 1464, 1730b; Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR 1943–48 Comp., p. 1071)

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 82–11215 Filed 4–22–82; 8:45 am]

BILLING CODE 6720–01–M

12 CFR Parts 545, 563, and 571

[No. 82–268]

Employment Contracts

Dated: April 15, 1982.

AGENCY: Federal Home Loan Bank Board.

ACTION: Final rule.

SUMMARY: The Board is amending its regulations pertaining to employment contracts so that federal and state-chartered insured institutions will be subject to the same rules governing employment contracts entered into by institutions and their officers. As a result of these amendments, the board of directors of institutions will retain greater flexibility to terminate employment contracts and the Board and the Federal Savings and Loan Insurance Corporation ("FSLIC") will have greater flexibility to reject abusive or excessive long-term employment and fringe benefit contracts executed by institutions that subsequently go into default, enter into an assistance agreement with the FSLIC, or are the subject of a supervisory merger.

EFFECTIVE DATE: April 15, 1982.

FOR FURTHER INFORMATION CONTACT: Peter M. Barnett (202–377–6445), Associate General Counsel, or Cynthia Farmer (202–377–7021), Legal Assistant, Office of General Counsel, Federal Home Loan Bank Board, 1700 G Street, NW., Washington, D.C. 20552.

SUPPLEMENTARY INFORMATION: On January 16, 1981, the Federal Home Loan Bank Board adopted amendments to its regulation (12 CFR 545.25–1) relating to the permissible length of employment contracts made between federal associations and their officers. FHLBB Resolution No. 81–18 (January 16, 1981); 46 FR 9917 (January 30, 1981). These amendments removed limitations on the length of employment contracts that could be offered to the officers of a federal association, leaving the terms and conditions of employment contracts to the discretion of an institution's management. To protect against potential abuses, the Board required inclusion in such contracts of clauses providing for termination if the association removes the officer for cause; the association is in default; the FSLIC enters into a financial assistance agreement with the association; the association is the subject of a supervisory merger; or the association is determined to be in an unsafe or unsound condition. Exercise of the power to terminate an employment contract only affects the officer's right to continue employment under the contract and neither consititutes dismissal nor affects vested rights.

The January 18, 1981, amendments did not apply to employment contracts entered into by state-chartered insured institutions. These institutions are subject to § 563.39 of the Insurance Regulations (12 CFR 563.39) which prohibits institutions from entering into employment contracts with officers or employees if the contract would constitute an unsafe or unsound practice. Section 563.39 specifies that an employment contract may be deemed an unsafe or unsound practice when it either may lead to material financial loss or damage or could interfere materially with the exercise by directors of their duty or discretion with respect to employment or termination of officers. To deter other possible abuses, the Board revised its policy statement on mergers (12 CFR 571.5) to indicate that longer-term employment contracts may raise questions as to sale of control of the disappearing association and will be scrutinized carefully. The Board also amended the merger approval delegation to the Principal Supervisory Agent in §§ 546.2(h) of the Federal Regulations and 563.22(e) of the Insurance Regulations to require that any merger involving an employment contract with a term greater than five years must be submitted to the Board.

More recently, it has come to the Board's attention that some institutions in financial difficulty have executed long-term employment contracts and fringe benefit contracts for their officers. These contracts have limited the flexibility of the institution's board of directors, the Board and the FSLIC in resolving the difficulties being experienced by the institution. Such contracts could be terminated pursuant to § 545.25–1 if entered into by a federal association; however, no similarly explicit authority exists for contracts entered into by state-chartered insured institutions. The Board has determined that safe and sound financial policies and management require that the employment contracts of all insured institutions be subject to termination in the instances currently set forth in § 545.25–1. These provisions define certain safe and sound practices with regard to employment contracts. Therefore, in order to remedy abusive practices and in order to provide the same treatment for both federal associations and other insured institutions, the Board is incorporating the mandatory employment contract provisions set forth in § 545.25–1 into § 563.39.

The Board also is continuing to study alternative approaches for addressing problems being encountered with employment contracts entered into by insured institutions, and anticipates proposing further amendments to its regulations in the near future.

Because immediate implementation serves the public interest by facilitating the supervisory activities of the Board and the FSLIC, the Board finds that public notice and procedure under 5 U.S.C. 553(b) and 12 CFR 508.11 and a 30-day delay of effective date under 5 U.S.C. 553(d) and 12 CFR 508.14 are unnecessary.

List of Subjects in 12 CFR Parts 545, 563, and 571

Savings and loan associations.

Accordingly, the Board hereby amends Part 545 of Subchapter C and Parts 563 and 571 of Subchapter D, Chapter V, Title 12, *Code of Federal Regulations,* as set forth below.

PART 545—OPERATIONS

1. Revise § 545.25–1 to read as follows:

§ 545.25–1 Employment contracts.

(a) *General.* A Federal association with bylaws amended under § 544.6(k) or a Charter S association, upon specific

approval of its board of directors, may enter into employment contracts with its officers and other employees in accordance with § 563.39 of this Chapter.

(b) *Contracts with other entities or persons.* An officer of an association shall have no other written or oral agreement concerning employment as an officer of the association with any entity or person other than the association.

PART 563—OPERATIONS

2. Revise § 563.39 to read as follows:

§ 563.39 Employment contracts.

(a) *General.* An insured institution may enter into an employment contract with its officers and other employees only in accordance with the requirements of this section. All employment contracts shall be in writing and shall be approved specifically by an institution's board of directors. An institution shall not enter into an employment contract with any of its officers or other employees if such contract would constitute an unsafe or unsound practice. The making of such an employment contract would be an unsafe or unsound practice if such contract could lead to material financial loss or damage to the institution or could interfere materially with the exercise by the members of its board of directors of their duty or discretion provided by law, charter, bylaw or regulation as to the employment or termination of employment of an officer or employee of the institution. This may occur, depending upon the circumstances of the case, where an employment contract provides for an excessive term.

(b) *Required provisions.* Each employment contract shall provide that:

(1) The institution's board of directors may terminate the officer or employee's employment at any time, but any termination by the institution's board of directors other than termination for cause, shall not prejudice the officer or employee's right to compensation or other benefits under the contract. The officer or employee shall have no right to receive compensation or other benefits for any period after termination for cause. Termination for cause shall include termination because of the officer or employee's personal dishonesty, incompetence, willful misconduct, breach of fiduciary duty involving personal profit, intentional failure to perform stated duties, willful violation of any law, rule, or regulation (other than traffic violations or similar offenses) or final cease-and-desist order, or material breach of any provision of the contract.

(2) If the officer or employee is suspended and/or temporarily prohibited from participating in the conduct of the institution's affairs by a notice served under section 5(d)(4)(C) or section 5(d)(5)(A) of the Home Owners' Loan Act (12 U.S.C. 1464(d)(4)(C) and (d)(5)(A)) or under section 407(g)(3) or section 407(h) of the National Housing Act (12 U.S.C. 1730(g)(3) and (h)), the institution's obligations under the contract shall be suspended as of the date of service, unless stayed by appropriate proceedings. If the charges in the notice are dismissed, the institution may in its discretion (i) pay the officer or employee all or part of the compensation withheld while its contract obligations were suspended and (ii) reinstate (in whole or in part) any of its obligations which were suspended.

(3) If the officer or employee is removed and/or permanently prohibited from participating in the conduct of the institution's affairs by an order issued under section 5(d)(4)(D) or section 5(d)(5)(A) of the Home Owners' Loan Act (12 U.S.C. 1464(d)(4)(D) and (d)(5)(A)) or under section 407(g)(3) or section 407(h) of the National Housing Act (12 U.S.C. 1730(g)(3) and (h)), all obligations of the institution under the contract shall terminate as of the effective date of the order, but vested rights of the contracting parties shall not be affected.

(4) If the institution is in default (as defined in section 401(d) of the National Housing Act), all obligations under the contract shall terminate as of the date of default, but this paragraph shall not affect any vested rights of the contracting parties.

(5) All obligations under the contract shall be terminated, except to the extent determined that continuation of the contract is necessary for the continued operation of the institution, (i) by the Corporation, at the time the Corporation enters into an agreement to provide assistance to or on behalf of the association under the authority contained in section 406(f) of the National Housing Act; or (ii) by the Federal Home Loan Bank Board, at the time the Board or its Principal Supervisory Agent (as defined in § 561.35 of this Subchapter) approves a supervisory merger to resolve problems related to operation of the association or when the association is determined by the Board to be in an unsafe or unsound condition. Any rights of the parties that have already vested, however, shall not be affected by such action.

PART 571—STATEMENTS OF POLICY

3. Amend § 571.5(e)(4) to read as follows:

§ 571.5 Mergers.

* * * * *

(e) *Factors relating to fairness and disclosure of the plan.*

* * * * *

(4) *Employment contracts.* Any employment contracts should conform with § 563.39 of this Subchapter.

* * * * *

(Sec. 5, 48 Stat. 132, as amended (12 U.S.C. 1464); sec. 402, 403, 407, 48 Stat. 1256, 1257, as amended (12 U.S.C. 1725, 1726, 1730); Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR, 1943–48 Comp. p. 1071)

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 82-11214 Filed 4-22-82; 8:45 am]

BILLING CODE 6720-01-M

FEDERAL TRADE COMMISSION

16 CFR Part 13

[Docket No. C-1794]

Hercules Inc., et al: Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Modifying order.

SUMMARY: This order reopens the proceeding and modifies the Commission's order issued on September 23, 1970, 77 FTC 1242, 35 FR 16366, by deleting Paragraphs IV and VIII from the order, so as to allow the company to acquire domestic rope producers without prior Commission approval and to relieve respondent of the obligation of notifying the Commission of any change in the corporate organization.

DATES: Final order issued September 23, 1970. Modifying order issued April 8, 1982.

FOR FURTHER INFORMATION CONTACT: FTC/CC, Elliot Feinberg, Washington, D.C. 20580, (202) 376–2863.

SUPPLEMENTARY INFORMATION: In the Matter of Hercules Incorporated, a corporation and Columbian Rope Company, a corporation. Codification under 16 CFR Part 33, appearing at 35 FR 16366, remains unchanged.

(Sec. 6, 38 Stat. 721; (15 U.S.C. 46). Interprets or applies sec. 7, 38 Stat. 731, as amended; (15 U.S.C. 18))

The Order Reopening Proceeding and Modifying Order is as follows:

By petition filed December 1, 1981, respondent Columbian Rope Company ("Columbian") requests, pursuant to Section 5 (b) of the Federal Trade Commission Act (15 U.S.C. Sec. 45(b)), that Paragraphs IV and VIII of the Commission's Order issued in this matter on September 23, 1970, be modified so that Columbian no longer requires the Commission's prior approval to acquire, directly or indirectly, the whole or any part of the stock share capital or assets of any company involved in the manufacture and sale of rope in the United States. Columbian also sought to delete the only other order provisions binding Columbian, Paragraph VIII, which requires notice of changes in corporate organization.

Pursuant to § 2.51 of the Commission's rules of practice and procedure, the petition was placed on the public record for thirty days. No comments were received.

Upon consideration of the petition and its supporting materials the Commission finds that elimination of Paragraphs IV and VIII is in the public interest.

Accordingly, it is ordered, that the proceeding be and it hereby is, reopened for the purpose of modifying the Order entered therein;

It is further ordered, that the Paragraph IV and Paragraph VIII shall terminate upon service of this order.

By direction of the Commission.

Carol M. Thomas,

Secretary.

[FR Doc. 82-11154 Filed 4-22-82; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 448

[Docket No. 78N-0341]

Peptide Antibiotic Drugs: Polymyxin B Sulfate-Acetic Acid-Propylene Glycol Otic Solution; Polymyxin B Sulfate-Lidocaine Hydrochloride-Propylene Glycol Otic Solution; Final Order on Objections and Requests for a Hearing Revoking Provisions for Certification or Release

AGENCY: Food and Drug Administration.

ACTION: Final rule; notice of effective date.

SUMMARY: The Commissioner of Food and Drugs denies a request for hearing, terminates the postponement of the effective date for the withdrawal of certification of Aerosporin Otic Solution, and revokes the provisions for release of Lidosporin Otic Solution. These two products are fixed-combination antibiotic preparations offered to treat various types of ear infections.

EFFECTIVE DATE: April 23, 1982.

FOR FURTHER INFORMATION CONTACT: Douglas I. Ellsworth, Bureau of Drugs (HFD-32), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3650.

SUPPLEMENTARY INFORMATION: In several **Federal Register** notices, cited in the paragraphs below, the Food and Drug Administration (FDA) announced its evaluation of reports received from the National Academy of Sciences-National Research Council, Drug Efficacy Study Group (NAS-NRC) on various fixed-combination otic products containing antibiotics. These products are antibiotic drugs subject to section 507 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 357). A certification regulation exists for Aerosporin Otic Solution, while Lidosporin Otic Solution has been released on a batch by batch basis, without a certification regulation, pending a final determination on its effectiveness.

In a notice (DESI 8426) published on October 23, 1971 (36 FR 20546), Aerosporin Otic Solution (NDA 60-756, held by Burroughs Wellcome & Co., Inc., 3030 Cornwallis Rd., Research Triangle Park, NC 27709) was classified as possibly effective for "the prevention of exacerbations or treatment" of various types of ear infections. Aerosporin is certified under 21 CFR 448.430.

In a separate notice (DESI 50171) published on August 19, 1971 (36 FR 16129), Lidosporin Otic Solution (NDA 50-171, held by Burroughs Wellcome & Co., Inc.) was also classified as possibly effective for "the prevention of exacerbations and for the treatment of infection, pain, and itching associated with otitis and furunculosis."

These notices allowed Burroughs Wellcome six months to submit data providing substantial evidence of effectiveness of Aerosporin and Lidosporin for their possibly effective indications.

On December 14, 1972, a notice was published (37 FR 26623) temporarily exempting combination otic solutions and suspensions containing one or more anti-infective agents from the timetable established for implementing the Drug Efficacy Study. The purpose of this exemption was to allow manufacturers to complete adequate and well-controlled investigations to determine whether their products were effective for the uses for which they were labeled.

However, in support of Aerosporin and Lidosporin, Burroughs Wellcome submitted only testimonial letters. Accordingly, in a notice published on January 30, 1979 (44 FR 5942), the temporary exemption for these otic combinations was revoked. In a concurrently published notice (44 FR 5879), the Director of the Bureau of Drugs reclassified these drugs as lacking substantial evidence of effectiveness, revoked the provisions for certification and release, and offered an opportunity for a hearing.

On February 28, 1979, Burroughs Wellcome filed a hearing request for Aerosporin and Lidosporin. In a notice published on March 16, 1979 (44 FR 16006), the Director postponed the effective date of the January 30, 1979 revocation of certification and release for the two drugs, pending review of the data submitted in support of the hearing request. That review is now completed.

The Commissioner of Food and Drugs has considered the arguments and data submitted and concludes that they are insubstantial and present no genuine issue of material fact requiring a hearing. The arguments and data are discussed below.

I. The Drugs

A. Aerosporin Otic Solution contains, in each milliliter, 10,000 units of polymyxin B sulfate and 1 percent w/v glacial acetic acid in a purified water propylene glycol solution.

B. Lidosporin Otic Solution contains, in each milliliter, 10,000 units of polymyxin B sulfate and 50 milligrams of lidocaine hydrochloride in a purified water propylene glycol solution.

II. Recommended Uses and Dosage

A. Current labeling offers Aerosporin Otic Solution for the prevention of exacerbations and for the treatment of acute and chronic otitis externa, including "swimmer's ear"; for the treatment of otitis media (if the tympanic membrane is perforated) and postoperative aural cavities; and otomycosis. The package insert states that:

> Polymyxin B attacks gram-negative bacilli * * * propylene glycol, in the concentration present in the product, is a potent antibacterial agent; this widens the antimicrobial spectrum, including gram positive organisms * * *.

The recommended dosage for the product is, for adults, 3 or 4 drops instilled in the infected ear 3 or 4 times daily; for children, 2 or 3 drops.

B. Current labeling recommends Lidosporin Otic Solution for the prevention of exacerbations and for the treatment of infection, pain, and itching associated with otitis and furunculosis. The labeling contains the same claims for the polymyxin and propylene glycol ingredients as Aerosporin. Lidosporin's labeling also states that lidocaine hydrochloride "acts quickly to relieve the pain and itching so often associated with otitis externa."

The recommended dosage for the product is, for adults 3 or 4 drops instilled in the infected ear 3 or 4 times daily; for children, 2 or 3 drops.

III. Data Submitted to Support Claims of Effectiveness

Aerosporin and Lidosporin are fixed-combination antibiotic drugs. Accordingly, material submitted in support of a hearing request for these products must include the results of adequate and well-controlled clinical studies which demonstrate not only that the products as a whole are effective for their claimed uses, but also that each of the drugs' components contributes to the effects claimed for the products for a significant patient population requiring such concurrent therapy. 21 U.S.C. 355(d); 21 CFR 314.111(a)(5); 21 CFR 430.20(b)(6)(i); 21 CFR 300.50.

In support of its hearing request Burroughs Wellcome submitted two reports (the Senturia study and the Farrar study) which it contends constitute controlled studies demonstrating the clinical effectiveness of polymyxin, as used in Aerosporin and Lidosporin. Burroughs Wellcome also submitted an excerpt from the National Academy of Sciences (NAS) report on topical anesthetics, excerpts from medical textbooks, and statements by medical experts in support of both Aerosporin and Lidosporin.

1. *Articles Published in Medical Journals*

a. Senturia, B. H., et al., "An Evaluation of Certain Therapeutic Agents and Procedures in the Treatment of Acute Diffuse External Otitis," *The Laryngoscope*, 64(12): 1001–1019, Dec. 1954.

This paper describes a clinical study performed with patients found to have acute, diffuse external otitis. The treatments of a total of 386 infected ears were compared. On the initial visit, the case history of the patient was recorded. On each return visit, the presence or absence of specified symptoms and other findings were recorded on a follow-up form. Initial recorded data included age, sex, occupation, number of previous ear infections, dates of swimming, presence of excess wax, itching, and fullness of the ear canal.

Otologists examined all new patients and those ready for discharge and supervised the taking of cultures, irrigation of ear canals, and the dispensing of medications. The degree of severity of particular symptoms or findings was indicated by a score ranging from a minimum of one to a maximum of ten. The otologists supervised the examinations and severity ratings. At the conclusion of the initial visit, the over-all picture of the disease was evaluated as mild, moderate, or severe. The evaluations were not necessarily made by the same otologist; nor were any definitions provided for the numerical evaluation system, or for the terms "mild," "moderate," or "severe."

On the patient's initial visit, at three day intervals thereafter, and on the day of discharge, cultures were taken from both external auditory canals. The criteria for discharge of a patient were absence of pain, no edema of the external canal, and slight erythema. However, a negative bacteriologic culture was not considered necessary for discharge, because some patients continued to have gram-negative bacilli in their external auditory canals after all symptoms and physical findings had disappeared.

Following entry into the study, the patients were divided into six treatment groups. Five of the groups were treated with five different antimicrobial ear drops; the sixth group was treated with two types of control ear drop preparations. One of the antimicrobial agents was polymyxin B sulfate dissolved in an isotonic saline to form a 0.1 percent solution (10,000 units/mL). Another test agent consisted of oxytetracycline HCL and polymyxin B sulfate, 10,000 units, obviously not pertinent to the effectiveness of polymyxin alone or as formulated in Aerosporin or Lidosporin. None of the other test agents contained polymyxin as an ingredient. The two controls were normal (.85%) saline drops and fatty acids in a lanolin solution.

The only relevant comparison is of polymyxin B sulfate and the control groups. The polymyxin group was reported as having less pain and tenderness, less likelihood of needing a change in medication, a greater clinical cure rate at the end of therapy, and a greater bacteriological cure rate at the end of therapy than the control groups. These results were not analyzed statistically.

The study, even if it provided support for otic use of polymyxin B sulfate, does not contribute to a finding that Aerosporin and Lidosporin fulfill the requirements for fixed combination drugs, as set forth in 21 CFR 430.20(b)(6) and 21 CFR 300.50. The polymyxin product under study had a different formulation than either Aerosporin or Lidosporin. 21 CFR 314.111(a)(5)(ii)(*b*). One of the test drugs contained only 10,000 units per mL of polymyxin B, whereas the products at issue contain, in addition to 10,000 units per mL of polymyxin B, other agents, including propylene glycol, and in the case of Aerosporin, 1 percent acetic acid. Conclusions based on the saline solution are not necessarily applicable to the formulations in question. The report does not discuss the contribution of the acetic acid and the propylene glycol found in Aerosporin; nor does it address the contribution of the lidocaine hydrochloride and propylene glycol in Lidosporin. Thus, the study does not provide evidence of the contributions of the ingredients comprising Aerosporin and Lidosporin

Moreover, this study was not adequate and well-controlled for a number of reasons. First, neither the observers nor analysts of the data were blinded to treatment. Blinding is a common means of minimizing possible bias in the reporting or observation of results, as is called for by 21 CFR 314.111(a)(5)(ii)(*a*)(*3*), and is particularly important where critical measurements are subjective, as in this study (e.g., the need to switch therapy, severity scores, and presence of a cure).

Although the hearing request describes patient assignment as "random," assignment of patients to treatment or control groups does not in fact appear to have been random. Instead, the investigators seem to have had control over whether a particular patient received the assigned drug. This is apparent from the authors' observations that extremely severe cases were segregated for a different treatment and that cases in the control group tended to be milder, perhaps because the more severe cases were rejected for this treatment. The regulations require a method of assignment to treatment groups that minimizes bias. 21 CFR 314.111(a)(5)(ii)(*a*)(*2*)(*ii*). Also, the numbers of patients receiving each treatment are quite different, ranging from 32 to 95, suggesting non-random assignment of patients to treatment groups. Furthermore, random assignment would have helped to assure group comparability with respect to known pertinent variables, as required by 21 CFR 314.111(a)(5)(ii)(*a*)(*2*)(*iii*). The authors attempted to compare the

treatment groups with respect to some pertinent variables, and for several variables, the polymyxin group seemed less seriously ill than the control group, including a lesser likelihood of excessive wax in the ear, less pain, and less likelihood of culturing Pseudomonas.

Some aspects of the observation and recording of results are unclear. 21 CFR 314.111(a)(5)(ii)(*a*)(*3*). An important endpoint, for example, was the need to switch therapy, yet there is no explanation of the precise criteria used to make such a change. It is stated that patients "not uncommonly" did not return after making favorable progress and that such patients were considered cured as of their last clinic visit. It is not clear, however, whether these patients actually met the criteria for cure at that visit or were simply "considered" cured, nor is it obvious that cure was the only reason for not returning.

Finally, no statistical analysis was performed by the investigators or the sponsor. 21 CFR 314.111(a)(5)(ii)(*a*)(*5*). The authors appear to recognize some limitations in their ability to analyze data because of incomplete follow-up.

b. Farrar, D.A.T., "Use of Polymyxin B in the External Ear," *British Medical Journal,* No. 4888:629, Sept. 11, 1954.

This one page paper describes the treatment of ear infections (otitis externa and infected radical mastoidectomy cavities) with the antibiotic polymyxin B. The cases chosen were those in which the infecting organisms were found to be one of three types of gram-negative bacteria: pseudomonas procyanea, proteus vulgaris, or bacterium coli. The study involved sixty ears, twenty of each type of bacterial infection. The infections were treated with a solution of 10% polymyxin B sulfate in propylene glycol with acetic acid. The solution was administered to the infected ear by each patient who was instructed to fill the infected ear with the solution morning and evening. Cultures were taken from the infected ears before treatment was begun and seven days after treatment. In eight cases the infections were bilateral and the infecting organisms were the same on both sides. In these cases the polymyxin solution was instilled in one ear and a control solution, consisting of "solvent, only" (exactly what is meant is not clear) was instilled in the other ear.

This study is deficient for several reasons. There are two possible "control" groups, both defective. The investigators utilized the small number of patients (8) with bilateral infections to carry out a small controlled trial, comparing results in one ear with the other. They did not randomize assignment of treatment, 21 CFR 314.111(a)(5)(ii)(*a*)(*2*)(*ii*), an important step if the severity of infection was different in the two ears. More important, however, they do not state the results in the eight patients with bilateral infections, so that although we know none of the conrol ears responded, we do not know whether treated ears did any better. There is thus no comparison of the results of treatment with a control. 21 CFR 314.111(a)(5)(ii)(*a*)(*4*).

The sponsor suggests that patients with Proteus infections, who did not respond well to treatment, and whose organisms are known to be insensitive to polymyxin B, can be considered a control group and can be compared with patients with Pseudomonas or E coli infections. Unfortunately, such a group is not an appropriate comparison, as there is no assurance they are comparable to the Pseudomonas and E coli groups in the natural history of their infection. Thus the poorer response could simply reflect the different organism and the kind of infection it causes. We also do not know the characteristics of the groups (duration of infection, response to other therapy, history of recurrence, etc.) to assess their comparability. 21 CFR 314.111(a)(5)(ii)(*a*)(*2*)(*iii*).

The study does not indicate whether the amounts of propylene glycol and acetic acid in the test solution were identical to the dosages of those ingredients in Aerosporin, and it does not in any event compare the effectiveness of these ingredients with the combination product. Moreover, it is not clear whether the control solution given to the eight bilateral ear infection cases contained propylene glycol and acetic acid, propylene glycol alone or acetic acid alone, or some other ingredients. Therefore, the study does not contribute to a determination that Aerosporin is effective or that each of the components of Aerosporin contribute to the claimed effects. 21 CFR 314.111(a)(5)(ii)(*b*); 21 CFR 430.20(b)(6); 21 CFR 300.50.

For similar reasons, the study offers no proof of the effectiveness of Lidosporin; nor does the study provide any evidence of the contribution of each of the ingredients in Lidosporin. 21 CFR 430.20(b)(6); 21 CFR 300.50.

2. *Corroborative Evidence*

a. Burroughs Wellcome also submitted a number of articles which it acknowledged did not constitute adequate and well-controlled studies. These were offered as corroborative evidence of polymyxin's antibacterial effect on pseudomonas. However, the issue is not whether polymyxin has an antibacterial effect, an effect that is freely acknowledged. Rather, it is whether the polymyxin and the other ingredients in Aerosporin and Lidosporin are effective for each of their claimed purposes. 21 CFR 314.111(a)(5)(ii); 21 CFR 430.20(b)(6); 21 CFR 300.50. Without adequate and well-controlled studies, corroborative studies would not warrant a hearing. Nevertheless, they are briefly reviewed below.

a. Jackson, D. M. et al., *"Pseudomonas pyocyanea* in Burns, Its Role as a Pathogen and the Value of Local Polymyxin Therapy," *Lancet,* 2:137–147, July 28, 1951.

This article describe the treatment of severe burn wounds with either a 0.1 percent solution of polymyxin E or a 0.1 percent polymyxin E cream. The article concerns only treatment of burn patients. No ear infections were considered. Moreover, the tested antibiotic was polymyxin E, not polymyxin B sulfate in combination with the other ingredients in Aerosporin or Lidosporin. Because the ingredients of a combination drug must each contribute to the claimed effect of the medication, this article could not assess the effectiveness of any of the active components of either Aerosporin of Lidosporin. 21 CFR 300.50. The fact that the investigators found polymyxin E helpful in treating burns is not useful in assessing the effectiveness of combinations containing polymyxin B in treating ear infections.

b. Jawetz, E., "Infections with Pseudomonas Aeruginosa Treated with Polymyxin B," *Archives of Internal Medicine,* 89:90–98, Jan. 1952.

This article reports on the use of polymyxin B sulfate over a two year period in the treatment of 35 selected patients with pseudomonas bacterial infections. The locations of the bacterial infections were greatly varied. There were no control treatments to compare with each reported successful treatment. 21 CFR 314.111(a)(5)(ii)(*a*)(*4*). Furthermore, in the different treatments, polymyxin B was mixed in varied quantities with many other substances to form solutions or creams. Sometimes the treatment required injections of a polymyxin solution. In other reported cases, a polymyxin mixture was applied topically, or topically along with injections.

No case descriptions involved the use of polymyxin B in treating ear infections. However, in a table showing the total number of treated patients, five were reported as treated for chronic otitis

media by a solution of 1 mg./ml. of polymyxin B sulfate, instilled four times a day for six days. The table indicates that these five patients were cured of Pseudomonas infection at the end of treatment.

This report does not provide any corroborative or direct evidence of the effectiveness of Aerosporin or Lidosporin because: (1) it is not a study of one of these drug products and the ingredients of the different test medications were not clearly stated, 21 CFR 314.111(a)(5)(ii)(*b*); (2) no controls were utilized to compare the drug with no treatment or placebo, 21 CFR 314.111(a)(5)(ii)(*a*)(*4*); and (3) there are not enough details provided to permit scientific evaluation, 21 CFR 314.111(a)(5)(ii)(*c*).

c. Kagan, B. M. et. al., "Polymyxin B and Polymyxin E," *Journal of Laboratory and Clinical Medicine*, 37(3): 402–414, March 1951.

This paper describes the treatment of various types of bacterial infections with several different antibiotics, including polymyxin B hydrochloride. Several of the reported studies were designed to measure the toxicity of polymyxin B and the other test antibiotics. These studies were not designed to assess the effectiveness of polymyxin B in treating ear infection, for only two of the 36 patients studied had an ear infection. One of the test cases involved a four month-old infant who suffered from both septicemia and bilateral ear infections. She had been given other antibiotics before receiving polymyxin B. Cultures of the drainage from the infected ears revealed pseudomonas bacteria. Following treatment, apparently by injection of polymyxin B, the ear infections improved.

In another case, an adult with pseudomonas ear infections received four doses of polymyxin but showed no change in the infection. The ingredients and dosage of the polymyxin solution and the method of administration were not reported, nor is it stated whether polymyxin B or E was used. 21 CFR 314.111(a)(5)(ii)(*b*).

The brief report of the effect of polymyxin B on the infant's ear infections is not relevant because the polymyxin B utilized in the infant's ears was of a different dosage and mixed with different ingredients than the components of Aerosporin and Lidosporin. 21 CFR 314.111(a)(5)(ii)(*b*). The report also is deficient because no control treatment was used. 21 CFR 314.111(a)(5)(ii)(*a*)(*4*). The other ear infection case lacks sufficient details to permit scientific evaluation and it does not describe a control treatment. 21 CFR 314.111(a)(5)(ii)(*c*). These reports constitute random cases and are not useful in assessing the effectiveness of Aerosporin and Lidosporin for their intended uses.

d. Pulaski, E.J., et al., "Laboratory and Clinical Studies of Polymyxin B and E," *Journal of Clinical Investigations*, 28; 1028–1031, 1949.

This paper briefly describes case reports of patients treated with either polymyxin B or polymyxin E for urinary tract infections or infected wounds. The patients treated for urinary tract infections had their medications administered by injection of polymyxin in solution with other unidentified ingredients. To assess toxicity the concentrations of the polymyxin was varied in different patients and during the course of treatment. The report of these treatments fails to disclose with what other ingredients the polymyxin B was dissolved.

This report does not clearly describe which patients showed improvement in their urinary tract infections following treatment with polymyxin B as distinguished from polymyxin E treatment. Moreover, out of 20 treated patients, only 10 were considered benefited by treatment.

Likewise, the description of orally administered polymyxin for use as an intestinal antiseptic does not specify whether polymyxin B or E was taken by the 14 subjects tested.

In the report of the topical application of polymyxin cream it is stated that a 1 percent polymyxin in salt solution or carbowax was applied topically to several wounds infected with pseudomonas organisms. There is no mention of whether polymyxin B or E was used, with what it was dissolved, the number of patients tested, or how the results of treatment were assessed.

Inasmuch as none of the patients treated suffered from ear infections, no controlled tests were performed, and the test drugs differed from Aerosporin and Lidosporin, this article provides no evidence of the efficacy of these drugs for their labeled uses. 21 CFR 314.111(a)(5)(ii) (*a*)(*2*), (*4*) and (*b*).

e. Jawetz, E. and Coleman V.R., "Laboratory and Clinical Observations on Aerosporin (Polymyxin B)," *Journal of Laboratory and Clinical Medicine*, 34:751, June 1949.

This paper describes the use of polymyxin B hydrochloride, dissolved in a solution of sodium chloride, in treating urinary tract infections. The study focused upon the toxicity and antibacterial effects of this preparation. No patients with ear infections were included. 21 CFR 314.111(a)(5)(ii)(*a*)(*2*). The polymyxin mixture was injected into the subjects, rather than administered topically as are Aerosporin and Lidosporin. 21 CFR 314.111(a)(5)(ii)(*b*). No controls were utilized. 21 CFR 314.111(a)(5)(ii)(*a*)(*4*).

f. Yow, E.M. and Townsend, E.S., "A Comparison of the Sensitivity of Pseudomonas Aeruginosa to Various Antibiotics," *Antibiotics and Chemotherapy*, 3(7): 709–717, 1953.

This paper reports upon the *in vitro* sensitivity of one hundred different strains of pseudomonas bacteria isolated from patients with various types of infections. Among the antibiotics tested on the different cultures was polymyxin B sulfate. In the report of these studies the investigators state:

> It is difficult to compare directly the results of *in vitro* tests to the effectiveness of the antibiotic in the patient. Many factors may influence the effectiveness of the antibiotic *in vivo* other than the sensitivity of the organism to the antibiotic being administered. These include the dose of the drug; its absorption, distribution, rate of excretion; the blood and tissue levels, the presence of interfering subtances, the mechanism of action of the drug, the resistance of the host, and the concentration of the drug actually coming into contact with the causative organisms. *Id.* at 715.

The investigators in this study did not attempt to measure the efficacy of polymyxin B sulfate *in vivo*. In light of their own admission that it is unreliable to draw parallels from laboratory tests to actual patients, these culture sensitivity studies are not useful in assessing the efficacy of Aerosporin and Lidosporin. 21 CFR 430.20(b)(6).

g. Postic, B. and Finland, M., "In Vitro Susceptibility of Recently Isolated Strains of Pseudomonas Aeroginosa to Ten Antibiotics," *American Journal of Medical Sciences*, 242(5): 551–559 (1961).

The tests described in this article did not involve patients with ear infections. Instead, the experiments concerned the effects *in vitro* of several antibiotics, including polymyxin B, upon various strains of pseudomonas bacteria. The experimenter concluded that polymyxin B was among the two most active agents in combating the pseudomonas bacteria. This investigation is not a clinical study and, for the reasons stated by the authors in the previous study, does not constitute relevant evidence. 21 CFR 430.20(b)(6).

h. Wright, S.S., et al., "Susceptibility of Pseudomonas to Ten Antibiotics in Vitro," *The American Journal of Clinical Pathology*, 24: 1121–1132, Oct. 1954.

This paper describes laboratory tests of the sensitivity of 110 strains of pseudomonas bacteria to various

antibiotics, including polymyxin B. One of the many sources of the various strains of pseudomonas used in these tests came from patients with infected ears. However, this study concerned only *in vitro* analysis of bacterial reactions to the drugs administered in laboratory cultures. No patients were directly involved. For the reasons stated above, these culture sensitivity studies are of no value in assessing the efficacy of Aerosporin and Lidosporin. 21 CFR 430.20(b)(6).

i. Brownlee, G. et al., "The Chemotherapy and Pharmacology of the Polymyxins," *British Journal of Pharmacology and Chemotherapy*, 7(1): 170–188, Mar. 1952.

This paper describes the chemical structure and other properties of various strains of polymyxins. The article reports that the polymyxins A, B, C, D, and E all have similar antibacterial activity. The authors report upon the results of injection of various doses of the different strains of polymyxin in mice, rabbits, dogs, and man. The focus of the experiments was measurement of the toxicity of polymyxin E as distinguished from the toxicity of polymyxin A and B.

The article briefly mentions experiments with oral administration to adult men of dosages of polymyxin B and E. There is no suggestion that these oral dosages contained the same ingredients as Aerosporin or Lidosporin. 21 CFR 314.111(a)(5)(ii)(*b*). Moreover, it appears that the tested medications were administered for intestinal infections and not to treat ear infections. 21 CFR 314.111(a)(5)(ii) (*a*)(*2*). No control drugs were given to comparable patients. 21 CFR 314.111(a)(5)(ii) (*a*)(*4*).

j. Brownlee, G. and Bushby S.R.M., "Chemotherapy and Pharmacology of Aerosporin," *The Lancet*, p. 127, Jan. 24, 1948.

This paper presents information on the *in vitro* susceptibility of various microorganisms to polymyxin, on the protection afforded to experimentally infected mice by subcutaneous injections of that antibiotic, and on the pharmacology of that substance. There are no controlled clinical investigations reported, and it is not possible to determine whether polymyxin A, B, C, D, or E was tested, nor with what other ingredients, if any, it may have been combined. Thus, this submission provides no relevant evidence of the efficacy of Aerosporin or Lidosporin. 21 CFR 430.20(b)(6).

Burroughs Wellcome also submitted a number of articles as corroborative evidence to demonstrate that pseudomonas is the most prevalent infecting agent in otitis externa. In the absence of substantial evidence that Aerosporin and Lidosporin are effective against the pseudomonas found in ear infections, this fact is irrelevant. Thus, there is no need to review the studies showing the relationship between pseudomonas and otitis externa.

3. *Excerpt in Support of Lidosporin*

The National Academy of Sciences, Drug Efficacy Study Report, excerpt regarding Lidocaine (July 1969) was submitted in support of the efficacy of the lidocaine hydrochloride component of Lidosporin. The NAS review did not describe any clinical studies of lidocaine hydrochloride in the treatment of ear infections, or even discuss lidocaine at all specifically, but did assert that local anesthetics are effective against pain when skin is abraded or damaged. This is certainly a reasonable rationale for studying use of lidocaine in this setting, but does not provide evidence of effectiveness. None of the materials submitted by the sponsor described a study of lidocaine's effectiveness, although some of the testimonial letters did claim that lidocaine was indeed effective for relief of painful otitis externa.

4. *Excerpts from Medical Textbooks*

Burroughs Wellcome submitted several excerpts from textbooks. These excerpts provide specific pharmacologic information on all or some of the individual components of Aerosporin and Lidosporin, but do not describe controlled clinical investigations. Indeed, Burroughs Wellcome does not contend that these materials provide corroborative evidence.

a. Goodman, L. S. and Gilman, A., *The Pharmacological Basis of Therapeutics*, 75th Ed., pp. 1230–1232 (polymyxin B), pp. 379–381 (lidocaine).

This excerpt describes the chemical structure of polymyxin B. It summarizes findings on the antibacterial activity of this substance and describes some of the effects of various amounts of polymyxin B when administered by injection, tablet, or topically. No clinical studies are cited to support the authors' conclusary comment that external otitis caused by pseudomonas may be cured by the topical use of polymyxin B in solution.

The excerpt does not discuss the efficacy of the other ingredients in Aerosporin or Lidosporin in treating ear infection. 21 CFR 300.50. Moreover, the discussion of the efficacy of polymyxin B in various dosages for administration by injection, orally or topically, to combat gram negative bacteria, including pseudomonas, is too brief to permit scientific evaluation.

The second excerpt from this text provides a summary of the chemical composition and effects of administration of various dosages of selected anesthetics, including lidocaine hydrochloride. This excerpt cites no adequate and well-controlled clinical studies showing the effectiveness of this substance in treating ear infections either as a single entity or when mixed with the other ingredients in Lidosporin. 21 CFR 300.50; 21 CFR 314.111(a)(5)(ii)(*c*).

b. Krantz and Carr, *Pharmacologic Principles of Medical Practice*, 6th Ed. p. 236, "Lidocaine Hydrochloride."

This excerpt is a brief description of the chemical structure and other properties of lidocaine hydrochloride. Without reference to clinical tests, the text states that lidocaine is an active surface anesthetic.

This submission contains no description of the use of lidocaine hydrochloride in treating ear infections. 21 CFR 314.111(a)(5)(ii)(*a*)(*2*) (*i*) and (*iii*). In addition, there is no mention of the effectiveness of the quantity of that compound found in Lidosporin, nor of its effect when combined with the other ingredients in Lidosporin. 21 CFR 300.50.

c. *Drill's Pharmacology and Therapeutics*, 6th Ed., p. 133–156.

This article describes the chemical and pharmacological properties and effects of various anesthetics. Its references to lidocaine focus upon toxicity. The excerpt does not describe results derived from well-controlled clinical studies of lidocaine's effectiveness in treating symptoms associated with ear infections. Moreover, no mention is made of the effectiveness of the dosage of lidocaine hydrochloride in Lidosporin when combined with the other ingredients in that drug. 21 CFR 300.50.

d. Lea & Felugi, "Local and Regional Anesthetics." 1965 pp. 458–481 (further publication details not provided).

This submission presents a general description of the advantages and disadvantages of a variety of anesthetics and reviews their chemical structure, pharmacology, methods of administration, and therapeutic effects. Lidocaine is described as "an effective topical anesthetic." *Id.* at 477. This conclusion is not supported by descriptions of the results of any clinical investigations. In addition, this excerpt does not mention what therapeutic effect, if any, lidocaine hydrochloride has when used in treatment of ear infection in the dosage found in Lidosporin. 21 CFR 300.50.

e. Modell, *Drugs of Choice*, pp. 660–661, 1968.

This short excerpt mentions lidocaine only as a topical anesthetic for use with bronchoscopy and for treatment of lesions of the mouth, pharynx, or esophagus. With reference to treatment of ear infections, the author states, "[T]here is no good topical anesthetic for the eardrum * * *. [N]o solution of cocaine, tetracaine, dibucaine * * * or any other topical anesthetic is effective on the eardrum." *Id.* at 660.

The author recommends a combination of ingredients that does not include lidocaine hydrochloride for the treatment of pain associated with an inflamed tympanic membrane. Although the author does recommend the "common topical anesthetics" for some ear infections (*id.*), he does not support the recommendation with any citation to well-controlled clinical studies. Moreover, he does not mention specifically the use of lidocaine hydrochloride, nor refer to the dosage found in Lidosporin.

f. *United States Dispensary and Physician's Pharmacology,* 26th Ed., p. 653–654, "Lidocaine, Lidocaine Hydrochloride," 1967.

This selection outlines the chemical structure and pharmacologic properties of various compounds containing lidocaine as the primary anesthetic ingredient. Lidocaine hydrochloride is described as an active topical anesthetic. Nevertheless, this excerpt cites no adequate and well-controlled clinical studies to support this conclusion. Moreover, the excerpt does not discuss the use of lidocaine hydrochloride in the dosage found in Lidosporin; nor does the excerpt describe the effect of combining lidocaine hydrochloride with the other ingredients in Lidosporin. 21 CFR 300.50; 21 CFR 314.111(a)(5)(ii)(*c*).

5. *Statements by Medical Experts*

Burroughs Wellcome also submitted testimonial letters from four physicians. The letters do not reference any adequate and well-controlled clinical investigations but are based instead upon the observation and experience of their authors. This type of material does not constitute substantial evidence within the meaning of the statute. 21 U.S.C. 355(d).

6. *Summary of Submissions*

Burroughs Wellcome has submitted only two studies which it contends constitute substantial evidence in support of the efficacy of Aerosporin or Lidosporin for their labeled uses: the Senturia study and the Farrar study. As shown above, neither of these were adequate and well-controlled clinical investigations which comply with the requirements of 21 CFR 314.111(a)(5)(ii) and 21 CFR 300.50.

The Senturia study did not involve either Aerosporin or Lidosporin and did not demonstrate the therapeutic contribution of each of the ingredients in these combination drugs. The study (1) failed to minimize potential bias of observers, e.g., by binding them to treatment, even though the assessments made were subjective, for the most part, 21 CFR 314.111(a)(5)(ii)(*a*) (*3*) and (*4*); (2) failed to utilize a system for assignment of patients to treatment and control groups that would minimize bias, e.g., randomization, 21 CFR 314.111(a)(5)(ii)(*a*)(*4*); (3) failed to use a test medication identical to either Aerosporin or Lidosporin, 21 CFR 314.111(a)(5)(ii)(*b*); (4) failed to perform appropriate statistical analyses, 21 CFR 314.111(a)(5)(ii)(*a*)(*5*); and (5) failed to demonstrate the contributions of the acetic acid and propylene glycol in Aerosporin or the contributions of lidocaine hydrochloride and propylene glycol in Lidosporin, 21 CFR 300.50.

The Farrar study lacks such essential elements as: (1) blinding of patients and investigator, or other attempts to minimize bias in observation and analysis of results, 21 CFR 314.111(a)(5)(ii)(*a*) (*3*) and (*4*); (2) randomized assignment of patients to test and control groups, 21 CFR 314.111(a)(5)(ii)(*a*)(*4*); (3) assurance of comparability of subjects with respect to pertinent variables, 21 CFR 314.111(a)(5)(ii)(*a*)(*2*)(*iii*); (4) a comparison of results of treatment with a control in a fashion which permits quantitative evaluation, 21 CFR 314.111(a)(5)(ii)(*a*)(*4*); (5) explanation of the exact formulation of the test drug or indication it contained the identical ingredients of Aerosporin, 21 CFR 314.111(a)(5)(ii)(*b*). Moreover, the Farrar study did not consider the contribution of the acetic acid or propylene glycol to the effectiveness of Aerosporin, nor did it involve the non-antibiotic ingredients in Lidosporin. Therefore, it does not provide the evidence required for a combination drug. 21 CFR 300.50.

The corroborative studies, at best, demonstrate that there is a body of scientific opinion which holds that pseudomonas organisms are often the most prevalent infecting agent in otitis externa and that polymyxin is active against various infections, including some Pseudomonas infections. The relevant issue, however, is whether polymyxin B, as formulated in Aerosporin and Lidosporin, is an effective antibacterial agent against the Pseudomonas organism in the human ear. This question is not answered by the corroborative submissions. Moreover, the question of the effectiveness of Aerosporin and Lidosporin as fixed combinations and the role of the other ingredients in these products remain unanswered. In any event, in the absence of adequate and well-controlled clinical investigations showing that these drugs act against Pseudomonas bacteria when present in ear infections, the corroborative studies are unhelpful.

The general descriptions excerpted from medical reports and texts, and letters from doctors, may not substitute for adequate and well-controlled clinical studies. *Weinberger* v. *Hynson, Westcott & Dunning, Inc.,* 412 U.S. 609, 619 (1973).

In short, Burroughs Wellcome has not met the burden of proof necessary to obtain a hearing. 21 CFR 314.111(a)(5)(ii); 21 CFR 300.50.

IV. Legal Arguments

Burroughs Wellcome first argues that the efficacy of Lidosporin was previously established in a letter dated June 28, 1966 from James L. Goddard, M.D., Commissioner of Food and Drugs, in which he concluded that there was acceptable evidence of the drug's safety and efficacy. The firm contends that this letter also supports the efficacy of Aerosporin.

Commissioner Goddard's letter reflects an early attempt by the FDA to assess the efficacy of certain drugs marketed prior to October 10, 1962. As noted above, FDA subsequently re-evaluated these drugs and published its evaluations in the **Federal Register.** The evaluations, based on the NAS–NRC reports, superseded the conclusions tendered in the Commissioner's letter. 21 CFR 310.100(d). It is now settled that these letters have no binding effect on the agency. See *e.g., Bentex Pharmaceuticals, Inc.* v. *Richardson,* 463 F. 2d 363, 368 n. 17 (4th Cir. 1972), reversed on other grounds, 412 U.S. 645 (1973); *SmithKline Corp.* v. *Food and Drug Administration,* 587 F. 2d 1107, 1115 n. 15 (D.C. Cir. 1978); 21 CFR 310.100(d).

Burroughs Wellcome next argues that a finding of efficacy for Aerosporin is required because FDA's regulations provide for release of otic solutions containing a combination of polymyxin and hydrocortisone. 21 CFR 448.430.

This argument is without merit. The efficacy conclusions applied to one combination product cannot automatically be applied to a different combination product. The precise mixture of ingredients in Aerosporin and Lidosporin have not been shown to produce the same therapeutic effects as

the approved combination of polymyxin and hydrocortisone. In addition to polymyxin, Aerosporin contains acetic acid and propylene glycol, while Lidosporin contains lidocaine hydrochloride and propylene glycol. The fixed-combination drug policy states:

> Two or more drugs may be combined in a single dosage form when each component makes a contribution to the claimed effects and the dosage of each component (amount, frequency, duration) is such that the combination is safe and effective for a significant patient population requiring such concurrent therapy as defined in the labeling for the drug.

21 CFR 300.50(a). As previously discussed, Burroughs Wellcome has not demonstrated the contribution of each component to the total claimed effects for either Aerosporin or Lidosporin; nor may it rely on the certification of other antibiotic ear drops for such proof.

Burroughs Wellcome raises a general objection to the combination drug policy (21 CFR 300.50). The firm contends that the policy fails to recognize the benefits of fixed combinations for the treatment of conditions affected by each of the active ingredients in the fixed combination and that the policy fails to recognize the convenience to both the physician and the patient in having available fixed-combination products. It further complains of a lack of qualified research personnel willing to undertake "defensive research" to support the efficacy of a combination product having well-known ingredients.

FDA developed the combination drug policy in consultation with leaders in clinical pharmacology and medicine. The policy was adopted only after broad input from the medical profession, scientific societies, the pharmaceutical industry, and the public. The policy takes into account both the advantages and disadvantages of fixed-combination drugs. FDA recognizes that a fixed combination drug may bring to patient care greater convenience, improved patient compliance, the potential for reduced cost of medication, and sometimes, greater safety. However, these advantages are realized only when the patient benefits from each component of the combination and when the components can be administered in amounts, at intervals, and over periods of time that are appropriate to each patient's needs.

Burroughs Wellcome's assertion that there is a lack of qualified personnel willing to undertake research on Aerosporin and Lidosporin is not plausible. Burroughs Wellcome has been on notice of the less-than-effective classifications of Aerosporin and Lidosporin for more than ten years. More than sufficient time has been allowed the firm to obtain the expertise necessary to design and conduct appropriate studies to determine the effectiveness of these drugs.

Burroughs Wellcome further contends that "because of the unique nature and application of otic products, FDA's general policy against fixed-combination prescription drugs is particularly inappropriate as applied to these products."

This argument is unfounded. The principles established in the combination drug policy in no sense reflect a bias against combination drugs or failure to recognize their potential advantages in particular therapeutic settings, but rather provide a reasonable application of the statutory requirements to combination drug products. The policy requires that each component be shown to have an effect, in order for a product to be considered effective as a fixed combination. This requirement is as applicable to otic combination drugs as to other combination drugs, and not more difficult to satisfy.

Burroughs Wellcome next contends that otic products should be exempt from the requirements of the combination drug policy. The company argues that the testimonial of Dr. Maxwell Finland provides adequate grounds for exempting otic drops from the combination drug policy. Dr. Finland maintains that because ear drops are used topically and in small quantities, they can safely be formulated with a higher concentration of relatively toxic ingredients such as polymyxin. Moreover, because the antibiotics are in almost direct contact with the infecting organism, topical use resembles the test tube activity of the antibiotics against the bacteria. These propositions, which seem reasonable, provide a sound rationale for use of otic antibiotics, but do not constitute a showing of effectiveness of the combinations.

Burroughs Wellcome also asserts that Aerosporin is not a fixed-combination drug and that polymyxin B is the only component whose efficacy needs to be established. The firm points out that it has sought approval from FDA to delete the references to the action of propylene glycol in current labeling of Aerosporin (See Section II A above). In short, the firm seeks to abandon its long-standing reliance upon the effect of propylene glycol in Aerosporin and Lidosporin. Similarly, Burroughs Wellcome at present makes no claim with respect to the efficacy of acetic acid in Aerosporin.

Throughout the Drug Efficacy Study Implementation project, the NAS–NRC and FDA (and at various times, Burroughs Wellcome) have regarded Aerosporin as a fixed-combination drug containing the components polymyxin B, acetic acid, and propylene glycol. In its initial review of the evidence of effectiveness of otic products, the NAS–NRC commented that gratifying results were obtained with non-antibiotic solutions which contained acetic acid, propylene glycol, or both. The NAS–NRC concluded that there is no evidence that the combination in Aerosporin is therapeutically more effective than its components when used alone in the treatment of the listed indications. It further emphasized the need for well-controlled clinical studies.

Even if the sponsor's contention were accepted, i.e., that only polymyxin B should be considered active, the available studies have not demonstrated the effectiveness of that component. As noted, there is reason to believe propylene glycol and acetic acid are active. If they are to be considered merely a vehicle, it is still necessary to show that the drug product containing polymyxin is more effective than that vehicle, and to compare Aerosporin with the vehicle alone in treating ear infections. Thus, whether the correct study is Aerosporin versus its complete vehicle or Aerosporin versus all of the possible combinations of polymyxin, acetic acid, and propylene glycol, Burroughs Wellcome has not done the study. Instead of submitting the needed studies, Burroughs Wellcome has sought to avoid the requirements by proposing labeling changes. But modification of labeling to eliminate claims for ingredients does not eliminate the need for further study. Burroughs Wellcome has not offered any evidence contradicting FDA's application of the combination drug policy to Aerosporin, and it still appears that propylene glycol and acetic acid should be considered active, but in any case, the contribution of polymyxin needs to be explored.

Burroughs Wellcome contends that Lidosporin complies with FDA's fixed-combination drug requirements. It argues that the polymyxin component provides the claimed antibacterial effect against susceptible gram-negative organisms, while the lidocaine (through its anesthetic action upon abraded or broken skin) acts to relieve the pain associated with otitis externa. Burroughs Wellcome also contends that there exists a significant patient population requiring such concurrent therapy, because many cases of otitis externa involve abraded or broken skin, and patients in such cases often complain of pain which can be relieved by lidocaine.

The data and information submitted in support of Lidosporin do not meet the requirements of the fixed-combination drug policy. 21 CFR 300.50. Burroughs Wellcome has not provided substantial evidence, i.e., results of adequate and well-controlled clinical investigations, in support of the contribution of polymyxin B, lidocaine, and propylene glycol to the total claimed effects of Lidosporin. The testimonials submitted by Burroughs Wellcome, claiming the existence of a significant patient population requiring the concurrent otic therapy of polymyxin B, lidocaine, and propylene glycol, are insufficient. 21 CFR 300.50; *Weinberger* v. *Hynson, Westcott & Dunning, Inc., supra,* 412 U.S. at 619. As described above, even if propylene glycol is deemed an excipient, the polymyxin-propylene glycol combination needs to be tested against propylene glycol, a vehicle with possible activity.

Burroughs Wellcome also contends that if Lidosporin were not available commercially, extemporaneously prepared mixtures of polymyxin and lidocaine might be sought. The firm points out that allowing pharmacies to make their own combinations introduces hazards such as possible non-sterility, uncertain potency, pH and stability problems, as well as greater cost and patient inconvenience.

FDA recognized the possibility of these problems and the perceived usefulness of otic combinations when Lidosporin initially was classified as less-than-effective. These concerns were one of the justifications for allowing certain combination otic products, including Lidosporin, to remain on the market beyond the time limits established for implementing the Drug Efficacy Study (37 FR 26623). But the extension of time granted to these products was not unlimited. The extension was granted so that sponsors could conduct clinical studies to determine effectiveness of the combinations. The Commissioner concludes that more than sufficient time has been allowed Burroughs Wellcome to gather appropriate data and information to demonstrate Lidosporin's effectiveness, and that the continued marketing of Lidosporin can no longer be justified by this argument.

Alternatively, Burroughs Wellcome argues that withdrawal of approval of Aerosporin and Lidosporin is unfair in light of the FDA's prior actions regarding these products. Burroughs Wellcome alleges that for nearly eight years the firm has made submissions and sought advice for upgrading their products' effectiveness classifications, but that the FDA has not responded in a helpful way.

Previous meetings and correspondence with the FDA with respect to a product's efficacy do not compel the agency to reclassify the product to effective or to grant a hearing. The statute places the burden of demonstrating the effectiveness of a drug upon the manufacturer. That Burroughs Wellcome contacted the FDA about Aerosporin and Lidosporin does not relieve the firm of this burden of proof; nor, during the course of these meetings, was the firm unfairly treated by the agency or misled into believing that the statutory burden had been met.

Burroughs Wellcome objects to the requirements of 21 CFR 430.20(b)(6). The firm complains that it is improper to require analysis of a clinical study in the terms and format desired by the FDA, and that the requirement for the submission of raw data is unreasonable.

It is a well-recognized principle, applied by the courts and by administrative agencies, that requests for a hearing or other applications and pleadings may be required to be submitted in a standard format and to contain specific types of information. *Weinberger* v. *Hynson, Westcott & Dunning, Inc., supra,* 412 U.S. at 622; *United States* v. *Storer Broadcasting Co.,* 351 U.S. 192, 203 (1956); *Dyestuffs & Chemicals, Inc.* v. *Flemming,* 271 F. 2d 281, 286 (8th Cir. 1959), *cert. denied,* 362 U.S. 911 (1960). The Federal Food, Drug, and Cosmetic Act authorizes the issuance of regulations that promote the efficient enforcement of the statute. 21 U.S.C. 371(a). The format requirements for hearing requests are a reasonable exercise of that authority. *Weinberger* v. *Hynson, Westcott & Dunning, Inc., supra,* 412 U.S. at 622; *Cooper Laboratories, Inc.* v. *Commissioner, Federal Food and Drug Administration,* 501 F. 2d 772, 774 (D.C. Cir. 1974).

The FDA has found that the determination that a study is adequate and well-controlled can only be made by carefully analyzing the study in light of each of the criteria defined in 21 CFR 314.111(a)(5)(ii). It is not, as Burroughs Wellcome suggests, necessary that a person seeking a hearing "prove his entire case in detail" to obtain a hearing. However, the sponsor of a drug must submit evidence of adequate and well-controlled clinical studies meeting all the requirements of 21 CFR 314.111(a)(5)(ii), and for a combination product, 21 CFR 300.50. The Commissioner concludes that, for the reasons previously stated, the Burroughs Wellcome submission fails on its face to comply with the requirements for adequate and well-controlled clinical studies. Finally, the Commissioner's findings are not based upon Burroughs Wellcome's failure to submit raw data, nor upon any defect in format. Rather, the agency's action is based upon the substantive deficiencies in the evidence submitted.

Burroughs Wellcome also argues that there is no reasonable justification for requiring that the request for a hearing be completed and submitted within 60 days. The agency's experience demonstrates otherwise. FDA has found that without such a policy, drug sponsors requesting hearings have often supplemented their requests with multiple submissions which were available at the time the original request was filed. The 60-day filing period enables the Commissioner to avoid the lengthy delays caused by late submissions. For more than ten years, Burroughs Wellcome has been aware that the administrative process would ultimately lead to the withdrawal of its products unless substantial evidence of effectiveness were submitted. Burroughs Wellcome's failure to submit such evidence within this period of time defeats its argument with respect to the 60-day time limit.

Alternatively, Burroughs Wellcome contends that it has not had adequate notice of the deficiencies in its submissions and is being improperly denied an opportunity to respond to the FDA's criticisms before a final decision of the Commissioner.

This argument is unsupportable in light of the Supreme Court's explicit approval of FDA's procedure in matters such as this. In *Weinberger* v. *Hynson, Westcott & Dunning, Inc., supra,* the Court explained:

> Section 505(e) directs FDA to withdraw approval of an NDA if the manufacturer fails to carry the burden of showing there is "substantial evidence" respecting the *efficacy* of the drug * * *. The Act and the Regulations, in their reduction of that standard to detailed guidelines, make FDA's * * * administrative summary judgment procedure appropriate. 412 U.S. at 617 (footnotes omitted).

The Court further held:

> The drug manufacturers have full and precise notice of the evidence they must present to sustain their NDA's, and under these circumstances we find FDA hearing regulations unexceptional on any statutory or constitutional ground. *Id.* at 622.

It is unreasonable for Burroughs Wellcome to argue that it has not been adequately informed of its responsibilities if it fails to comply with those regulations. The pharmaceutical industry has been on notice of the

requirements of proof of effectiveness since the regulations were first published on September 19, 1969 (34 FR 14596) and finalized on May 8, 1970 (35 FR 7250).

Similarly, the regulation setting out the requirements for combination drugs was first proposed on February 18, 1971 (36 FR 3126) and finalized on October 15, 1971 (36 FR 20038). Thus, the precise requirements of 21 CFR 314.111(a)(5)(ii) and 21 CFR 300.50 provide sufficient notice "to prepare an informed response which places all the relevant data before the agency." *Hess & Clark, Div. of Rhodia, Inc.* v. *FDA*, 495 F. 2d 975, 983 (D.C. Cir. 1974); *Weinberger* v. *Hynson, Westcott & Dunning, Inc., supra*, 412 U.S. at 622. This is particularly so where, as here, Burroughs Wellcome has had meetings and written communications with the agency concerning the design of adequate and well-controlled clinical studies to demonstrate the efficacy of Aerosporin and Lidosporin. In short, there is no merit in the firm's attack on the adequacy of the notice it has received.

Equally incorrect is Burroughs Wellcome's assertion that its submissions raise a genuine issue of fact requiring a hearing. The firm has not tendered evidence which meets the criteria for adequate and well-controlled clinical studies, or which complies with the requirements for a fixed-combination drug. 21 CFR 314.111(a)(5)(ii); 21 CFR 300.50. Because the data and information submitted by Burroughs Wellcome fail to meet the standards for proof of efficacy, a hearing on these submissions would be fruitless. Only adequate and well-controlled studies require a hearing. *Cooper Laboratories, Inc.* v. *Commissioner, Federal Food & Drug Administration, supra*. Under these circumstances, denial of a hearing does not constitute a denial of due process, but instead promotes expeditious enforcement of the statute. *Weinberger* v. *Hynson, Westcott & Dunning, Inc., supra*, 412 U.S. at 621.

Burroughs Wellcome additionally argues that denial of a hearing is improper because it has submitted expert opinion evidence in support of the efficacy of Aerosporin and Lidosporin. Burroughs Wellcome contends that these submissions raise a factual dispute that must be resolved by a trier of fact. This contention was rejected by the Supreme Court when it held that testimonial evidence is not to be considered proof of drug efficacy which warrants an evidentiary hearing. *Weinberger* v. *Hynson, Westcott & Dunning, Inc., supra*, 412 U.S. at 619, 630.

Burroughs Wellcome argues that a drug can be found effective if "a responsible body of qualified opinion" agrees that it is effective, "even if the preponderance of qualified opinion, including that of the bureau, is to the contrary." Burroughs Wellcome cites no legislative history or case law to support this position. The Drug Amendments of 1962 require substantial evidence of effectiveness including evidence from adequate and well-controlled clinical studies, as subsequently defined by the FDA's regulations. *Weinberger* v. *Hynson, Westcott & Dunning, Inc., supra*, 412 U.S. at 617. Evidence of effectiveness based soley on the unsupported opinion of experts was expressly rejected by Congress. 21 U.S.C. 355(d), 357 (a) and (h). *See also* Hearings on S. 1552 before the Subcommittee on Anti-trust and Monopoly of the Senate Committee on the Judiciary, 87th Cong., 1st Sess., pt. 1, pp. 195, 282, 411–12 (1962).

Burroughs Wellcome argues that it has not had an opportunity to respond to the agency's criticisms of its submissions. The precise requirements of 21 CFR 314.111(a)(5)(ii) and 21 CFR 300.50 provide ample detail of what Burroughs Wellcome had to produce to prove the effectiveness of its products. No further opportunities for response are required. *Weinberger* v. *Hynson, Westcott & Dunning, Inc., supra*, 412 U.S. at 620.

Burroughs Wellcome also contends that the agency did not follow the appropriate administrative procedures in publishing the January 30, 1979 notice (44 FR 5879) which revoked the provisions for certification or release of certain otic combinations, including Aerosporin and Lidosporin. The firm argues that the FDA was required first to publish a proposed rule. This argument reflects a misunderstanding of the statutory procedure and regulation applicable to antibiotics.

The antibiotic regulation (21 CFR 430.20) sets forth the procedure for the issuance, amendment, or repeal of regulations under which antibiotic drug products may be marketed. The regulation provides for a three-step procedure, consisting of a notice of proposed rulemaking with an opportunity to comment on the proposal, publication of an order acting on the proposal (with an opportunity to file objections and request a hearing), and promulgation of an order ruling on the hearing request. With respect to products subject to the Drug Efficacy Study, the regulation provides that an opportunity to comment and request an informal conference, after announcement of the FDA's evaluation of the NAS–NRC reports, constitutes the notice of proposed rulemaking. 21 CFR 430.20(b)(2).

In 1971, the FDA published two notices announcing its evaluation of reports received from the NAS–NRC concerning Lidosporin (36 FR 16129) and Aerosporin (36 FR 20546). These notices classified these drugs as possibly effective for their labeled indications and provided Burroughs Wellcome with an opportunity to comment and to submit substantial evidence of effectiveness. Furthermore, Burroughs Wellcome was given copies of the NAS–NRC reports, to assist the firm in preparing an informed response to those findings. The NAS–NRC evaluation notices, together with the regulations, 21 CFR 314.111(a)(5)(ii) and 21 CFR 300.50, defined clearly the standard of proof of efficacy Burroughs Wellcome was required to meet to continue marketing Aerosporin and Lidosporin.

The notices published on January 30, 1979 (44 FR 5942 and 44 FR 5879) announced FDA's decision to revoke the extension of time during which Burroughs Wellcome could submit substantial evidence of effectiveness in support of Aerosporin and Lidosporin. These notices cited the deficiencies in the evidence previously submitted by Burroughs Wellcome and advised the firm that certification of Aerosporin was revoked and the provision for release of Lidosporin was terminated. These notices constituted compliance with the second step in the procedure for withdrawal of antibiotic drugs.

The fact that the notice revoking the provision for certification of Aerosporin and release of Lidosporin (44 FR 5879) was captioned "final rule" has not impaired Burroughs Wellcome's ability to support its hearing request with substantial evidence of effectiveness. The revocation notice merely set forth the decision of the Bureau of Drugs and provided Burroughs Wellcome with the opportunity to request a hearing. It is Burroughs Wellcome's failure to support its hearing request with adequate and well-controlled studies which has led to the issuance of this third and final notice. In short, the FDA has correctly followed the administrative procedure applicable to revocation of certification and release of antibiotic drug products. 21 CFR 430.20.

Burroughs Wellcome argues that no action should be taken with respect to Aerosporin and Lidosporin until the firm completes new studies that it has proposed to undertake. Burroughs Wellcome's argument is untenable. For more than ten years Burroughs Wellcome has been on notice that it is

required to substantiate the effectiveness of Aerosporin and Lidosporin. There is no reasonable justification for further extensions. The continued marketing of the drugs can no longer be squared with the purpose of the 1962 amendments to the Federal Food, Drug, and Cosmetic Act. On the other hand, Burroughs Wellcome is not precluded from applying for an exemption, pursuant to 21 U.S.C. 355(i), through which it may study its products under an approved Investigational New Drug Application.

V. Findings

On the basis of the foregoing, the Commissioner finds that there is a lack of substantial evidence that Aerosporin Otic Solution and Lidosporin Otic Solution have the effects they are represented to have under the conditions of use prescribed, recommended, or suggested in their labeling, and a lack of evidence that each ingredient in these products contributes to the claimed effects. 21 CFR 430.20(b)(6); 21 CFR 300.50. Furthermore, Burroughs Wellcome has failed to show that there is a genuine and substantial issue of fact requiring a hearing. Accordingly, the request for hearing is denied, and new drug applications 50–171 and 60–756 are withdrawn by revoking the provisions for certification and release of the drugs.

Certificates of safety and effectiveness previously issued for Aerosporin for human use are revoked and no new certificates will be issued. All provisions for the release of Lidosporin are revoked.

PART 448—PEPTIDE ANTIBIOTIC DRUGS

Therefore, under the Federal Food, Drug, and Cosmetic Act (sections 502, 507, 52 Stat. 1050–1051, as amended, 59 Stat. 463 as amended (21 U.S.C. 352, 357)) and under authority delegated to the Commissioner (21 CFR 5.10), 21 CFR 448.430, published at 44 FR 5880, January 30, 1979, is effective on April 23, 1982.

Dated: April 9, 1982.

Arthur Hull Hayes, Jr.,

Commissioner of Food and Drugs.

[FR Doc. 82-11073 Filed 4-22-82; 8:45 am]

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21 CFR Parts 520, 522, and 540

New Animal Drugs; Change of Sponsor

Correction

In FR Doc. 82–8922 appearing on page 14148 in the issue of Friday, April 2, 1982, make the following correction:

On page 14148, third column, the **EFFECTIVE DATE** now reading "April 12, 1982" should have read "April 2, 1982".

BILLING CODE 1505-01-M

Food and Drug Administration

21 CFR Part 520

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

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) filed by Medico Industries, Inc., providing for safe and effective use of dichlorophene-toluene capsules for treating dogs and cats for certain helminth infections.

EFFECTIVE DATE: April 23, 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: Medico Industries, Inc., P.O. Box 338, Elwood, KS 66024, filed NADA 126–676 providing for use of D&T Worm Capsules (dichlorophene and toluene capsules) for treating dogs and cats for infections of certain ascarids, hookworms, and tapeworms. This product is the generic equivalent of a product that was the subject of a National Academy of Sciences/National Research Council (NAS/NRC), Drug Efficacy Study Group evaluation published in the **Federal Register** of February 1, 1969 (34 FR 1613) and reflected in § 520.580 (21 CFR 520.580). Because this product is manufactured for Medico Industries by the firm currently manufacturing the NAS/NRC reviewed product, approval of this product does not require submission of data to demonstrate bioequivalency. The application is approved and the regulations are amended to identify Medico Industries, Inc., as a sponsor for dichlorophene and toluene capsules.

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 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 the 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 520.580 is amended by revising § 520.580(b)(2) to read as follows:

§ 520.580 Dichlorophene and toluene capsules.

* * * * *

(b) * * *

(2) For single and multiple dose, see 000063, 000859, 011716, 015562, and 038782 in § 510.600(c) of this chapter.

* * * * *

Effective date. This amendment is effective April 23, 1982.

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

Dated: April 14, 1982.

Gerald B. Guest,

Acting Director, Bureau of Veterinary Medicine.

[FR Doc. 82-10936 Filed 4-22-82; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Part 524

Ophthalmic and Topical Dosage Form New Animal Drugs Not Subject To Certification; Nitrofurazone Ointment

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) filed by Medico Industries, Inc., providing for use of nitrofurazone ointment as a topical antibacterial on dogs, cats, and horses. The application provides labeling that reflects the conclusions of the National Academy of Sciences/National Research Council (NAS/NRC) review of such products.

EFFECTIVE DATE: April 23, 1982.

FOR FURTHER INFORMATION CONTACT: Sandra K. Woods, Bureau of Veterinary Medicine (HFV–114), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3420.

SUPPLEMENTARY INFORMATION: Medico Industries, Inc., P.O. Box 338, Elwood, KS 66024, is sponsor of an NADA (125–797) providing for use of an ointment containing 0.2 percent nitrofurazone (2 milligrams per gram) as a topical antibacterial on dogs, cats, and horses. This product is the generic equivalent of one codified for animal use in 21 CFR 524.1580b. The regulation provides that because the conditions of use are NAS/NRC reviewed and found effective, applications for these uses need not include certain effectiveness data as specified by 21 CFR 514.111. Bioavailability studies are not required because the product is an ointment intended solely for topical administration (21 CFR 320.22(b)(2)). Therefore, NADA 125–797 is approved on the basis of generic equivalence to an approved, NAS/NRC reviewed product. The regulations are amended to reflect this approval.

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

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

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

List of Subjects in 21 CFR Part 524

Animal drugs, Topical.

PART 524—OPHTHALMIC AND TOPICAL 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 524 is amended by revising § 524.1580b(b) to read as follows:

§ 524.1580b Nitrofurazone ointment.

* * * * *

(b) *Sponsor.* For use in dogs, cats, and horses see Nos. 000149, 000864, 012518, 015562, 015579, and 023851 in § 510.600(c) of this chapter. For use in dogs and horses see No. 017135 in § 510.600(c) of this chapter.

* * * * *

Effective date. This amendment is effective April 23, 1982.

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

Dated: April 15, 1982.

Gerald B. Guest,

Acting Director, Bureau of Veterinary Medicine.

[FR Doc. 82-10939 Filed 4-22-82; 8:45 am]

BILLING CODE 4160-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-9-FRL-2089-6]

Arizona State Implementation Plan Revision

AGENCY: Environmental Protection Agency.

ACTION: Notice of final rulemaking.

SUMMARY: The Environmental Protection Agency (EPA) takes final action to approve changes to the Arizona Department of Health Services (ADHS) rules and regulations for air pollution control submitted by the Director of the ADHS as revisions to the Arizona State Implementation Plan (SIP). These revisions generally are administrative and retain equivalent emission control requirements. EPA reviewed these rules with respect to the Clean Air Act and determined that they should be approved.

DATE: This action is effective June 22, 1982.

ADDRESSES: Copies of the revisions and the technical support documents are available for public inspection during normal business hours at the EPA Region 9 office and at the following locations:

Public Information Reference Unit, Environmental Protection Agency, Library, 401 M Street, SW., Room 2404, Washington, D.C. 20460

Library, Office of the Federal Register, 1100 L Street, NW., Room 8401, Washington, D.C,. 20460

Arizona Department of Health Services, 1740 West Adams Street, Phoenix, AZ 85007

FOR FURTHER INFORMATION CONTACT: Douglas Grano, Chief, State Implementation Plan Section, Air Programs Branch, Air Management Division, Environmental Protection Agency, Region 9, 215 Fremont Street, San Francisco, CA 94105, (415) 974–8222.

SUPPLEMENTARY INFORMATION: The ADHS submitted as SIP revisions the following rules on the indicated dates:

August 5, 1981

R9–3–1002 Definitions
R9–3–1003 Vehicles to be inspected by the mandatory vehicular emissions inspections program
R9–3–1005 Time of inspection
R9–3–1006 Exhaust emission test procedure
R9–3–1008 Procedure for issuing certificates of waiver
R9–3–1010 Low emissions tune up
R9–3–1011 Inspection report
R9–3–1012 Inspection procedures and fee
R9–3–1013 Reinspections
R9–3–1014 Waiver surveillance
R9–3–1016 Licensing of inspectors
R9–3–1019 Fleet station procedures and permits
R9–3–1023 Certificate of exemption
R9–3–1025 Inspection of State stations
R9–3–1027 Registration of repair industry analyzers
R9–3–1030 Visible emissions: mobile source

July 13, 1981

R9–3–310 Test methods and procedures
R9–3–501 Visible emissions: general
R9–3–503 Standards of performance for existing fossil-fuel fired steam generators and general fuel burning equipment
R9–3–506 Standards of performance for existing nitric acid plants
Appendix 10—Evaluation of Air Quality Data

September 10, 1980

Order of Assertion of Jurisdiction
R9-3-101 Definitions
R9-3-201 Particulate Matter
R9-3-202 Sulfur Oxides (sulfur dioxide)
R9-3-203 Hydrocarbons
R9-3-204 Ozone
R9-3-205 Carbon Monoxide
R9-3-206 Nitrogen Dioxide
R9-3-207 Lead
R9-3-216 Interpretation of ambient air quality standards and evaluation of air quality data

July 17, 1980

R9-3-101 Definitions
R9-3-311 Air quality models
R9-3-313 Existing source emission monitoring
R9-3-320 Revised definitions of new major source and major alteration
R9-3-502 Unclassified sources
R9-3-503 Standards of performance for existing fossil-fuel fired steam generators and general fuel burning equipment
R9-3-504 Standards of performance for incineration
R9-3-505 Standards of performance for existing portland cement plants
R9-3-506 Standards of performance for existing nitric acid plants
R9-3-507 Standards of performance for existing sulfuric acid plants
R9-3-508 Standards of performance for existing asphalt concrete plants
R9-3-509 Standards of performance for existing petroleum refineries
R9-3-510 Standards of performance for existing storage vessels for petroleum liquids
R9-3-511 Standards of performance for existing secondary lead smelters
R9-3-512 Standards of performance for existing secondary brass and bronze ingot production plants
R9-3-513 Standards of performance for existing iron and steel plants
R9-3-514 Standards of performance for existing sewage treatment plants
R9-3-516 Standards of performance for existing coal preparation plants
R9-3-517 Standards of performance for steel plants: existing electric arc furnaces (EAF)
R9-3-518 Standards of performance for existing kraft pulp mills
R9-3-519 Standards of performance for existing stationary rotating machinery
R9-3-520 Standards of performance for existing lime manufacturing plants
R9-3-521 Standards of performance for existing nonferrous metals industry sources
R9-3-522 Standards of performance for existing gravel or crushed stone processing plants
R9-3-523 Standards of performance for existing concrete batch plants
R9-3-524 Standards of performance for existing fossil-fuel fired industrial and commercial equipment
R9-3-525 Standards of performance for existing dry cleaning plants
R9-3-528 Standards of performance for existing ammonium sulfide manufacturing plants
Section 3, Method 11 Determination of Hydrogen Sulfide Content of Fuel Gas Streams in Petroleum Refineries
Section 3.16, Method 16 Semicontinuous Determination of Sulfur Emissions From Stationary Sources
Section 3.19, Method 19 Determination of Sulfur Dioxide Removal Efficiency and Particulate, Sulfur Dioxide, and Nitrogen Oxides Emissions Rates From Electric Utility Steam Generators
Section 3.20, Method 20 Determination of Nitrogen Oxides, Sulfur Dioxide, and Oxygen Emissions From Stationary Gas Turbines
Appendix 10—Evaluation of Air Quality Data

April 1, 1980

R9-3-101 Definitions
R9-3-201 Particulate Matter
R9-3-202 Sulfur Oxides (sulfur dioxide)
R9-3-203 Hydrocarbons
R9-3-204 Ozone
R9-3-205 Carbon Monoxide
R9-3-206 Nitrogen Dioxide
R9-3-207 Lead
R9-3-313 Existing source emission monitoring
R9-3-401 General
R9-3-405 Roadways and streets
R9-3-408 Mineral tailings
R9-3-501 Visible emissions: general
R9-3-502 Unclassified sources
R9-3-503 Standards of performance for existing fossil-fuel fired steam generators and general fuel burning equipment
R9-3-504 Standards of performance for incineration
R9-3-508 Standards of performance for existing asphalt concrete plants
R9-3-510 Standards of performance for existing storage vessels for petroleum liquids
R9-3-511 Standards of performance for existing secondary lead smelters
R9-3-512 Standards of performance for existing secondary brass and bronze ingot production plants
R9-3-513 Standards of performance for existing iron and steel plants
R9-3-514 Standards of performance for existing sewage treatment plants
R9-3-516 Standards of performance for existing coal preparation plants
R9-3-517 Standards of performance for steel plants: existing electric arc furnaces (EAF)
R9-3-518 Standards of performance for existing kraft pulp mills
R9-3-520 Standards of performance for existing lime manufacturing plants
R9-3-521 Standards of performance for existing nonferrous metals industry sources
Appendix 1—Filing Instructions for Installation Permit Application
Appendix 2—Filing Instructions for Operating Permit Application

January 23, 1979

Arizona Testing Manual for Air Pollutant Emissions

January 4, 1979

R9-3-101 Definitions
R9-3-217 Attainment areas; classification and standards
R9-3-218 Violations
R9-3-219 Air pollution emergency episodes
R9-3-308 Permit conditions
R9-3-310 Test methods and procedures
R9-3-311 Air quality models
R9-3-312 Performance tests
R9-3-313 Existing source emission monitoring
R9-3-314 Excess emission reporting
R9-3-315 Posting of permit
R9-3-316 Notice by building permit agencies
R9-3-317 Permit nontransferable; exception
R9-3-318 Denial or revocation of an installation or operating permit
R9-3-319 Permit fees
R9-3-402 Unlawful open burning
R9-3-403 Forestry management
R9-3-404 Open areas
R9-3-406 Material handling
R9-3-407 Storage piles
R9-3-409 Agricultural practices
R9-3-410 Evaluation of non-point source emissions
R9-3-502 Unclassified sources
R9-3-503 Standards of performance for existing fossil-fuel fired steam generators and general fuel burning equipment
R9-3-504 Standards of performance for incineration
R9-3-505 Standards of performance for existing portland cement plants
R9-3-506 Standards of performance for existing nitric acid plants
R9-3-507 Standards of performance for existing sulfuric acid plants
R9-3-508 Standards of performance for existing asphalt concrete plants
R9-3-510 Standards of performance for existing storage vessels for petroleum liquids

R9–3–511 Standards of performance for existing secondary lead smelters
R9–3–512 Standards of performance for existing secondary brass and bronze ingot production plants
R9–3–513 Standards of performance for existing iron and steel plants
R9–3–514 Standards of performance for existing sewage treatment plants
R9–3–516 Standards of performance for existing coal preparation plants
R9–3–517 Standards of performance for steel plant: existing electric arc furnaces (EAF)
R9–3–518 Standards of performance for existing kraft pulp mills
R9–3–519 Standards of performance for existing stationary rotating machinery
R9–3–520 Standards of performance for existing lime manufacturing plants
R9–3–521 Standards of performance for existing nonferrous metals industry sources
R9–3–522 Standards of performance for existing gravel or crushed stone processing plants
R9–3–523 Standards of performance for existing concrete batch plants
R9–3–524 Standards of performance for existing fossil-fuel fired industrial and commercial equipment
R9–3–525 Standards of performance for existing drycleaning plants
R9–3–526 Sandblasting operations
R9–3–527 Spray painting operations
R9–3–528 Standards of performance for existing ammonium sulfide manufacturing plants
R9–3–601 General
R9–3–602 Off-road machinery
R9–3–603 Heater-planer units
R9–3–604 Roadway and site cleaning machinery
R9–3–605 Asphalt or tar kettles
R9–3–1101 Jurisdiction
R9–3–1102 Special inspection warrants
Appendix 10—Evaluation of Air Quality Data
Appendix 11—Allowable Particulate Emission Computations

Under Section 110 of the Clean Air Act as amended, and 40 CFR Part 51, the Administrator is required to approve or disapprove these regulations as State Implementation Plan revisions. All rules submitted have been evaluated and found to be in accordance with EPA policy and 40 CFR Part 51. EPA's detailed evaluation of the submitted rules is available at the EPA Library in Washington, D.C., and the Region 9 office.

It is the purpose of this notice to approve all the rule revisions listed above and to incorporate them into the Arizona SIP. This is being done without prior proposal because the revisions are noncontroversial, have limited impact, and no comments are anticipated. The public should be advised that this action will be effective May 24, 1982. However, if notice is received within 30 days that someone wishes to submit adverse or critical comments, the approval will be withdrawn and a subsequent notice will be published before the effective date. The subsequent notice will indefinitely postpone the effective date, modify the final action to a proposed action, and establish a comment period.

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

Under the Clean Air Act, any petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by (60 days from today). This action may not be challenged later in proceeding to enforce its requirements.

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

(Secs. 110, 172 and 301(a) of the Clean Air Act, as amended (42 U.S.C. 7410, 7502 and 7601(a)))

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons.

Dated: April 9, 1982.

Anne M. Gorsuch,
Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

Subpart D—Arizona

1. Section 52.120, paragraph (c) is amended by adding subparagraphs (27)(i)(B), (29), (43)(i)(B), (45)(i)(B), (47), (50), and (52) as follows:

§ 52.120 Identification of plan.

* * * * *

(c) * * *

(27) * * *

(i) * * *

(B) New or amended Rules R9–3–101 (Nos. 1, 4, 6, (a, c, and d), 8, 9, 11, 13, 17 to 26, 28, 30 to 35, 37 to 40, 43 to 45, 48, 49, 54, 57 to 59, 61 to 73, 77 to 80, 82, 83, 86, 90, 94, 96, 98, 101, 102, 104, 105, 107 to 115, 118 to 120, 122, to 129, and 131), R9–3–217, R9–3–218, R9–3–219, R9–3–308, R9–3–310 (Paragraph C), R9–3–311 (Paragraph A), R9–3–312, R9–3–313 (Paragraphs A.1, A.2.b, A.3, A.4, B to D.1, D.3, D.4.a to F.1.2.iii, F.1.b., and F.2.b. to F.4), R9–3–314 to R9–3–319, R9–3–402 to R9–3–404, R9–3–406, R9–3–407, R9–3–409, R9–3–410, R9–3–502 (Paragraphs B, C, C.2, and D to G), R9–3–503 (Paragraph A), R9–3–504 (Paragraphs B and C), R9–3–505 (Paragraphs A, B.1.b., B.2.b, and B.3 to D), R9–3–506 (Paragraphs A.2, B, C.1.a to C.4), R9–3–507 (Paragraphs D to F), R9–3–508 (Paragraphs A and C), R9–3–510 (Paragraphs B to E), R9–3–511 (Paragraph B), R9–3–512 (Paragraph B), R9–3–513 (Paragraphs B and C), R9–3–514 (Paragraphs B and C), R9–3–516 (Paragraph B), R9–3–517 (Paragraphs B and C), R9–3–518 (Paragraphs B and C), R9–3–519 (Paragraphs A.2, A.3.a to A.3.c, A.3.e and B to C), R9–3–520 (Paragraphs B and C), R9–3–521 (Paragraphs B to D), R9–3–522 (Paragraphs A.1 to A.5, B and C), R9–3–523 (Paragraph B), R9–3–524 (Paragraphs C, D.1, D.2, D.4 to G.5), R9–3–525 (Paragraphs B to D), R9–3–526, R9–3–527, R9–3–528 (Paragraphs B to E and F.1 to F.4), R9–3–601 to R9–3–605, R9–3–1101, R9–3–1102, Appendix 10 (Sections A10.1.3.3, A10.1.4. and A10.2.2 to A10.3.4.) and Appendix 11.

* * * * *

(29) The following amendments to the plan were submitted on January 23, 1979, by the Governor's designee.

(i) Arizona State Rules and Regulations for Air Pollution Control.

(A) Arizona Testing Manual for Air Pollutant Emissions (excluding Sections 2.0 and 5.0).

* * * * *

(43) * * *

(i) * * *

(B) New or amended Rules R9–3–101 (Nos. 5, 15, 16, 42, 49, 51, 55, 94, 101, 103, 106, 126, 127, and 133), R9–3–201 (paragraph D.2), R9–3–202 (Paragraph D.2), R9–3–203 (Paragraph D.2), R9–3–204 (Paragraph C.2), R9–3–205 (Paragraph C.2), R9–3–206 (Paragraph C.2), R9–3–207 (Paragraph C.2), R9–3–313 (Paragraph F.1.a.i and ii), R9–3–401, R9–3–405, R9–3–408, R9–3–501 (Paragraph A to C), R9–3–502 (Paragraph A to A.4), R9–3–503 (Paragraphs B, C.1, C.2.a. to C.2.f., C.4 and C.5), R9–3–504 (Paragraph A.1 to A.4), R9–3–508 (Paragraph B.1 to B.6), R9–3–510 (Paragraph A.1 and A.2), R9–3–511 (Paragraph A.1 to A.5), R9–3–512 (Paragraph A.1 to A.5), R9–3–513 (Paragraph A.1 to A.5), R9–3–514 (Paragraph A.2), R9–3–516 (Paragraph A.1 to A.6), R9–3–517 (Paragraph A.1 to A.5), R9–3–518 (Paragraph A.1 to A.5), R9–3–520 (Paragraph A.1 to A.6), R9–3–521 (Paragraph A.1 to A.5), and Appendices 1 and 2.

* * * * *

(45) * * *

(i) * * *

(B) New or amended Rules R9-3-101 (Nos. 6(b), 10, 12, 14, 36, 50, 55, 77, 84, and 92), R9-3-311 (Paragraph B), R9-3-313 (Paragraphs A.2.a., D.2, D.4, F.1.C, and F.2.a.), R9-3-320 (Paragraph A), R9-3-502 (Paragraph C.1), R9-3-503 (Paragraph C, C.2, C.2.g. and C.3), R9-3-504 (Paragraph A), R9-3-505 (Paragraph B.1.a, B.2.a), R9-3-506 (Paragraph A to A.1), R9-3-507 (Paragraphs A to C), R9-3-508 (Paragraph B), R9-3-509, R9-3-510 (Paragraph A), R9-3-511 (Paragraph A), R9-3-512 (Paragraph A), R9-3-513 (Paragraph A), R9-3-514 (Paragraphs A to A.1), R9-3-516 (Paragraph A), R9-3-517 (Paragraph A), R9-3-518 (Paragraph A), R9-3-519 (Paragraph A to A.1, A.3, and A.3.d), R9-3-520 (Paragraph A), R9-3-521 (Paragraph A), R9-3-522 (Paragraph A), R9-3-523 (Paragraph A), R9-3-524 (Paragraphs A, B, D, and D.3), R9-3-525 (Paragraph A), R9-3-528 (Paragraphs A and F.5), Section 3, Method 11; Section 3.16, Method 16; Section 3.19, Method 19; Section 3.20, Method 20; and Appendix 10 (Sections A10.2 and A10.2.1).

* * * * *

(47) The following amendments to the plan were submitted on September 10, 1980, by the Governor's designee.

(i) Arizona State Rules and Regulations and Air Pollution Control.

(A) New or amended Rules R9-3-101 (Nos. 24, 55, 102, and 115 (25-54, 56-101, 103-114, and 116-140 are renumbered only), R9-3-201 (Paragraphs A to D.1 and E), R9-3-202 (Paragraphs A to D.1 and E), R9-3-203 (Paragraphs A to D.1 and E), R9-3-204 (Paragraphs A to C.1 and D), R9-3-205 (Paragraphs A to C.1 and D), R9-3-206 (Paragraphs A to C.1 and D), R9-3-207 (Paragraphs A to C.1 and D), and R9-3-216.

* * * * *

(50) The following amendments to the plan were submitted on July 13, 1981, by the Governor's designee.

(i) Arizona State Rules and Regulations for Air Pollution Control.

(A) New or amended Rules R9-3-310 (Paragraphs A and B), R9-3-501 (Paragraph D), R9-3-503 (Paragraph C.6), R9-3-506 (Paragraph C to C.1), and Appendix 10 (Sections A10.1-A10.1.3.2).

* * * * *

(52) The following amendments to the plan were submitted on August 5, 1981, by the Governor's designee.

(i) Arizona State Rules and Regulations for Air Pollution Control.

(A) New or amended Rules R9-3-1002, R9-3-1003, R9-3-1005, R9-3-1006, R9-3-1008, R9-3-1010 to R9-3-1014, R9-3-1016, R9-3-1019, R9-3-1023, R9-3-1025, R9-3-1027, and R9-3-1030.

* * * * *

[FR Doc. 82-11168 Filed 4-22-82; 8:45 am]
BILLING CODE 6560-50-M

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40 CFR Part 52

[A-9-FRL-2056-3]

California State Implementation Plan Revision for Three Air Pollution Control Districts

AGENCY: Environmental Protection Agency.

ACTION: Final rulemaking.

SUMMARY: Revisions to rules of the Placer County, Plumas County, and Sierra County Air Pollution Control Districts (APCDs) were forwarded to EPA by the California Air Resources Board. These revisions generally are administrative and retain equivalent emission control requirements. EPA reviewed these rules with respect to the Clean Air Act and determined that they should be approved.

EFFECTIVE DATE: June 22, 1982.

ADDRESSES: Copies of the revisions and support documents are available for public inspection during normal business hours at the following locations:

Public Information Reference Unit, Environmental Protection Agency, Library, 401 "M" Street, S.W., Room 2404, Washington, D.C. 20460

Library, Office of the Federal Register, 1100 "L" Street, N.W., Room 8401, Washington, D.C. 20408

California Air Resources Board, 1102 "Q" Street, Sacramento, CA 95812

Placer County Health and Medical Services, 11491 B Ave., Auburn, CA 95603

Plumas County Air Pollution Control District, Courthouse Annex, Quincy, CA 95971

Sierra County Air Pollution Control District, County Courthouse, Downieville, CA 95936

FOR FURTHER INFORMATION CONTACT: Douglas Grano, Chief, State Implementation Plan Section, Air Management Division, Environmental Protection Agency, Region 9, 215 Fremont St., San Francisco, CA 94105, (415) 974-8222.

SUPPLEMENTARY INFORMATION: The California Air Resources Board submitted the following rules and regulations on the indicated dates:

Placer County (Mountain County Air Basin portion)

May 23, 1979

Rule
604 Renewal Fee (deletion).
605 Exception to Rule 604 (deletion).

May 28, 1981

Rule
102 Definitions.
203 Exceptions to Rule 202.
211 Process Weight.
301 Prohibitions on Open Burning.
305 No Burn Days.
306 Exceptions to Rule 305.
324 Residential Rubbish Burning.
325 Recreational Open Fires.
601 Permit Fees.
702 Filing Petitions.

Placer County (Lake Tahoe Air Basin portion)

August 21, 1979

Rule
507 Provision of Sampling and Testing Facilities.

Plumas County

June 22, 1981

Rule
203 Exceptions.
301 Prohibition from Burning.
302 Exceptions to Rule 301.
303 Agricultural Burning.
304 Range Improvement Burning.
305 Forest Management Burning.
306 Land Development Clearing.
307 Ditch and Road Maintenance.
308 Hazard Reduction.
309 Fire Suppression and Training.
310 Residential Maintenance.
311 Recreational Activity.
312 Required Permit.
313 No Burn Day.
314 Burning Permits.
315 Minimum Drying Times.
316 Burning Management.
317 Mechanized Burners.
318 Enforcement Responsibility.
319 Penalty.
512 Circumvention.
513 Source Recordkeeping.
514 Public Records and Trade Secrets.
515 Provisions of Sampling and Testing Facilities.
516 Upset and Breakdown Conditions.
703 Contents of Petitions.
710 Notice of Public Hearing.

Sierra County

June 22, 1981

Rule
203 Exceptions.
301 Prohibition from Burning.
302 Exceptions to Rule 301.
303 Agricultural Burning.
304 Range Improvement Burning.
305 Forest Management Burning.
306 Land Development Clearing.
307 Ditch and Road Maintenance.
308 Hazard Reduction.
309 Fire Suppression and Training.
310 Residential Maintenance.
311 Recreational Activity.

312 Required Permit.
313 No Burn Day.
314 Burning Permits.
315 Minimum Drying Times.
316 Burning Management.
317 Mechanized Burners.
318 Enforcement Responsibility.
319 Penalty.
512 Circumvention.
513 Source Recordkeeping.
514 Public Records and Trade Secrets.
515 Provision of Sampling and Testing Facilities.
516 Upset and Breakdown Conditions.
522 Analysis Fees.
523 Permit Fees.
703 Contents of Petitions.
710 Notice of Public Hearing.

Under Section 110 of the Clean Air Act as amended, and 40 CFR Part 51, the Administrator is required to approve or disapprove these regulations as State Implementation Plan (SIP) revisions. All the rules listed above have been evaluated and found in accordance with EPA policy and 40 CFR Part 51. Detailed evaluation reports are available for public inspection at the locations listed in the **ADDRESSES** Section of this notice.

This notice approves all the rule revisions listed above and incorporates them into the California SIP. EPA's approval of the above revisions to the California SIP is being done without prior proposal because the revisions are not controversial. The public is advised that this approval action will be effective 60 days from the date of this **Federal Register** notice. However, if notice is received by EPA within 30 days that someone wishes to submit adverse or critical comments, the approval action will be withdrawn and a subsequent notice will be published before the effective date. The subsequent notice will indefinitely postpone the effective date, modify the final action to a proposed action, and establish a comment period.

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

Note.—Incorporation by reference of the State Implementation Plan for the State of California 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.

(Sec. 110, and 301(a) of the Clean Air Act, as amended [42 U.S.C. 7410 and 7601(a)])

Dated: March 1, 1982.

Anne M. Gorsuch,

Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

Subpart F—California

1. Section 52.220 is amended by adding paragraphs (c)(51) (xv)(B), (80)(i)(B), (92)(ii)(B) and (93)(iii), (iv) as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(51) * * *

(xv) * * *

(B) Deletion of Rules 604 and 605.

* * * * *

(80) * * *

(i) * * *

(B) New Rule 507.

* * * * *

(92) * * *

(ii) * * *

(B) New or amended Rules 102, 203, 211, 301, 305, 306, 324, 325, 601, and 702.

* * * * *

(93) * * *

(iii) Plumas County APCD.

(A) New or amended Rules 203, 301–319, 512–516, 703, and 710.

(iv) Sierra County APCD.

(A) New or amended Rules 203, 301–319, 512–516, 522, 523, 703, and 710.

* * * * *

[FR Doc. 82-11217 Filed 4-22-82; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 123

[W-6-FRC 2109-3]

Louisiana Department of Natural Resources Underground Injection Control Program Approval

AGENCY: Environmental Protection Agency.

ACTION: Approval of State Program.

SUMMARY: The State of Louisiana has submitted an application under Sections 1422 and 1425 of the Safe Drinking Water Act for the approval of an Underground Injection Control (UIC) program governing Classes I, II, III, IV, and V injection wells. After careful review of the application and comments received from the public, the Agency has determined that the State's injection well program for Classes I, III, IV, and V wells meets the requirements of Section 1422 of the Act, and that the State's injection well program for Class II oil and natural gas related wells meets the requirements of Section 1425 of the Act. Therefore, this application covering Classes I–V injections is approved.

EFFECTIVE DATE: This approval is effective April 23, 1982.

FOR FURTHER INFORMATION CONTACT: Erlece Allen, Ground Water Protection Section, U.S. Environmental Protection Agency, 1201 Elm Street, Dallas, Texas 75270, (214) 767–2774. Copies of the responsiveness summary are available from the above address.

SUPPLEMENTARY INFORMATION: Part C of the Safe Drinking Water Act (SDWA) provides for an Underground Injection Control (UIC) program. Section 1421 of the SDWA requires the Administrator to promulgate minimum requirements for effective State programs to prevent underground injection which endangers drinking water sources. The Administrator is also to list in the **Federal Register** each State for which in his judgment a State UIC program may be necessary. Each State listed shall submit to the Administrator an application which contains a showing satisfactory to the Administrator that the State: (i) Has adopted after reasonable notice and public hearings, an UIC program which meets the requirements of regulations in effect under Section 1421 of the SDWA; and (ii) will keep such records and make such reports with respect to its activities under its UIC program as the Administrator may require by regulations. After reasonable opportunity for public comments, the Administrator shall by rule approve, disapprove or approve in part and disapprove in part, the State's UIC program.

The SDWA was amended on December 5, 1980, to include Section 1425, which establishes an alternative method by which a State may obtain primary enforcement responsibility for those portions of its UIC program related to the recovery and production of oil and natural gas (Class II wells). Specifically, instead of meeting the Consolidated Permits Regulations (40 CFR Parts 122, 123 and 124) and related Technical Criteria and Standards (40 CFR 146), a State may demonstrate that its program meets the more general statutory requirements of Section 1421(b)(1) (A) through (D) and represents an effective program to prevent endangerment of underground sources of drinking water.

The State of Louisiana was listed as needing an UIC program on September

25, 1978 (43 FR 43420). The State of Louisiana submitted an application under Sections 1422 and 1425 on January 15, 1982, for the approval of an UIC program governing Classes I, II, III, IV and V injection wells to be administered by the Louisiana Department of Natural Resources (LDNR). On February 4, 1982, EPA published notice of its receipt of the application, requested public comments, and scheduled a public hearing on the Louisiana UIC program submitted by the LDNR (47 *FR* 5262). A public hearing was held on March 8, 1982 in Baton Rouge, Louisiana. After careful review of the application and comments received from the public, I have determined that the Louisiana UIC program submitted by the LDNR meets the requirements established by Federal regulations pursuant to Section 1421 of the SDWA, and the provisions of Section 1425 of the SDWA and hereby approve it.

In this application, Louisiana chose not to assert jurisdiction over Indian lands or reservations for purposes of its UIC program. Therefore, the Environmental Protection Agency will, at a future date, prescribe an UIC program governing injection wells on any Indian lands or reservations in Louisiana.

EPA is publishing this approval effective immediately so that Louisiana can begin issuing UIC permits for Classes I–V wells under the UIC program.

The radioactive tracer survey, as described in the Louisiana application and further justification, is approved as a mechanical integrity test under the provisions of 40 CFR 146.08(d) for use in Louisiana.

List of Subjects in 40 CFR Part 123

Hazardous materials, Indians—lands, reporting and recordkeeping requirements, waste treatment and disposal, water pollution control, water supply, intergovernmental relations, penalties, confidential business information.

OMB Approval

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

Certification Under the Regulatory Flexibility Act

Pursuant to the provisions of 5 U.S.C. 605(b), I certify that approval by EPA under Section 1422 of the Safe Drinking Water Act of an application by a State, including the optional demonstration relating to oil or natural gas provided for under Section 1425 of such Act, will not have a significant economic impact on a substantial number of small entities, since this rule only approves State actions. It imposes no new requirements on small entities.

Dated: April 19, 1982.

Anne M. Gorsuch,

Administrator.

[FR Doc. 82-11185 Filed 4-22-82; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 123

[W-6-FRL 2109-2]

Texas Railroad Commission Underground Injection Control Program Approval

AGENCY: Environmental Protection Agency.

ACTION: Approval of State Program.

SUMMARY: The State of Texas has submitted an application under Sections 1422 and 1425 of the Safe Drinking Water Act for the approval of an Underground Injection Control (UIC) program governing injection wells related to the production of oil or natural gas (Class II wells, as defined by EPA) and wells used for in situ combustion of fossil fuels or for recovery of geothermal energy, and geothermal wells used for heating or aquaculture. The Texas program for the regulation of all other classes and types of injection wells was approved on January 6, 1982. After careful review of the application and comments received from the public, the Agency has determined that this application meets requirements of Sections 1422 and 1425 of the Act, and hereby approves it. The State of Texas now has primary enforcement responsibility over all injection wells in the State.

EFFECTIVE DATE: This approval is effective April 23, 1982.

FOR FURTHER INFORMATION CONTACT: Ronald Van Wyk, Ground Water Protection Section, U.S. Environmental Protection Agency, 1201 Elm Street, Dallas, Texas 75270, (214) 767–2774. Copies of the responsiveness summary are available from the above address.

SUPPLEMENTARY INFORMATION: Part C of the Safe Drinking Water Act (SWDA or Act) establishes a national program to protect underground sources of drinking water from endangerment by underground injections through wells. Section 1421 of the SDWA requires the Administrator to promulgate minimum requirements for effective State underground injection control (UIC) programs. Section 1422 requires that each State submit an application to administer a UIC program, which must meet the requirements of regulations under Section 1421 to gain EPA approval.

The SDWA was amended on December 5, 1980, to include Section 1425, which establishes an alternative method by which a State may obtain primary enforcement responsibility for those portions of its UIC program related to the recovery and production of oil and natural gas (Class II wells). Specifically, instead of meeting the Consolidated Permits Regulations (40 CFR Parts 122, 123 and 124) and related Technical Criteria and Standards (40 CFR 146), a State may demonstrate that its program meets the more general statutory requirements of Section 1421(b)(1) (A) through (D) and represents an effective program to prevent endangerment of underground sources of drinking water.

The State of Texas submitted an application under sections 1422 and 1425 on January 28, 1982, for the approval of a UIC program governing Class II injection wells and wells used for in situ combustion of fossil fuels or for recovery of geothermal energy, and geothermal wells used for heating or aquaculture to be administered by the Texas Railroad Commission (TRC). On February 8, 1982, EPA published notice of its receipt of the application, requested public comments, and scheduled a public hearing on the Texas UIC program submitted by the TRC (47 FR 5732). A public hearing was held on March 11, 1982 in Dallas, Texas. After careful review of the application and comments received from the public, I have determined that the Texas UIC program submitted by the TRC meets the requirements of Sections 1422 and 1425 of the SDWA, and hereby approve it.

EPA is publishing this approval effective immediately so that the Texas Railroad Commission can begin issuing UIC permits for those injection wells under its jurisdiction.

List of Subjects in 40 CFR Part 123

Hazardous materials, Indians—lands, Reporting and recordkeeping requirements, Waste treatment and disposal, Water pollution control, Water supply, Intergovernmental relations, Penalties, Confidential business information

OMB Approval

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

Certification Under the Regulatory Flexibility Act

Pursuant to the provisions of 5 U.S.C. 605(b), I certify that approval by EPA under Sections 1422 and 1425 of the Safe Drinking Water Act of an application by the Texas Railroad Commission will not have a significant economic impact on a substantial number of small entities, since this rule only approves State actions. It imposes no new requirements on small entities.

Dated: April 19, 1982.

Anne M. Gorsuch,

Administrator.

[FR Doc. 82-11184 Filed 4-22-82; 8:45 am]

BILLING CODE 6560-50-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

41 CFR Ch. 18, Part 3

[Procurement Notice 82-3]

Regulatory Coverage for the Uniform Contract Format

Dated: March 8, 1982.

AGENCY: National Aeronautics and Space Administration.

ACTION: Final rule.

SUMMARY: This document, NASA Procurement Notice No. 82-3, is a clarification of NASA's position regarding post-selection increases in the apparent successful offeror's proposed estimated cost. It revises NASA Procurement Regulation 3.501(b)(3), Uniform Contract Format.

EFFECTIVE DATE: April 23, 1982.

FOR FURTHER INFORMATION CONTACT: James H. Wilson, Policy Division (Code HP-1), Office of Procurement, NASA Headquarters, Washington, D.C. 20546, Telephone: 202-755-2237.

SUPPLEMENTARY INFORMATION: After selection of the apparent successful offeror, it is common practice for the Government negotiator to identify any proposal weakness that must be corrected as a condition of contracting. Historically, some negotiators have viewed the solicitation provision as prohibiting them from recognizing any increases in the contractors' estimated costs resulting from correction of such weaknesses. Since it is not intended that the solicitation provision in NASA Procurement Regulation, Part 3.501(b)(3), Uniform Contract Format, Part I, Section C(30), be viewed in that light, NASA Procurement Notice 82-3 is being issued to revise and clarify the provision accordingly.

List of Subjects in 41 CFR Ch. 18, Part 3

Government procurement.

PART 3—PROCUREMENT BY NEGOTIATION

NASA Procurement Regulation, 41 CFR Ch. 18, Part 3, § 3.501(b)(3), Uniform Contract Format, Part I, Section C(30) is revised to read as follows:

§ 3.501 [Amended]

* * * * *

(b) * * *

(3) * * *

* * * * * *

(30) The following provision shall be included in all requests for proposals to be evaluated pursuant to NASA Source Evaluation Board procedures, when award of a cost-reimbursement type contract (with or without incentive arrangements) is contemplated. The purpose of this provision is to advise the offeror(s) selected for final negotiation that they may not unilaterally increase their estimated costs for the reasons cited therein. Government negotiators are cautioned that in those cases where the second exception applies, there may be instances where such costs do not warrant additional fee:

Once the apparent successful offeror has been selected, that offeror may not unilaterally increase the estimated costs submitted with its proposal except for:

(a) Changes resulting from updating of the certified cost or pricing data submitted with its proposal;

(b) Costs resulting from the Government's directed correction of identified weaknesses in the offeror's proposal which must be corrected as a condition of contracting; or

(c) Minor changes in the requirements of the requests for proposals. In such cases, the Government will consider only those increases arising from those requirements that are actually affected by the changes (irrespective of whether the changes result in an increase or decrease in the requirements or are initiated by the Government or the offeror) and then only to the extent such changes are identified and justified.

(42 U.S.C. 2473(c)(1))

L. E. Hopkins,

Deputy Assistant Administrator for Procurement.

[FR Doc. 82-11109 Filed 4-22-82; 8:45 am]

BILLING CODE 7510-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

42 CFR Part 124

Revision of Income Criteria for Eligibility for Uncompensated Services

AGENCY: Health Resources Administration, PHS, HHS.

ACTION: Rule-related notice.

SUMMARY: This notice announces the applicability of the recent revision of the poverty income guidelines to uncompensated services programs administered by health care facilities pursuant to Titles VI and XVI of the Public Health Service Act.

DATE: The revision of the guidelines must be implemented by affected facilities by May 10, 1982.

FOR FURTHER INFORMATION CONTACT: Martin J. Frankel, Director, Division of Facilities Compliance, BHF/HRA, Room 5-22, 3700 East-West Highway, Hyattsville, Maryland 20782; (301)436-7795.

SUPPLEMENTARY INFORMATION: On April 9, 1982, the annual revision of the "Poverty Income Guidelines" was issued, effective upon publication (47 FR 15417). That revision affects, among others, health care facilities that have received construction assistance under Title VI or Title XVI of the Public Health Service Act, 42 U.S.C. 291, *et seq.*, and 42 U.S.C. 300q, *et seq.*, respectively. The regulations applicable to those facilities provide that the eligibility of persons for uncompensated services is to be determined in accordance with the current poverty income guidelines of the Community Services Administration (CSA). See 42 CFR 124.506(a). The recently enacted statute which gave this Department authority to revise the guidelines also provides that any reference in law to the CSA guidelines constitutes a reference to, in this case, the present revision. Pub. L. 97-35, 683(c)(1).

The present uncompensated services regulations were issued based on the CSA statutory framework. That framework provided for a 30-day delay in effective date, which assured the assisted facilities adequate time to revise their uncompensated services procedures to accommodate revisions of the guidelines. Therefore, we are interpreting the regulation as permitting a 30-day delay in the effective date of the poverty income guidelines with respect to their implementation by assisted facilities pursuant to § 124.506(a). Subsequent to May 9, 1982, all assisted facilities to whom that regulation applies must determine eligibility for uncompensated services using the revised income criteria published on April 9.

Robert Graham,

Acting Administrator, Health Resources Administration.

April 21, 1982.

[FR Doc. 82-11285 Filed 4-22-82; 8:45 am]

BILLING CODE 4160-17-M

Health Care Financing Administration

42 CFR Parts 432, and 433

Cost Allocation Plans for Public Assistance Programs

AGENCY: Department of Health and Human Services (HHS).

ACTION: Interim final rule with comment period.

SUMMARY: This rule revises existing regulations concerning the preparation, submission and approval of State agency cost allocation plans used in computing claims for Federal Financial Participation under Title XIX of the Social Security Act. It also reflects the transfer of responsibility for review and approval of the plans to the Division of Cost Allocation (DCA) in the Department's regional offices. This responsibility was previously assigned to the Social and Rehabilitation Service which was abolished by Secretarial Order published on March 9, 1977 (42 FR 13262). The current rule has been rewritten so that it is clearer, easier to understand and more specific.

Although these regulations are final, the Department has decided to invite public comments for the reasons described in the preamble to Subpart E, Cost allocation plans, of 45 CFR Part 95, General Administration—grant programs (public assistance and medical assistance), located elsewhere in this issue. Comments may be submitted in the manner described below. If changes are needed as a result of the comments received those changes will be published in the **Federal Register** along with the comments received and the Department's responses to those comments.

DATES: Effective date: May 24, 1982. Comment Date: To assure consideration, comments should be mailed by June 22, 1982.

ADDRESS: Address comments in writting to: Director, Office of Procurement and Assistance Policy, Office of Procurement Assistance and Logistics, Office of the Assistant Secretary for Management and Budget, U.S. Department of Health and Human Services, Room 513D, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, D.C. 20201.

Comments will be available for public inspection at the above address Monday through Friday from 9:00 a.m. to 5:30 p.m.

FOR FURTHER INFORMATION CONTACT: Edward M. Tracy (202) 245–7411.

SUPPLEMENTARY INFORMATION: A Notice of Proposed Rulemaking was published in the **Federal Register** on January 22, 1981, at 46 FR 7011, inviting comments on a proposed revision to the Department's regulations on the preparation, submission and approval of State cost allocation plans for public assistance programs. The regulation, Subpart E of 45 CFR Part 95, consolidates on a Department-wide basis all cost allocation requirements for public assistance agencies into a single regulation. Public comments were invited for 45 days ending March 9, 1981. Comments were received from nine State agencies and one association and are discussed in the preamble to Subpart E of 45 CFR Part 95 located elsewhere in this issue.

The Department has determined that this rule is not a "major rule" as defined under Executive Order 12291. Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that this rule will not have a significant economic impact on a substantial number of small entities. The reporting and recordkeeping requirements contained in this regulation have been approved by The Office of Management and Budget in accordance with the Paperwork Reduction Act of 1980 (Pub. L. 96–511). The OMB Number for these requirements is 0990–0073.

Accordingly, 42 CFR Parts 432 and 433 are amended as set forth below.

Dated: April 1, 1982.

Richard S. Schweiker,

Secretary of Health and Human Services.

PART 432—STATE PERSONNEL ADMINISTRATION

§ 432.60 [Amended]

A. 42 CFR 432.60(c) is removed.

PART 433—STATE FISCAL ADMINISTRATION

B. 42 CFR 433.34 is revised to read as follows:

§ 433.34 Cost allocation.

A State plan under Title XIX of the Social Security Act must provide that the single or appropriate Agency will have an approved cost allocation plan on file with the Department in accordance with the requirements contained in Subpart E of 45 CFR Part 95. Subpart E also sets forth the effect on FFP if the requirements contained in that Subpart are not met.

FR Doc. 82–11111 Filed 4–22–82; 8:45 am]

BILLING CODE 4150–04–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

National Flood Insurance Program; Final Flood Elevation Determinations; Arizona, et al.

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the nation.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM) showing base (100-year) flood elevations, for the community. This date may be obtained by contacting the office where the maps are available for inspection indicated on the table below.

ADDRESSES: See table below.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, P.E., Federal Emergency Management Agency, National Flood Insurance Program, (202) 287–0230, Washington, D.C. 20472.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency gives notice of the final determinations of flood elevations for each community listed.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 44 CFR Part 67. An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Agency has developed criteria for flood plain management in flood-prone areas in accordance with 44 CFR Part 60.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, to whom

authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that the final flood elevation determinations, if promulgated, will not have a significant economic impact on a substantial number of small entities. A flood elevation determination under section 1363 forms the basis for new local ordinances, which, if adopted by a local community, will govern future construction within the flood plain area. The elevation determinations, however, impose no restriction unless and until the local community voluntarily adopts flood plain ordinances in accord with these elevations. Even if ordinances are adopted in compliance with Federal standards, the elevations prescribed how high to build in the flood plain and do not proscribe development. Thus, this action only forms the basis for future local actions. It imposes no new requirement; of itself it has no economic impact.

List of Subjects in 44 CFR Part 67

Flood insurance, Floodplains.

The final base (100-year) flood elevations for selected locations are:

FINAL BASE (100-YEAR) FLOOD ELEVATIONS

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Arizona	Prescott Valley (city), Yavapai County, (FEMA-6143)	Aqua Fria River	Most downstream corporate limit crossing	*4,836
			Intersection of Mingus Circle and Mountain View Drive	*4,890
			Intersection of Hill Drive and Mountain View Drive	*4,912
			Intersection of Robert Road and Winchester Drive	*4,926
		Navajo Drive Wash	Eastern corner of intersection of Towago Drive and Navajo Drive.	*4,876
	Maps available for inspection at Town Planner's Office, Town Hall, Yavapai Road, Prescott Valley, Arizona.			
Arkansas	City of Batesville, Independence County (FEMA-6218)	White River	Just upstream of U.S. Highway 167	*265
		Polk Bayou	Just upstream of Central Avenue (State Highway 69 Bus.).	*270
			Just downstream of State Highway 69 bypass	*280
		Dry Run Creek	Just upstream of State Highway 106	*278
		Miller Creek	Just downstream of State Highway 233	*278
		Unnamed tributary to White River (backwater from White River).	Just upstream of 20th Street	*265
		Unnamed tributary to Miller Creek	Just upstream of Missouri Pacific Railroad	*297
	Maps available for inspection at City Hall, 170 South Fourth Street, Batesville, Arkansas 72501.			
Arkansas	Unincorporated areas of Jackson County (FEMA-6218).	White River	Just upstream of U.S. Highway 67	*231
			Just upstream of port entrance	*232
		Village Creek	Just upstream of Missouri Pacific Railroad	*230
			Just upstream of county road	*234
			Just upstream of Arkansas Highway 37	*241
		Maple ditch	Just downstream of U.S. Highway 226	*243
			Just upstream of Main Street	*244
			Just upstream of U.S. Highway 67	*247
		Tuckerman ditch	Just upstream of county road	*236
		Swam Pond ditch	Just upstream of State Highway 37	*237
		Swam Pond ditch tributary	Just upstream of State Highway 37	*240
	Maps available for inspection at County Judge's Office, Jackson County Courthouse, Third and Main Streets, Newport, Arkansas 72501.			
Arkansas	Town of Jacksonport, Jackson County (FEMA-6216)	White River	At intersection of State Highway 69 and Washington Street.	*231
	Maps available for inspection at City Hall, Jacksonport, Arkansas 72075.			
California	Corning (city), Tehama County (FEMA-6197)	Jewett Creek	Intersection of Fig Lane and Link Avenue	*272
	Maps available for inspection at Department of Public Works, 794 3rd Street, Corning, California.			
Delaware	Bowers, town, Kent County (Docket No. FEMA-6216)	Delaware Bay	Entire shoreline within community	*12
	Maps available for inspection by contacting Mayor James Parker at (302) 335-9884.			
Delaware	Delaware City, city, New Castle County (Docket No. FEMA-6216).	Delaware River	Coastline from upstream corporate limits to downstream corporate limits.	*12
	Maps available for inspection at the Municipal Offices, 407 Clinton Street, Delaware City, Delaware.			
Delaware	Lewes, city, Sussex County (Docket No. FEMA-6216)	Delaware Bay	Entire shoreline within community	*12
	Maps available for inspection at the City Hall, East Third Street, Lewes, Delaware.			
Delaware	Slaughter Beach, town, Sussex County (Docket No. FEMA-6216).	Delaware Bay	Coastline from upstream corporate limits to downstream corporate limits.	*12
	Maps available for inspection by contacting the Town Secretary at (302) 335-4192.			
Indiana	(T) New Whiteland, Johnson County (Docket No. FEMA-6218).	East Grassy Creek	Just upstream of 500 North Road	*784
			Just downstream of Mooreland Drive	*791
			Just downstream of U.S. Route 31 northbound	*797
	Maps available for inspection at the Town Hall, 401 Mooreland Drive, New Whiteland, Indiana.			

FINAL BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Indiana	(C) Richmond, Wayne County (Docket No. FEMA-6218).	East fork Whitewater River	At downstream extraterritorial limits	*884
			About 250 feet upstream of Test Road	*872
			Just downstream of dam near North 24th Street	*936
			Just downstream of Reservior Road	*962
			Just upstream of Reservior Road	*967
			Just downstream of Conrail (about 1,800 feet upstream of Interstate 70).	*977
			Just upstream of Conrail (about 1,800 feet upstream of Interstate 70).	*983
			At state boundary	*988
		West fork east fork Whitewater River.	At mouth	*910
			About 100 feet downstream of Waterfall Road	*929
			Just upstream of Waterfall Road	*964
			Just upstream of Interstate 70	*992
			About 2,400 feet upstream of Old U.S. Route 27	*1,040
		Nolands Fork	About 520 feet downstream of Tingler Road	*1,034
			About 250 feet upstream of Tingler Road	*1,036
		Middle fork east fork Whitewater River.	At mouth	*919
			Just downstream of dam	*937
			Just upstream of dam	*993
			Just downstream of State Route 227	*997
		Elkhorn Creek	About 400 feet downstream of Elkhorn Falls	*1,004
			Just downstream of Elkhorn Falls	*1,005
			Just upstream of Elkhorn Falls	*1,036
			Just downstream of Niewoehner Road	*1,048
			About 0.75 mile downstream of Greenmount Road	*1,080
			At state boundary	*1,092
		Lick Creek	At downstream extraterritorial limits	*854
			Just downstream of Test Road	*890
			Just upstream of Test Road	*897
			Just downstream of U.S. Route 40	*955
			Just upstream of Crowe Road	*1,000
			Just downstream of Interstate 70	*1,020
		Clear Creek	Just downstream of U.S. Route 40	*944
			Just downstream of Indiana Avenue	*970
			About 500 feet upstream of U.S. Route 35	*1,051
		Short Creek	At mouth	*855
			Just upstream of Straight Line Pike	*919
			About 200 feet downstream of South 21st Street	*951
			Just downstream of falls near Wernle Road	*1,016
			Just upstream of Wernle Road	*1,032
			Just downstream of Hodgin Road	*1,045
		South Richmond Ditch	At mouth	*857
			Just downstream of Elks Club Road	*965
			Just upstream of Elks Club Road	*974
			About 200 feet downstream of Chessie System	*984
			About 500 feet downstream of Wernle Road	*990
			Just upstream of Wernle Road	*996
			About 500 feet upstream of South L Street	*1,001
	Maps available for inspection at the City Planning Office, City Hall Municipal Building, 50 North Fifth Street, Richmond, Indiana.			
Indiana	(T) Spring Grove, Wayne County (Docket No. FEMA-6218).	West fork east fork Whitewater River.	About 450 feet downstream of Chessie System	*917
			About 130 feet downstream of Waterfall Road	*929
			Just upstream of Waterfall Road	*946
			About 600 feet upstream of Waterfall Road	*949
		East fork Whitewater River	Within the corporate limits	*918
	Maps available for inspection at 9 Waterfall Road, Richmond, Indiana.			
Indiana	(Uninc.) Wayne County (Docket No. FEMA-6218)	East fork Whitewater River	About 2,200 feet downstream of Potters Shop Road	*807
			About 5,200 feet upstream of Beelor Road	*844
		West fork Whitewater River	At downstream county boundary	*853
			At confluence of Greens Fork	*880
			Just downstream of East Milton Road	*908
			Just upstream of East Milton Road	*912
			Just upstream of Delaware Street	*935
			Just upstream of U.S. Route 35	*1,052
			Just downstream of Randolph County Line Road	*1,075
		West fork east fork Whitewater River.	At city of Richmond upstream extraterritorial limits	*1,040
			About 6,300 feet upstream of city of Richmond upstream extraterritorial limits.	*1,063
		Middle fork east fork Whitewater River.	Just upstream of State Route 227 (at city of Richmond extraterritorial limit).	*997
			Just upstream of Inke Road	*1,052
			About 450 feet upstream of State boundary	*1,116
		Elkhorn Creek	At mouth at east fork Whitewater River	*833
			Just downstream of U.S. Route 27	*851
			Just upstream of U.S. Route 27	*857
			Just downstream of Beeson Road	*878
			Just upstream of Beeson Road	*883

FINAL BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			About 500 feet upstream of Fouts Road	*998
		Lick Creek	Just downstream of Hartman Road	*1,079
			At mouth at East Fork Whitewater River	*841
		Nettle Creek	About 2,500 feet upstream of Abington Pike Road	*854
			Just upstream of Hoover Road	*1,032
			Just upstream of West Dalton Road	*1,066
		Martindale Creek	About 3,100 feet upstream of Weaver Road	*1,085
			At mouth at West Fork Whitewater River	*915
			Just downstream of U.S. Route 40	*931
			Just upstream of Norfolk and Western Railway	*1,004
		Nolands Fork	About 400 feet upstream of Economy Road	*1,097
			At southern county boundary	*854
			Just upstream of Watt Road	*915
			Just upstream of Conrail (near U.S. Route 40)	*967
			Just upstream of Conrail (near New Garden Road)	*1,082
		Greens Fork	Just downstream of Randolph County Line Road	*1,143
			At mouth at West Fork Whitewater River	*881
			Just downstream of U.S. Route 40	*941
			Just upstream of Conrail	*947
			Just downstream of Davis Road	*980
			Just upstream of U.S. Route 35	*1,057
			Just downstream of Randolph County Line Road	*1,106
Maps available for inspection at the County Planning Office, 400 East Main Street, Courthouse Annex, Richmond, Indiana.				
Kentucky	City of Grayson, Carter County (Docket No. FEMA-6318).	Damron branch	Just upstream Walnut Drive	*600
		Little Sandy River	Just downstream U.S. Highway 60 (Main Street)	*586
			Just upstream of Old State Highway 7	*590
		Town branch	Just upstream Old State Highway 7 (Hord Street)	*598
			Just upstream of Willow Street	*634
		Upper Stinson Creek	Just downstream U.S. Highway 60	*588
Maps available for inspection at 302 East Main Street, Grayson, Kentucky 41143.				
Kentucky	City of Olive Hill, Carter County (Docket No. FEMA-6218).	Tygarts Creek	Approximately 200 feet downstream of the Chessie System.	*757
			Just downstream of State Highway 986 (cross street)	*760
			Approximately 100 feet upstream of the confluence of Perry branch.	*764
		Mill branch	Just downstream walk bridge	*770
		Henderson branch	Approximately 100 feet upstream State Highway 2	*771
			Just downstream of the Henderson Branch Road access.	*796
Maps available for inspection at City Clerk's Office, City Hall, Railroad Street, Olive Hill, Kentucky 41164.				
Maryland	Crisfield, city, Somerset County (Docket No. FEMA-6216).	Little Annemessex River	Shoreline from approximately 760 feet south of Hammock Point to approximately 520 feet northwest of Lavelette Road (extended).	*8
			Somers Cove shoreline from approximately 520 feet northwest of Lavalette Road (extended) to Dock Street (extended).	*6
			Shoreline from Dock Street (extended) to 240 feet northwest of Lumber Street (extended).	*8
			Shoreline from 240 feet northwest of Lumber Street (extended) to approximately 160 feet southwest of Wellington Road, at the corporate limits.	*6
			Shoreline from approximately 160 feet northeast of Wellington Road, at the corporate limits to approximately 400 feet southwest of Lorie C. Quinn Sr. Drive at the corporate limits.	*5
		Daugherty Creek	Shoreline from approximately 200 feet west of Brick Kiln Road (extended) to approximately 500 feet west of Hall Highway, at the corporate limits.	*5
Maps available for inspection at the City Hall, Main Street, Crisfield, Maryland.				
Massachusetts	Tyngsborough, town, Middlesex County (Docket No. FEMA-6197).	Merrimack River	Downstream Corporate Limits	*103
			Upstream Corporate Limits	*110
		Lawrence Brook	Confluence with Merrimack River	*105
			Upstream of Lawndale Road	*123
			Upstream of Lakeview Avenue	*176
		Mascuppic Brook	Confluence of Lawrence Brook	*124
			Upstream of Coburn Road	*155
		Massapoag Pond	Entire shoreline within community	*168
Maps available for inspection at the Office of the Selectmen, Town Hall, 10 Kendall Road, Tyngsborough, Massachusetts.				
Michigan	(C) Frankenmuth Saginaw County (Docket No. FEMA-6218).	Cass River	About 2,700 feet downstream of dam	*607
			About 1.1 miles upstream of South Main Street	*612
Maps available for inspection at the City Hall, 240 West Genesee Street, Frankenmuth, Michigan.				
Michigan	(C) Mt. Pleasant, Isabella County (Docket No. FEMA-6218).	Chippewa River	About 0.92 mile downstream of Pickard Avenue	*744
			About 200 feet upstream of Ann Arbor Railroad	*753
			Just upstream of High Street	*760

FINAL BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			About 0.85 mile upstream of High Street	*763
Maps available for inspection at the City Hall, 120 South University Avenue, Mount Pleasant, Michigan.				
Michigan	Wyoming (city), Kent County (FEMA-6121)	Grand River	Intersection of Conrail and Interstate Highway 196	*607
		Plaster Creek	Intersection of creek and center of Chicago Drive	*616
			50 feet downstream from center of Division Street	*641
		Buck Creek	50 feet upstream from center of Byron Center Avenue	*640
			Intersection of 56th Street and Crippen Avenue	*666
			80 feet south of intersection of 36th Street and Wentworth Drive.	*630
Maps available for inspection at Treasurer's Office, 1155 28th Street, SW., Wyoming, Michigan.				
Minnesota	(C) Stewartville, Olmsted County (Docket No. FEMA-6218).	North branch Root River	About 700 feet downstream of Chicago and North Western Railroad (abandoned).	*1,185
			About 100 feet downstream of Stewartville Dam	*1,193
			Just upstream of Stewartville Dam	*1,200
			At 6th Street Southwest	*1,202
Maps available for inspection at the City Hall, 417 South Main, Stewartville, Minnesota.				
Missouri	(V) Hartsburg, Boone County (Docket No. FEMA-6218).	Missouri River	Within corporate limits	*566
Maps available for inspection at the Post Office, Hartsburg, Missouri.				
Missouri	(C) Henrietta, Ray County (Docket No. FEMA-6218)	Missouri River	About 2,100 feet east of the intersection of Main Street and Third Street.	*703
			About 1,900 feet west of the intersection of Elm Street and Seventh Street.	*704
Maps available for inspection at the City Hall, P.O. Box 175, Henrietta, Missouri.				
Nebraska	(Uninc.) Cass County (Docket No. FEMA-6218)	Platte River	About 1,000 feet upstream of the confluence with Missouri River.	*966
			Just upstream of Burlington Northern and Missouri-Pacific Railroad.	*972
			About 5,000 feet downstream of State Highway 50	*1,019
			About 11,800 feet downstream of Chicago, Rock Island and Pacific Railroad.	*1,028
			About 1,400 feet upstream of Chicago, Rock Island and Pacific Railroad.	*1,039
			About 4,500 feet upstream of Chicago, Rock Island and Pacific Railroad.	*1,041
			Just upstream of Interstate 80	*1,056
			About 1,700 feet upstream of upstream county boundary.	*1,060
		Missouri River	About 1.6 miles downstream of downstream county boundary.	*939
			Just downstream of city of Plattsmouth extraterritorial limits.	*958
Maps available for inspection at the Zoning Administrator's Office, Cass County Courthouse, Plattsmouth, Nebraska.				
New Hampshire	Somersworth, city, Strafford County (Docket No. FEMA-6218).	Salmon Falls River	Downstream corporate limits	*70
			Upstream of Buffumsville	*77
			Upstream of most downstream dam	*109
			Upstream of second most downstream dam	*124
			Upstream of Berwick Bridge	*176
			Upstream of Salmon Falls Road	*178
			Upstream corporate limits	*183
Maps available for inspection at the Somersworth Municipal Building, City Planner's Office, 157 Main Street, Somersworth, New Hampshire.				
New Jersey	Clark, township, Union County (Docket No. FEMA-6216).	Rahway River	Downstream corporate limits	*21
			Upstream Valley Road dam	*29
			Upstream Bloodgood dam	*40
			Upstream corporate limits	*42
		Robinsons branch	Downstream corporate limits at Madison Hill Road	*32
			Upstream Middlesex Reservoir dam	*48
			Upstream Featherbed Lane	*49
			Downstream Cellar Avenue (extended)	*52
			Upstream corporate limits	*58
		Pumpkin Patch Brook	Confluence with Robinsons branch	*57
			Upstream corporate limits	*61
Maps available for inspection at the Municipal Building, 315 Westfield Avenue, Clark, New Jersey.				
New Jersey	Edison (township), Middlesex County (FEMA-6218)	Atlantic Ocean (Raritan River)	Intersection of Raritan River and center of Interstate 95.	*12
		Mill Brook at Nixon	Intersection of Mill Brook and center of Phillo Boulevard.	*60
		Tributary 1	Intersection of tributary 1 and center of U.S. Highway 1.	*72
		Mill Brook	Intersection of Mill Brook and center of Campbell Avenue.	*73
		Boundary branch of Mill Brook	30 feet upstream from center of Highland Avenue	*66
		South branch Rahway River	100 feet upstream from center of Evergreen Road	*44
		Coopermine Brook	Intersection of Coopermine Brook and center of Marlin Avenue.	*94

FINAL BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Robinsons branch	80 feet upstream from center of Conrail	*61
Maps available for inspection at Engineer's Office, 100 Municipal Boulevard, Edison, New Jersey.				
New Jersey	Glassboro, borough, Gloucester County (Docket No. FEMA-6218).	Mantua Creek	Downstream corporate limits	*67
			Upstream Greentree Road	*95
			Upstream Fish Pond Road	*111
Maps available for inspection at the Municipal Building, Main and High Streets, Glassboro, New Jersey.				
New Jersey	National Park, borough, Gloucester County (Docket No. FEMA-6218).	Delaware River	Entire shoreline within community	*10
		Woodbury Creek	Entire shoreline within	*10
Maps available for inspection at the Municipal Building, 7 South Grove Avenue, National Park, New Jersey.				
New Jersey	Paulsboro, borough Gloucester County (Docket No. FEMA-6218).	Mantua Creek	Entire shoreline within community	*10
		Delaware River	Entire shoreline within community	*10
Maps available for inspection at the Municipal Building, 1211 Delaware Street, Paulsboro, New Jersey.				
New Jersey	Washington, township, Warren County (Docket No. FEMA-6147).	Musconetcong River	Downstream corporate limits	*334
			State Route 31 (downstream side)	*344
			New Hampton Road (downstream side)	*356
			Changewater Road (downstream side)	*370
		Pohatcong Creek	Upstream corporate limits	*383
			Downstream corporate limits	*370
			Mill Pond Road (downstream side)	*380
			Kinnaman Avenue (downstream side)	*393
			Approximately 80 feet upstream of Plane Hill Road just upstream of dam.	*423
			Mine Hill Road (downstream side)	*423
			Conrail (upstream side)	*453
			Upstream corporate limits	*472
		Shabbecong Creek	Confluence with Pohatcong Creek	*386
			Upstream corporate limits	*388
Maps available for inspection at the Washington Township Municipal Building, Washington, New Jersey.				
New Jersey	Washington, borough, Warren County (Docket No. FEMA-6147).	Shabbecong Creek	Downstream corporate limits	*388
			Approximately 700' upstream of corporate limits (upstream of Access Road bridge).	*394
			Upstream of apartment driveway	*399
			Upstream of bridge abutments	*404
			Upstream of foot bridge	*410
			Approximately 550' downstream of South Wandling Avenue.	*418
			Upstream of South Wandling Avenue	*425
			Upstream of South Lincoln Avenue	*431
			Upstream of Broad Street	*438
			Upstream of Route 31	*446
			Upstream of Flower Avenue	*465
			Upstream corporate limits	*469
		Pahatcong Creek	Approximately 1,525' downstream Kinnaman Road	*391
			Approximately 120' downstream of Kinnaman Road	*393
Maps available for inspection at the office of the Borough Manager, Municipal Buildings, 100 Belvidere Avenue, Washington, New Jersey.				
New Jersey	Woolwich, township, Gloucester County (Docket No. FEMA-6218).	Raccoon Creek	Downstream corporate limits	*9
			Locke Avenue (upstream side)	*9
			Kings Highway (upstream side)	*10
Maps available for inspection at the Municipal Building, Woodstown Road, Swedesboro, New Jersey.				
New York	Baldwinsville, village, Onondaga County (Docket No. FEMA-6181).	Seneca	Downstream corporate limits	*372
			Upstream corporate limits	*378
		Crooked Brook	Confluence with Seneca River	*372
			Downstream of Canton Street	*375
		Tannery Creek	Confluence with Seneca River	*372
			Upstream of East Oneida Street	*379
			Overbrook Lane (extended) (Edgewood Drive)	*398
			Upstream corporate limits	*399
Maps available for inspection at the Village Hall, 16 West Genesee Street, Baldwinsville, New York.				
New York	Brightwaters, village, Suffolk County (Docket No. FEMA-6218).	Great Bay south	Entire shoreline within community	*6
Maps available for inspection at the Village Hall, 40 Seneca Drive, Brightwaters, New York.				
New York	Marcellus, town, Onondaga County (Docket No. FEMA-6181).	Ninemile Creek	Downstream corporate limits	*462
			Upstream of New York State Route 174 (1st crossing)	*494
			Upstream of New York State Route 174 (3rd crossing)	*533
			Upstream of dam No. 4	*571

FINAL BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			Donwstream corporate limits of village of Marcellus	*606
			Upstream corporate limits of village of Marcellus	*674
			Upstream of Lawrence Road	*709
			Upstream of abandoned railroad (4th crossing)	*720
Maps available for inspection at the Town Hall, 18 East Main Street, Marcellus, New York.				
New York	Minoa, village, Onondaga County (Docket No. FEMA-6218).	Limestone Creek	Downstream Corporate Limits	*409
			Conrail (upstream)	*414
			Costello Parkway (upstream)	*416
Maps available for inspection at the Village Hall, 238 North Main Street, Minoa, New York.				
New York	Pulaski, village, Oswego County (Docket No. FEMA-6218).	Salmon river	Downstream corporate limits	*303
			Approximately 4,000' upstream of corporate limits	*328
			Upstream of South Jefferson Street	*342
			Confluence of Spring Brook	*361
			Upstream of northbound Interstate 81	*386
			Approximately 1,400' upstream of northbound Interstate 81.	*391
		Spring Brook	Confluence with Salmon River	*363
			Upstream of Maple Avenue (3rd crossing)	*381
			Upstream of confluence with Spring Brook Reservoir	*406
Maps available for inspection at the Office of the Village Clerk, Pulaski, New York.				
New York	Salina, town, Onondaga County (Docket No. FEMA-6053).	Beartrap Creek	Confluence with Ley Creek	*374
			Downstream N.Y. State Thruway	*375
			Upstream Interstate Route 81 ramp (downstream)	*376
			Upstream Interstate Route 81 ramp (upstream)	*391
			100' downstream culvert of Route 81	*391
			Downstream Lawrence Road	*400
			Upstream corporate limits	*407
		Bloody Brook	Confluence with Onondaga Lake	*372
			Upstream Oswego Street	*374
			Upstream Sunflower Drive	*376
			1,300' upstream of Aldenwood Drive	*385
			Downstream N.Y. State Thruway	*396
			Upstream N.Y. State Thruway	*400
			Upstream County Routes 148 and 45	*407
			360' upstream of North Street	*409
		Ley Creek	Downstream corporate limits	*371
			Upstream Lemoyne Street	*376
			Upstream corporate limits	*380
		Sawmill Creek	Confluence with Onondaga Creek	*372
			Downstream State Route 370/Cold Springs Road	*381
			Duerr Road (upstream)	*389
			Upstream State Route 57	*399
			Upstream corporate limits	*399
		Seneca River	Corporate limits (downstream)	*371
			Corporate limits (upstream)	*371
Maps available for inspection at the Town Office Building, 913 Liverpool Road, Liverpool, New York.				
North Carolina	Unincorporated areas of Madison County (FEMA-6224).	French Broad River	At Tennessee-North Carolina State line	*1,258
			Just upstream of Barnard Bridge (SR 1151)	*1,525
			Just upstream of Redmon Bridge (SR 1135)	*1,599
			Just upstream of Southern Railway	*1,679
		Spring Creek	Just downstream of State Highway 209 (at the town of Hot Springs corporate limits).	*1,425
			Just upstream of SR 1169	*2,102
			Just upstream of SR 1151	*2,138
			Just upstream of State Highway 209 (near Spring Creek School).	*2,260
			Just downstream of SR 1164	*2,350
Maps available for inspection at Madison County Courthouse, Marshall, North Carolina 28753.				
Ohio	(V) Bremen, Fairfield County (Docket No. FEMA-6218).	Rush Creek	About 3,800 feet downstream of Marietta Road	*793
			About 920 feet upstream of confluence of Little Rush Creek.	*797
		Little Rush Creek	At confluence with Rush Creek	*796
			About 4,800 feet upstream of Conrail	*805
Maps available for inspection at the Mayor's Office, Town Hall, 132 Mulberry Street, Bremen, Ohio.				
Ohio	(V) Covington Miami County (Docket No. FEMA-6218).	Stillwater River	About 0.46 mile downstream of Gettysbury Road	*884
			About 0.15 mile downstream of confluence of Covington tributary.	*888
			About 0.48 mile upstream of Conrail	*895
		Covington tributary	About 0.1 mile downstream of Main Street	*891
			Just downstream of Main Street	*895
			Just upstream of Main Street	*898
			About 0.02 mile downstream of Broadway	*902
			Just upstream of Broadway	*909
			Just downstream of Conrail	*915
			Just downstream of Fountain Street	*923
Maps available for inspection at the Building Department, Town Hall, 1 South High Street, Covington, Ohio.				

FINAL BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Ohio	(V) Junction City, Perry County (Docket No. FEMA-6218).	Rush Creek	About 200 feet downstream of Conrail	*821
			About 2,150 feet upstream of State Route 668	*827
			About 5,500 feet upstream of State Route 668	*830
		Tributary F	Within the corporate limits	*820
	Maps available for inspection at the Clerk's Office, Town Hall, Front Street, Junction City, Ohio.			
Ohio	(V) Kirkersville, Licking County (Docket No. FEMA-6218).	South fork Licking River	About 2,750 feet downstream of Fifth Street	*920
			About 425 feet upstream of Fifth Street	*926
	Maps available for inspection at the Mayor's Office, Town Hall, 120 North Fourth Street, Kirkersville, Ohio.			
Ohio	(V) New Lexington, Perry County (Docket No. FEMA-6218).	Rush Creek	At downstream corporate limit	*857
			About 1,050 feet upstream of Brooks Street	*869
	Maps available for inspection at the City Administrator's Town Hall, 125 South Main Street, New Lexington, Ohio.			
Ohio	(V) North Baltimore, Wood County (Docket No. FEMA-6218).	Rocky Ford Creek	Just upstream of Eagleville Road	*720
			Just downstream of Ridge Avenue	*725
		Rocky Ford tributary	Within the community	*726
	Maps available for inspection at the Mayor's Office, Town Hall, 207 North Main Street, North Baltimore, Ohio.			
Ohio	(Uninc.) Shelby County (Docket No. FEMA-6218)	Great Miami River	At downstream county boundary	*882
			Just downstream of Van Demark Road	*914
			Just downstream of Sulphur Heights Hill	*930
			Just upstream of State Route 47	*949
			Just upstream of Johnston-Slagle Road	*959
			Just downstream of Tawawa Maplewood Road	*970
		Hulls Creek	At upstream county boundary	*973
			At mouth	*968
			Just downstream of Chessie System	*986
			Just upstream of Chessie System	*990
		Leatherwood Creek	Just downstream of Amsterdam Road	*1,006
			At mouth	*1,026
			Just upstream of Deam Road	*1,050
			Just downstream of Middletown-Hume Road	*1,083
		Loramie Creek	At downstream county boundary	*880
			Just downstream of Lockington Dam	*889
			About 0.9 mile downstream of Rengeline Road	*933
			Just downstream of State Route 362	*951
			Just upstream of State Route 362	*959
			Just downstream of State Route 29	*962
			Just downstream of Wenger Road	*972
			About 0.83 mile upstream of Interstate 75	*984
		Minster tributary	At mouth	*949
		Plum Creek	At upstream county boundary	*949
			At mouth	*950
			Just upstream of Sidney-Fryeburg Road	*961
			Just upstream of Thompson-Schiff Road	*984
		Swanders Creek	Just downstream of Fort Loramie-Swanders Road	*1,007
			At mouth	*994
			About 500 feet downstream of Fort Loramie-Swanders Road.	*999
		Tawawa Creek	At city of sidney corporate limits	*986
			Just upstream of State Route 29	*998
		Turtle Creek	At confluence of Leatherwood Creek	*1,026
			Just upstream of Smalley Road	*933
			Just downstream of Russell Road	*956
			About 260 feet upstream of Mason Road	*975
			Just upstream of Fort Loramie-Swanders Road	*999
			About 0.5 mile upstream of Wenger Road	*1,011
	Maps available for inspection at the Regional Planning Commission, Shelby County Courthouse, Sidney, Ohio.			
Ohio	(V) Sugar Grove, Fairfield County (Docket No. FEMA-6218).	Hocking River	About 460 feet downstream of confluence with Rush Creek.	*768
			About 3,650 feet upstream of Chessie System	*772
		Rush Creek	At mouth at Hocking River	*768
			At upstream corporate limits	*772
	Maps available for inspection at the Mayor's Office, Town Hall, South Main Street, Sugar Grove, Ohio.			
Pennsylvania	Lower Heidelberg, township, Berks County (Docket No. FEMA-6218).	Tulpehocken Creek	Downstream corporate limits at confluence of Cacoosing Creek.	*231
		Cacoosing Creek	Downstream corporate limits at confluence with Tulpehocken Creek.	*231
			Most downstream dam (upstream side)	*240
			Sweitzer Road (upstream)	*247
			Downstream farm access road (upstream) (approximately 4,310' upstream of Sweitzer Road).	*259
			State Hill Road (upstream)	*272
			Reedy Road (upstream crossing) (upstream side)	*284
			Upstream of farm access road located approximately 4,800' downstream of U.S. Route 422.	*300
			U.S. Route 422 (East Penn Avenue) (downstream)	*323
		Quarry Creek	Approximately 2,330 feet downstream of upstream corporate limits.	*342

FINAL BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			Upstream corporate limits	*354
Maps available for inspection at the Township Building, Lower Heidelberg, Pennsylvania.				
Pennsylvania	Rostraver, township, Westmoreland County (Docket No. FEMA-6181).	Monongahela River	Downstream corporate limits	*756
			Upstream Webster-Donora Highway	*757
			First upstream corporate limits	*759
			Second upstream corporate limits	*760
			Upstream corporate limits	*762
		Youghiogheny River	Confluence of Sewickley Creek	*769
			First upstream corporate limits	*771
			Approximately 2,080' downstream of State Route 981	*783
			Approximately 6,600' upstream of State Route 981	*788
			Upstream corporate limits	*790
		Tributary #1	Confluence with Pollock Run	*974
			Approximately 1,150' upstream of golf course access road.	*1,008
		Pollock Run	Approximately 1,170' downstream of Coal Hollow Bridge.	*779
			Upstream of Legislative Route 64087 (upstream crossing).	*801
			Upstream of State Route 136	*825
			Upstream of Pollock Drive access bridge	*849
			Pollock Drive (extended)	*877
			Approximately 3,100' upstream of State Route 201 (1st crossing).	*914
			Upstream of State Route 123 (Willowbrook Road)	*949
			Upstream of State Route 51	*974
			Approximately 420' upstream of State Route 51	*987
		Speers Run	Upstream of access ramp to Interstate Route 70 (North Bound).	*763
			Approximately 800' upstream of abandoned railroad (first crossing).	*764
			Approximately 1,030' downstream of State Route 200	*808
			Downstream Interstate Route 70 (First crossing)	*837
			Upstream Finely Road	*860
			Approximately 600' upstream of State Route 201	*891
			Confluence of tributary No. 2 and No. 3	*896
		Tributary No. 2	Confluence with Speers Run and tributary No. 3	*896
			Upstream of Norfolk and Western Railway (first crossing).	*941
			Approximately 130' upstream of Norfolk and Western Railway (3rd crossing).	*1,003
		Tributary No. 3	Confluence with Speers Run and tributary No. 2	*896
			Upstream of Interstate Route 70	*912
			Approximately 830' upstream of Bonnie Street ballfield bridge.	*932
		Tributary No. 4	Approximately 325' upstream of confluence with Speers Run.	*849
			Approximately 555' upstream of Interstate Route 70	*862
Maps available for inspection at the Rostraver Township Municipal Building, Belle Vernon, Pennsylvania.				
Pennsylvania	Sinking Spring, borough; Berks County (Docket No. FEMA-6181).	Cacoosing Creek	Approximately 720' downstream of downstream corporate limits.	*299
			Downstream corporate limits	*302
			U.S. Route 422 (upstream)	*326
			Approximately 1,000' upstream of upstream corporate limits.	*329
Maps available for inspection at the Borough Hall, Sinking Spring, Pennsylvania.				
Pennsylvania	Upper Moreland, Montgomery County (Docket No. FEMA-6218).	Pennypack Creek	Paper Mill Road (upstream)	*142
			First upstream corporate limits	*157
			Second upstream corporate limits	*162
			Mason Mill Road (upstream)	*179
			Davisville Road (upstream)	*189
			Downstream crossing of Conrail (upstream side)	*200
			Confluence of Flamingo Creek	*213
			Upstream corporate limits	*224
		Southhampton Creek	Byberry Road (upstream)	*178
			Conrail (upstream)	*183
			Upstream corporate limits	*185
		Flamingo Creek	Confluence with Pennypack Creek	*213
			West Moreland Avenue (upstream)	*223
			Upstream corporate limits	*232
		Tributary 1	Confluence with Pennypack Creek	*200
			Old York Road	*201
		War Memorial Creek	Confluence with Pennypack Creek	*190
			Brooks Street (upstream)	*227
			Old York and Easton Roads (downstream)	*266
Maps available for inspection at the Upper Moreland Township Municipal Building, Willow Grove, Pennsylvania.				
South Carolina	Unincorporated areas of Florence County (Docket No. FEMA-6224).	Jeffries Creek	At State Highway 327	*56
			Approximately 500 feet upstream from confluence of Cane Branch.	*64
			Just upstream of Seaboard Coast Line Railroad	*71

FINAL BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			Approximately 500 feet downstream of second loop road.	*97
			Just downstream of north bound lane of Interstate Highway 95.	*108
		Middle Branch	Just upstream of Colonial Heights dam	*119
			At National Cemetery Road	*56
			Just upstream of State Highway 724	*73
			Just downstream of Seaboard Coast Line Railroad	*79
		Polk Swamp Canal	Just upstream of Sea Board Coast Line Railroad	*90
			Just upstream of National Cemetery Road	*61
		Polk Swamp	Just downstream of State Road 918	*73
			Just upstream of National Cemetery Road	*78
		Adams branch	Just downstream of Old Marion Highway	*80
			Approximately 300 feet at downstream of State Highway 327.	*86
			Just upstream of State Highway 327	*98
			Approximately 100 feet downstream of confluence of unnamed tributary.	*103
		Unnamed tributary to Adams branch.	Just downstream of Williamson Road (State Road 925).	*117
		Two Mile Creek	Approximately 150 feet downstream of State Road 925.	*106
		Black Creek	Approximately 500 feet upstream of State Highway 327.	*69
			Approximately 200 feet downstream of North Irby Street.	*77
		McCall branch	Approximately 100 feet downstream of Douglas Street	*98
			Just upstream of Seaboard Coast Line Railroad	*113
		Tributary 1 to McCall branch	Just downstream of Douglas Street	*99
		Tributary 2 to McCall branch	Just upstream of confluence of tributary 3	*101
			Just downstream of State Highway 343, North Irby Street.	*117
		Tributary 3 to McCall branch	Just downstream of State Highway 343, North Irby Street.	*118
		High Hill Creek	Approximately 100 feet upstream of south bound lane of Interstate Highway 95.	*80
			Approximately 700 feet downstream of Pisgah Road	*89
		Cane branch	Just upstream of Claussen Road	*86
		Eastman branch	Approximately 300 feet downstream of Seaboard Coast Line Railroad.	*93
		Pye Branch	Approximately 150 feet downstream of National Cemetery Road.	*94
			Just downstream of Jefford Street	*104
			Approximately 100 feet upstream of Old Mars Bluff Road.	*113
		Beaverdam Creek	Approximately 400 feet downstream of Hoffmeyer Road.	*107
			Approximately 500 feet downstream of State Highway 193.	*118
		Beaverdam tributary	Just upstream of south bound lane of Interstate Highway 95.	*111
		Middle Swamp	Approximately 200 feet upstream of Pamplico Highway	*79
			Approximately 100 feet upstream of Seaboard Coast Line Railroad.	*87
			Just downstream of confluence of Alligator branch	*92
			Approximately 700 feet downstream of Forest Lake dam.	*103
			Just upstream of Forest Lake dam	*11
			Just upstream of Seaboard Coast Line Railroad	*118
			Just upstream of State Highway 888	*126
		Unnamed tributary to Middle Swamp.	Just downstream of Peniel Road	*116
		Alligator branch	Just downstream of Whippoorwill Road	*99
			Approximately 250 feet downstream of State Highway 136.	*123
		Alligator branch tributary 1	Just downstream of confluence of tributary 2	*112
			Approximately 300 feet downstream of State Highway 136.	*117
		Alligator branch tributary 2	Just downstream of State Highway 136	*122
		Lake Swamp	Just downstream of southbound lane of Interstate Highway 95.	*119
			Just downstream of U.S. Highway 76	*126
			Approximately 700 feet upstream of State Highway 145.	*131
		Sparrow Swamp	Approximately 700 feet downstream of Interstate Highway 95.	*111
			State Road 477 extended	*115
			Just upstream of U.S. Highway 76	*125
			Just upstream of Seaboard Coast Line Railroad	*130
		Lynches Lake	Just upstream of State Highway 730	*53
			Just upstream of Church Street	*63
			Approximately 100 feet upstream of U.S. Highway 52	*65
Maps available for inspection at Florence County Courthouse, City-County Complex, Florence, South Carolina 29501.				
Tennessee	Town of Hartsville, Trousdale County (FEMA-6197)	Little Goose Creek	Just upstream of Broadway Street	*469
			Just downstream of McMurry Boulevard (State Highway 10 and 25).	*477

FINAL BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Big Goose Creek	Just downstream of McMurry Boulevard (Highway 25)	*470
		Welch branch	Just upstream of Hale Street extended	*471
		Cumberland River	Just downstream of Tennessee Highway 141	*466
Maps available for inspection at Town Register's Office, Town Hall, 210 Broadway Street, Hartsville, Tennessee 37074.				
Tennessee	Unincorporated areas of Trousdale County (FEMA 6197).	Cumberland River	Just downstream of confluence of Rocky Creek	*458
			Just upstream of U.S. Highway 231 and State Highway 10.	*460
			Just downstream of State Highway 141	*466
		Big Goose Creek	Just downstream of State Highway 25 (McMurray Boulevard).	*470
			Just upstream of State Highway 25	*471
			Just downstream of Old Lafayette road	*495
		Little Goose Creek	Approximately 260 feet upstream of State Highway 10 and 25.	*478
			Approximately 400 feet downstream of Louisville and Nashville Railroad.	*514
			Just upstream of Willard Road	*551
		Rocky Creek	Just downstream of U.S. Highway 231	*486
			Just downstream of State Highway 25	*527
		Dixon Creek	Just downstream from Durham Road	*500
			Just downstream of Dixon Creek Road	*536
		Welch Branch	Approximately 500 feet downstream from old State Highway 25.	*499
Maps available for inspection at Trousdale County Executive's Office, County Courthouse, Main Street, Hartsville, Tennessee 37074.				
Texas	City of Lubbock, Lubbock County (FEMA-6218)	North fork Double Mountain Fork Brazos.	Upstream of Parkway Boulevard	*3,153
			Downstream of Topeka and Santa Fe Railway	*3,168
			Upstream of Atchison Topeka and Santa Fe Railway	*3,169
		Yellow House draw	Upstream of Municipal Drive	*3,170
			Upstream of Atchison Topeka and Santa Fe Railway	*3,178
		Playa system A1	Just downstream of Atchison Topkea and Santa Fe Railway.	*3,212
			Upstream of Clovis Road (U.S. Highway 84)	*3,216
		Playa system A2	Approximately 2,300 feet upstream of Quaker Avenue	*3,231
		Playa system B	Downstream of Frankford Avenue	*3,258
		Playa system C	Downstream of loop 289	*3,248
			Upstream of 4th Street	*3,261
			Downstream of Milwalkee Avenue	*3,273
		Playa system D1	Upstream of Avenue W	*3,204
			Downstream of Canton Avenue	*3,211
		Playa system D2	Upstream of Quaker Avenue	*3,227
			Downstream of 19th Street	*3,240
		Playa system E1	Upstream of the intersection of Avenue U and 41st Street.	*3,207
			Downstream of Loop 289 (near 70th Street)	*3,222
			Upstream of 57th Street	*3,256
		Playa system E2	Upstream of Elgin Avenue	*3,225
		Playa system F	Upstream of Loop 289	*3,185
			Upstream of U.S. Highway 87	*3,201
		Playa system G1	Approximately 500 feet downstream of 98th Street	*3,203
			Upstream of Flint Avenue	*3,228
		Playa system G2	Upstream of 98th Street	*3,221
		Playa system H	Upstream of Loop 289 (westbound)	*3,216
		Playa system I	Upstream of Zenith Avenue	*3,191
		Playa system J1	Upstream of Erskine Street	*3,196
			Upstream of Guave Avenue	*3,206
		Playa system J2	Upstream of Loop 289	*3,193
Maps available for inspection at the Building Inspector's Office, City Hall, Lubbock, Texas 79457.				
Virginia	Grundy, town, Buchanan County (Docket No. FEMA-6218).	Levisa fork	Downstream corporate limits	*1,024
			Swinging bridge (downstream)	*1,029
			Footbridge (downstream)	*1,043
			Confluence of Slate Creek	*1,054
			Hoot Owl Road (State Route 615) (downstream)	*1,067
			Second corporate limits crossing (downstream)	*1,074
			Upstream corporate limits	*1,081
		Slate Creek	Confluence with Levisa Fork	*1,054
			Confluence of Newhouse branch	*1,069
			Walnut Street (upstream)	*1,082
			Maple Street (downstream)	*1,092
			Upstream corporate limits	*1,109
Maps available for inspection at the Town Office, Grundy, Virginia.				
Virginia	Wachapreague, town, Accomack County (Docket No. FEMA-6224).	Atlantic Ocean	From southern corporate limits to Finney Creek	*13
			From Finney Creek to Richardson Avenue extended to corporate limits.	*12
			From Richardson Avenue extended to corporate limits to northern corporate limits.	*11
Maps available for inspection at the Town Hall, Main Street, Wachapreague, Virginia.				
Washington	Bellingham (city), Whatcom County (FEMA-6218)	Squalicum Creek	100 feet upstream from center of Guide Meridian Street.	*87
		Whatcom Creek	150 feet upstream from center of Interstate Highway 5	*54
		Padden Creek	Intersection of Donovan Avenue and 22nd Street	*109

FINAL BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Baker Creek	Intersection of Guide Meridian Street and northwest on ramp to Interstate Highway 5.	*106
		Tributary W	250 feet upstream from center of Interstate Highway 5	*98
		Connelley Creek	50 feet upstream from center of Donovan Avenue	*122
		Bellingham Bay	At mouth of Padden Creek	*8
	Maps available for inspection at Planning Department, 210 Lottie Street, Bellingham, Washington 98225.			
Washington	Kittitas County (unincorporated areas) (FEMA-6216)	Manastash Creek	50 feet upstream from the centerline of Brown Road	*1,577
			At intersection of Barnes Road and Manastash Creek	*1,637
	Maps available for inspection at Office of the County Commissioner, 5th and Main, Ellensburg, Washington.			
Washington	McCleary (town), Grays Harbor County (FEMA-6218)	East fork Wildcat Creek	Intersection of creek and center of Old Olympic Highway (State Highway 108).	*238
	Maps available for inspection at City Hall, McCleary, Washington.			
Washington	Nooksack (city), Whatcom County (FEMA-6181)	Sumas River	At the intersection of Madison Street and East 2nd Street.	*82
		Johnson Creek	50 feet east along Madison Street from its intersection with West 2nd Street.	*81
	Maps available for inspection at City Hall, 193 Madison Street, Nooksack, Washington.			
West Virginia	New Martinsville, city, Wetzel County (Docket No. FEMA-6218).	Ohio River	Downstream corporate limits	*636
			Confluence of Williams Run	*637
			Confluence of Leininger Run	*638
			Upstream corporate limits	*639
		Fishing Creek	Downstream corporate limits	*636
			Upstream corporate limits	*636
		Doolin Run	Confluence with Fishing Creek	*636
			Upstream corporate limits	*636
		Williams Run	Confluence with Ohio River	*637
			Upstream corporate limits	*637
		Leininger Run	Confluence with Ohio River	*638
			Orchard Drive (upstream)	*638
	Maps available for inspection at the City Hall, 203 Main Street, New Martinsville, West Virginia.			
Wisconsin	(C) Kenosha, Kenosha County (Docket No. FEMA-6218).	Lake Michigan	At shoreline	*584
		Pike Creek	About 0.55 mile downstream of 22nd Avenue	*603
			About 0.35 mile upstream of 22nd Avenue	*607
			At 30th Avenue storm sewer inlet	*616
			About 0.35 mile upstream of 30th Avenue storm sewer inlet.	*620
			About 0.66 mile upstream of 30th Avenue storm sewer inlet.	*629
			At 39th Avenue	*650
			About 0.4 mile upstream of 39th Avenue	*652
			Just upstream of State Highway 142	*661
			Just downstream of 47th Avenue	*667
			At upstream corporate limit	*693
		Von Gunten Creek	Just upstream of 30th Avenue	*632
			About 500 feet upstream of 30th Avenue	*633
			About 1,700 feet upstream of 30th Avenue	*642
		Pike River	At the mouth	*584
			Just downstream of Alford Park Drive	*589
			At State Highway 32	*593
			Just upstream of the Chicago and North Western Railroad.	*595
	Maps available for inspection at the Planning Department, City Hall, 625 West 52nd Street, Kenosha, Wisconsin.			
Wisconsin	(C) Waukesha, Waukesha County (Docket No. FEMA-6218).	Pebble Creek	Just upstream of County Highway D	*797
			About 800 feet upstream of Chicago and North Western Railroad.	*805
		Pebble Brook tributary	About 400 feet upstream of mouth	*811
			About 1,000 feet upstream of Southwest Avenue	*816
		Fox River	Just upstream of County Highway A	*793
			Just upstream of North Prairie Avenue	*802
			Just upstream of North Barstow Street	*814
			About 0.3 mile upstream of East Moreland Boulevard	*815
	Maps available for inspection at the Director of Public Works' Office, City Hall, Waukesha, Wisconsin.			

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director)

Issued: April 2, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-10892 Filed 4-22-82; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 67

National Flood Insurance Program; Final Flood Elevation Determinations; Connecticut, et al.

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the nation.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM) showing base (100-year) flood elevations, for the community. This date may be obtained by contacting the office where the maps are available for inspection indicated on the table below.

ADDRESSES: See table below.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, P.E., Federal Emergency Management Agency, National Flood Insurance Program, (202) 287–0230, Washington, D.C. 20472.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency gives notice of the final determinations of flood elevations for each community listed.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 44 CFR Part 67. An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided, and the Agency has resolved the appeals presented by the community.

The Agency has developed criteria for flood plain management in flood-prone areas in accordance with 44 CFR Part 60.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that the final flood elevation determinations, if promulgated, will not have a significant economic impact on a substantial number of small entities. A flood elevation determination under section 1363 forms the basis for new local ordinances, which, if adopted by a local community, will govern future construction within the flood plain area. The elevation determinations, however, impose no restriction unless and until the local community voluntarily adopts flood plain ordinances in accord with these elevations. Even if ordinances are adopted in compliance with Federal standards, the elevations prescribe how high to build in the flood plain and do not proscribe development. Thus, this action only forms the bases for future local actions. It imposes no new requirement; of itself it has no economic impact.

List of Subjects in 44 CFR Part 67

Flood insurance, Floodplains.

The final base (100-year) flood elevations for selected locations are:

FINAL BASE (100-YEAR) FLOOD ELEVATIONS

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Connecticut	Manchester, town, Hartford County (Docket No. FEMA-5920).	Hockanum River	Corporate limits	*73
			Upstream side of Middle Turnpike	*80
			Downstream side of New State Road	*83
			Upstream side of New State Road	*88
			2,300' upstream from Adams Street	*98
			Conrail Bridge	*105
			North Main Street Bridge	*109
			Union Street Bridge	*122
			Upstream side of Union Pond Dam	*145
			1,100' downstream from Tolland Turnpike	*148
			400' downstream from Tolland Turnpike	*158
			Tolland Turnpike	*164
			Corporate limits	*176
		Bigelow Brook	Hilliard Street Bridge	*88
			Upstream side of Adams Street	*95
			Upstream side of breached dam, 350' upstream from Adams Street.	*101
			1,600' upstream from West Middle Turpike	*120
			400' downstream from Broad Street	*131
			Broad Street Bridge	*136
			Edgarton Street	*140
			1,300' upstream from Edgarton Street	*150
			1,975' upstream from Edgarton Street	*155
			450' downstream from North Main Street	*178
			North Main Street Bridge	*206
			Summit Street Bridge	*220
			East Middle Turnpike	*263
			Parker Street Bridge	*278
			Woodbridge Street Bridge	*287
			Weaver Road Bridge	*294
			220' upstream from Weaver Road Bridge	*301
		Hop Brook	1,750' downstream from Dog Pound Road	*75
			1,200' upstream from Dog Pound Road	*85
			West Olcott Street Bridge	*89
			West Center Street Bridge	*100
			Downstream side of Hartford Road Bridge	*106
			650' upstream from Hartford Road Bridge	*114
			1,850' downstream from Keeney Street Bridge	*124
			Keeney Street Bridge	*137
			600' upstream from Interstate Route 84 (Exit Ramp)	*147

FINAL BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			1,700' upstream from Interstate Route 84 (Exit Ramp)	*157
			Prospect Street Bridge	*167
			1,000' upstream from Prospect Street Bridge	*177
			1,850' upstream from Prospect Street Bridge	*187
			South Main Street Bridge	*198
			1,450' upstream from South Main Street	*210
			Confluence with Porter Brook	*220
		Porter Brook	Confluence with Hop Brook	*220
			1,400' downstream from Charter Oak Street Bridge	*235
			Charter Oak Street Bridge	*246
			1,400' upstream from Charter Oak Street Bridge	*256
			Autumn Street Bridge	*264
			850' downstream from dam	*272
			Dam	*292
		Lydall Brook	North School Street Bridge	*145
			600' upstream from North School Street Bridge	*157
			1,100' upstream from North School Street Bridge	*167
			Oakland Street Bridge	*175
			1,300' upstream from Oakland Street Bridge	*186
			Downstream side of Dam (2,350' upstream from Oakland Street Bridge).	*199
			Upstream side of dam	*209
			900' upstream Railroad Bridge	*229
			Downstream side of dam (1,370' upstream from Railroad Bridge).	*239
			Upstream side of dam	*248
			Downstream side of dam (500' upstream from Parker Street Bridge).	*252
			Upstream side of dam	*264
			Ambassador Drive Bridge	*270
			Vernon Street Bridge	*285
			650' upstream from Vernon Street Bridge	*292
		Folly Brook	Interstate Route 84	*114
			Bidwell Street Bridge	*121
			950' upstream from Bidwell Street Bridge	*130
			Wetherell Street Bridge	*139
			725' upstream from Wetherell Street Bridge	*150
			Downstream of dam (650' downstream from Keeney Street Bridge).	*166
			Upstream side of dam	*176
			175' upstream from Keeney Street Bridge	*179
Maps available for inspection at the Town of Manchester Municipal Building, 41 Center Street, Manchester, Connecticut.				
Idaho	Coeur d'Alene (city), Kootenai County (FEMA-6052)	Lake Coeur d'Alene	Intersection of Mullan Avenue and Park Drive	*2,137
			Intersection of College Drive and River Avenue	*2,137
			Intersection of the shoreline and corporate limits near East Lakeshore Drive.	*2,137
Maps available for inspection at City Clerk's Office, 8th & Mullen, Coeur d'Alene, Idaho.				
Illinois	(V), Browning, Schuyler County (Docket No. FEMA-5944).	Illinois River	At the downstream corporate limits	*450
			At the upstream corporate limits	*450
Maps available for inspection at the Public Works Office, Village Hall, Browning, Illinois.				
Illinois	(V), Matteson, Cook County (Docket No. FEMA-5978)	Butterfield Creek	Just upstream of Crawford Avenue	*684
			Just downstream of 207th Street	*687
			About 0.27 mile downstream of Cicero Avenue	*692
			Just upstream of Cicero Avenue	*693
			About 0.15 mile downstream of Interstate 57	*694
			About 1.0 mile upstream of Central Avenue	*695
		Butterfield Creek East Branch	Just upstream of Lincoln Highway (corporate limits)	*685
			Just downstream of Lincoln Highway, about 0.24 mile upstream of Governors Highway.	*691
			Just upstream of Korvette Place, about 0.40 mile upstream of Governors Highway.	*693
			Just upstream of Lincoln Highway, about 0.57 mile downstream of Conrail.	*695
			Just upstream of Conrail	*701
			About 0.08 mile upstream of Elgin Joliet and Eastern Railway.	*703
		East Branch Tributary	Mouth at Butterfield Creek East Branch	*701
			Just upstream of Elgin Joliet and Eastern Railway	*705
Maps available for inspection at the Clerk's Office, Municipal Building, 3625 West 215th Street, Matteson, Illinois.				
Louisiana	Gonzales (town) Ascension Parish (FEMA-5701)	Bayou Francois	Kansas City Southern Railroad—75 feet upstream from centerline.	*8
			State Highway 44 (Burnside Avenue)—50 feet upstream from centerline.	*10
		Bayou Boyle	Interstate Highway 10—25 feet upstream from centerline.	*10
		Bayou Boyle Central	State Highway 44 (South Burnside Avenue)—25 feet upstream from centerline.	*10
		Bayou Boyle North	State Highway 30—50 feet upstream from centerline	*10
		Bayou Narcisse	U.S. Highway 61—60 feet upstream from centerline	*11
		New River	Kansas City Southern Railroad—50 feet upstream from centerline.	*10

FINAL BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			North Marchand Avenue—25 feet upstream from centerline.	*11
Maps available for inspection at Town Hall, 120 South Erma Boulevard, Gonzales, Louisiana.				
Michigan	(Chtr. Twp.), Brownstown, Wayne County (Docket No. FEMA-6005).	Smith Creek	About 975 feet downstream Telegraph Road	*598
			About 850 feet downstream West Road	*604
			Just downstream Beech Daly Road	*608
		Brownstown Creek	Just upstream Fort Street northbound	*586
			Just downstream Vreeland Road	*589
		Marsh Creek	Just upstream Fort Street northbound	*585
			Just downstream Vreeland Road	*586
		Silver Creek	Mouth at Huron River	*578
			At confluence of Smith Creek	*578
			About 2,700 feet downstream Arsenal Road	*601
			Just downstream Van Horn Road	*604
		Morrison Drain	Mouth at Silver Creek	*578
			About 500 feet downstream Woodruff Road	*579
		Huron River	Mouth at Lake Erie	*578
			Upstream corporate limits (about 0.9 mile upstream of River Road).	*578
		Blakely Drain	Just upstream King Road	*593
			Just upstream Detroit, Toledo and Ironton Railroad	*601
			Just downstream Pennsylvania Road	*608
		Lake Erie	Along corporate limits	*578
Maps available for inspection at the Public Service Office, Brownstown Township Hall, 21313 Telegraph Road, Trenton, Michigan.				
New York	Elbridge, village, Onondaga County (Docket No. FEMA-6080).	Skaneateles Creek	Corporate limits	*511
			Upstream of Valley Drive State Route 31C	*532
			Corporate limits	*542
Maps available for inspection at the Village Office, 111 South Street, Elbridge, New York.				
New York	Elbridge, town, Onondaga County (Docket No. FEMA-6080).	Seneca River	Downstream corporate limits	*381
			Upstream corporate limits	*382
		Skaneateles Creek	Downstream corporate limits	*387
			Upstream New York State Thruway	*394
			Upstream Conrail	*401
			Upstream corporate limits with Village of Jordan	*427
			Upstream Valley Drive	*450
			Approximately 1,968' upstream Valley Drive	*466
			Approximately 3,552' upstream Valley Drive	*485
			Approximately 5,162' upstream Valley Drive	*499
			Downstream corporate limits with Village of Elbridge	*518
			Upstream corporate limits with Village of Elbridge	*541
			Downstream Hamilton Road	*547
Maps available for inspection at Elbridge Town Hall, Jordan, New York.				
New York	Jordan, village, Onondaga County (Docket No. FEMA-6080).	Skaneateles Creek	Downstream corporate limits	*401P*408
			Upstream side of dam	*417
			Upstream side of Elbridge Street	*427
			Upstream corporate limits	
Maps available for inspection at Village Hall, Mechanic Street, Jordan, New York.				
Pennsylvania	Perry, township, Berks County (Docket No. FEMA-5824).	Tributary No. 2	Downstream corporate limits (first crossing)	*331
			Private Lane 1,700 feet upstream from corporate limits (upstream).	*353
			Main Street (upstream)	*361
			Culvert at Legislative Route 160 (downstream)	*370
			Culvert at Township Route 733 (upstream)	*380
Maps available for inspection at the Perry Township Building.				

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director)

Issued: April 2, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-10937 Filed 4-22-82; 8:45 am]

BILLING CODE 6718-03-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

45 CFR Part 73b

Standards of Conduct; Debarment of Former Employees for Violations of Post-Employment Restrictions

AGENCY: Office of the Secretary, HHS.

ACTION: Final rule.

SUMMARY: The "Ethics in Government Act of 1978" (Act), as amended, provides that if the head of a department finds that a former officer or employee of the department has violated provisions of the Act relating to post-employment conflicts of interest, he may prohibit that person from appearing before that department, or from communicating with that department with the intent to influence, on behalf of any person (except the United States) for a period of not more than five years, or to take other appropriate debarment or disqualification action. This regulation establishes procedures to be used by this Department in determining whether debarment or disqualification action is appropriate. The procedures provide for notice and a hearing prior to final action on allegations of misconduct.

EFFECTIVE DATE: April 23, 1982.

FOR FURTHER INFORMATION CONTACT: Darrel J. Grinstead, Assistant General Counsel, Business and Administrative Law Division (202–245–7752).

SUPPLEMENTARY INFORMATION: The Office of Government Ethics has published a general regulation dealing with such administrative enforcement proceedings, 5 CFR 737.27.

Publication of this rule as a proposed rule is not required. 5 U.S.C. 533(b)(3)(A).

List of Subjects in 45 CFR Part 73b

Administrative practice and procedure, conflict of interests.

Title 45 CFR is amended by adding a new Part 73b to read as follows:

PART 73b—DEBARMENT OR SUSPENSION OF FORMER EMPLOYEES

Sec.

73b.1 Scope.
73b.2 Rules and regulations.
73b.3 Reports of violations.
73b.4 Proceedings.
73b.5 Hearings.

Authority: 18 U.S.C. 207(j).

§ 73b.1 Scope.

This part contains rules governing debarment or disqualification action against a former officer or employee of the Department, including former and retired officers of the commissioned corps of the Public Health Service, because of violation of the post-employment restrictions of the conflict of interest laws and regulations.

§ 73b.2 Rules and regulations.

This part will be applied in conformance with the standards established by the Office of Government Ethics in its regulations, 5 CFR Part 737, and interpretations thereof. Former officers and employees of the Department may request advice and assistance in compliance with those regulations from the Assistant General Counsel, Business and Administrative Law Division, Department of Health and Human Services.

§ 73b.3 Reports of violations.

(a) If an officer or employee of the Department has reason to believe that a former officer or employee of the Department has violated any provision of 18 U.S.C. 207 (a), (b) or (c) or if any such officer or employee receives information to that effect, he/she shall promptly make a written report thereof which shall be forwarded to the Inspector General. If any other person has information of such violations, he/she may make a report thereof to the Inspector General or to any officer or employee of the Department.

(b) The Inspector General shall coordinate proceedings under this part with the Department of Justice in cases where it appears criminal prosecution is warranted.

§ 73b.4 Proceedings.

(a) Upon a determination by the Assistant General Counsel, Business and Administrative Law Division, or his/her designee, after investigation by the Inspector General, that there is reasonable cause to believe that a former officer or employee, including a former special Government employee, of the Department of Health and Human Services (former departmental employee) has violated 18 US.C. 207 (a), (b) or (c), the Assistant General Counsel, or his/her designee, shall cause a copy of written charges of the violation(s) to be served upon such individual, either personally or by registered mail. The charges shall be accompanied by a notice to the former departmental employee to show cause within a specified time of not less than 30 days after receipt of the notice why he/she should not be prohibited from engaging in representational activities in relation to matters pending in the Department, as authorized by 18 U.S.C. 207(j), or subjected to other appropriate debarment or disqualification action under that statute. The notice to show cause shall include:

(1) A statement of allegations, and their bases, sufficiently detailed to enable the former departmental employee to prepare an adequate defense;

(2) Notification of the right to a hearing, and that failure to answer shall constitute a waiver of defense; and

(3) An explanation of the method by which a hearing may be requested.

(b) If a former departmental employee who submits an answer to the notice to show cause does not request a hearing or if the Assistant General Counsel does not receive an answer within the time prescribed by the notice, the Assistant General Counsel shall forward the record, including the report(s) of investigation, to the Assistant Secretary for Personnel Administration (Assistant Secretary). In the case of a failure to answer, such failure shall constitute a waiver of defense.

(c) Upon receipt of a former departmental employee's request for a hearing, the Assistant General Counsel shall notify him/her of the time and place thereof, giving due regard both to such person's need for an adequate period to prepare a suitable defense and an expeditious resolution of allegations that may be damaging to his or her reputation.

(d) The presiding officer at the hearing and any related proceedings shall be a federal administrative law judge. He/she shall insure that the former departmental employee has the following rights:

(1) To self-representation or representation by counsel,

(2) To introduce and examine witnesses and submit physical evidence,

(3) To confront and cross-examine adverse witnesses,

(4) To present oral argument, and

(5) To a transcript or recording of the proceedings, upon request.

(e) The Assistant General Counsel shall designate one or more officers or employees of the Department to present the evidence against the former departmental employee and perform other functions incident to the proceedings.

(f) A decision adverse to the former departmental employee must be sustained by substantial evidence that he/she violated 18 U.S.C. 207 (a), (b) or (c). If a judgment of conviction has been entered by a Federal district court

against the former departmental employee for violation of 18 U.S.C. 207 (a), (b) or (c), regardless of whether the judgment is based upon a verdict or a plea of guilty, such judgment of conviction shall be conclusive evidence of a violation of 18 U.S.C. 207 (a), (b) or (c), unless and until the judgment is vacated or reversed on appeal.

(g) The administrative law judge shall issue an initial decision based exclusively on the transcript of testimony and exhibits, together with all papers and requests filed in the proceeding, and shall set forth in the decision findings and conclusions, supported by reasons, on the material issues of fact and law presented on the record.

(h) Within 30 days after issuance of the initial decision, either party may appeal in writing to the Assistant Secretary who in that event shall issue the final decision based on the record of the proceedings or those portions thereof cited by the parties to limit the issues. If the final decision modifies or reverses the initial decision, the Assistant Secretary shall specify the findings of fact and conclusions of law that vary from those of the presiding officer.

(i) If a former departmental employee fails to appeal from an adverse initial decision within the prescribed period of time, the administrative law judge shall forward the record of the proceedings to the Assistant Secretary.

(j) In the case of a former departmental employee who filed an answer to the notice to show cause but did not request a hearing, the Assistant Secretary shall make the final decision on the record submitted to him by the Assistant General Counsel pursuant to subsection (b) of this section.

(k) In a case where:

(1) The defense has been waived,

(2) The former departmental employee has failed to appeal from an adverse initial decision, or

(3) The Assistant Secretary has issued a final decision that the former departmental employee violated 18 U.S.C. 207 (a), (b) or (c),

The Assistant Secretary may issue an order:

(i) Prohibiting the former departmental employee from making, on behalf of any other person (except the United States), any informal or formal appearance before, or, with the intent to influence, any oral or written communication to, the Department on a pending matter of business for a period not to exceed five years, or

(ii) Prescribing other appropriate debarment or disqualification action, such as limiting the action to a particular organization or organizations within the Department.

(l) An order issued under either paragraph (k)(i) or (ii) of this section shall be supplemented by a directive to officers and employees of the Department not to engage in conduct in relation to the former departmental employee that would contravene such order.

§ 73b.5 Hearings.

(a) Hearings shall be stenographically recorded and transcribed and the testimony of witnesses shall be taken under oath or affirmation. Hearings will be closed unless an open hearing is requested by the respondent, except that if classified information or protected information of third parties is likely to be adduced at the hearing, it will remain closed. If either party to the proceeding fails to appear at the hearing, after due notice thereof has been sent to him/her, he/she shall be deemed to have waived the right to a hearing and the administrative law judge may make a decision on the basis of the record before him/her at that time.

(b) The rules of evidence prevailing in courts of law and equity are not controlling in hearings under this part. However, the administrative law judge shall exclude evidence which is irrelevant, immaterial, or unduly repetitious.

(c) Depositions for use at a hearing may, with the consent of the parties in writing or the written approval of the administrative law judge be taken by either the Assistant General Counsel or the respondent or their duly authorized representatives. Depositions may be taken upon oral or written interrogatories. There shall be at least 10 days written notice to the other party. The requirement of a 10-day written notice may be waived by the parties in writing. When a deposition is taken upon written interrogatories, any cross-examination shall be upon written interrogatories. Copies of such written interrogatories shall be served upon the other party with the notice, and copies of any written cross-interrogation shall be mailed or delivered to the opposing party at least 5 days before the date of taking the depositions, unless the parties mutually agree otherwise. Expenses in the reporting of depositions shall be borne by the party at whose instance the deposition is taken.

Dated: March 23, 1982.

Richard S. Schweiker,

Secretary.

[FR Doc. 82-11172 Filed 4-22-82; 8:45 am]

BILLING CODE 4150-04-M

Office of the Secretary

Office of Family Assistance

Office of Child Support Enforcement

Office of Human Development Services

45 CFR Parts 75, 95, 205, 232, 302, 304, 1392

Cost Allocation Plans for Public Assistance Programs

AGENCY: Health and Human Services Department (HHS).

ACTION: Interim final rule with comment period.

SUMMARY: This rule revises existing regulations concerning the preparation, submission and approval of State agency cost allocation plans used in computing claims for Federal Financial Participation under public assistance programs. It also reflects the transfer of responsibility for review and approval of the plans to the Division of Cost Allocation (DCA) in the Department's regional offices. This responsibility was previously assigned to the Social and Rehabilitation Service which was abolished by Secretarial Order published on March 9, 1977 (42 FR 13262). The current rule has been rewritter so that it is clearer, easier to understand and more specific. The Department's Informal Grant Appeals regulation relative to cost allocation plans and indirect cost rates (45 CFR Part 75) is also being updated and revised to make it consistent with Supart E, Cost allocation plans, of 45 CFR Part 95, General administration—grant programs (public assistance and medical assistance).

Although these regulations are final, the Department has decided to invite public comments for the reasons described in the Supplementary Information below. Comments may be submitted in the manner described below. If changes are needed as a result of the comments received, those changes will be published in the Federal Register along with the comments received and the Department's responses to those comments.

DATES: Effective date: May 24, 1982. Comment date: To assure consideration,

comments should be mailed by June 22, 1982.

ADDRESS: Address comments in writing to: Director, Office of Procurement and Assistance Policy, Office of Procurement Assistance and Logistics, Office of the Assistant Secretary for Management and Budget, U.S. Department of Health and Human Services, Room 513D, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, D.C. 20201.

Comments will be available for public inspection at the above address Monday through Friday from 9:00 a.m. to 5:30 p.m.

FOR FURTHER INFORMATION CONTACT: Edward M. Tracy (202) 245-7411.

SUPPLEMENTARY INFORMATION: A Notice of Proposed Rule Making was published in the Federal Register on January 22, 1981 at 46 FR 7011, inviting comments on a proposed revision to the Department's current regulations on the preparation, submission and approval of State cost allocation plans for public assistance programs. The regulation, Subpart E of 45 CFR Part 95, consolidates on a Department-wide basis all cost allocation requirements for public assistance agencies into a single regulation. Public comments were invited for 45 days ending March 9, 1981. Comments were received from nine State agencies and one association and were considered in the development of the final regulation.

In the intervening period of time, however, a number of changes have been introduced that have necessitated revisions to the Notice of Proposed Rulemaking. In addition, a Guide designed to assist States in the preparation and implementation of cost allocation plans for public assistance agencies has been developed with the assistance of a number of States and is being circulated for comment to all States. We believe it appropriate, therefore, that this regulation be issued as interim final to give the public an opportunity to comment and recommend additional changes. Commentators may also wish to address the General Accounting Office findings in their Report HRD-81-51 issued May 18, 1981 recommending that more detailed standards be included in the regulation. Comments are also solicited indicating whether the flexibility provided in this regulation that allows for a variety of State organization alignments, program configurations and accounting structures currently in existance is adequate or inadequate. Comments or changes that should be made to assist States in preparing and obtaining approved cost allocation plans, while assuring the necessary documentation as required for audit purposes, are desirable. The suggested areas of consideration for comment should not be construed as restricting comments to those areas; all comments will be considered.

The Notice of Proposed Rulemaking was published before the Administration proposed or Congress established seven block grant programs in the Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97-35). The Notice of Proposed Rulemaking included Title XX of the Social Security Act which is now a part of the Social Services Block Grant. Since the block grant regulations deleted all regulations in 45 CFR Part 1395 and Part 1396, the references to Title XX are removed from this rule. The Social Services Block Grant will be treated as a State operated program for cost allocation purposes and the State need only separate the Title XX Block Grant costs from those incurred under other programs. In addition, 45 CFR 1392.64 contains a cross reference to 45 CFR 1395.2 in establishing cost allocation requirements for Service Programs for Families and Children under Parts A and B of Title IV of the Social Security Act. Since Part 1395 has been removed as of October 1, 1981, 45 CFR 1392.64 has been revised to reference Subpart E of 45 CFR Part 95.

The comments to the Notice of Proposed Rulemaking were generally favorable, especially with respect to consolidating the cost allocation requirements in one location, strengthening and simplifying the cost allocation plan approval process and in simplifying the cost disallowance and appeal process. The following summarizes and discusses the public comments and the major changes made in the regulation in consideration of these comments:

1. Scope

Comment: The regulations does not indicate whether the approval of a cost allocation plan by the Department's regional Divisions of Cost Allocation (DCAs) also applies to programs of other Federal Agencies.

Response: The Office of Management and Budget Circular A-87 requires that a single Federal agency (referred to as the "cognizant agency") be designated to approve a State agency's cost allocation plan on behalf of all Federal agencies. A list of cognizant agencies was published in the Federal Register on February 28, 1980 at 45 FR 13396. Since this subject is adequately covered in these documents, it is not necessary that it also be addressed in this regulation.

2. Definitions

Comment: The definition of "administrative costs" is too broad since it would include the direct delivery of social services by State agency staffs. These costs are a direct program cost and should therefore be excluded from the definition of administrative costs so that there is not a distortion of the true administrative costs of the Title XX program.

Response: Pub. L. 97-35 has since established the Title XX Social Services Block Grant. Also, the term "administrative costs" has been changed in the interim final rule to clarify the intended meaning and to eliminate any possible confusion. "State agency costs" include all costs normally identified as "indirect" as well as costs incurred by the State agency in the direct delivery of services. The Department continues to require the inclusion of all State agency costs in the cost allocation plan in order to ensure that they are properly distributed to the appropriate programs on a consistent basis as required by the cost principles published by OMB.

Comment: The definition of a "State agency" should be clarified to indicate how it applies in situations where there is one large department (i.e., an "umbrella Department") that has several operating components or agencies, each of which may administer one or more of the programs identified in § 95.503. Specifically, is the "State agency" defined to be the overall department or is it defined as the individual component or agency.

Response: In those States where this form of organizational arrangement exists, the term "State agency" for purposes of this regulation, is defined to mean the individual component or agency that is directly responsible for the administration of, or supervising the administration of, a program noted in § 95.503. This point has been clarified in the rule.

We recognize, though, that this is a narrow definition but believe that it will simplify the overall cost allocation plan preparation process. For instance, the development of a cost allocation plan will not be required for those components or agencies of a overall department that do not have any direct Federal awards. In addition, in those situations where a cost allocation plan is required for more than one component or agency within the State department, we encourage the consolidation of individual plans into one overall submission wherever possible. We also encourage that the Director, DCA be

consulted during the plan preparation process.

Further, where an action is required, the term "State" has been substituted for the term "State agency." This has been done to allow States flexibility in the preparation and submission of required plans and amendments. As stated in the NPRM, the "State agency" would have had to submit its plan directly to the DCA, without clearly allowing the Governor or umbrella agency a role.

While we believe that most States will continue to write and submit plans from the agency directly responsible for the administration of the program, this revision will allow alternative processes to be used at State option. In all cases, we would expect the expertise of the State agency administering each program to be reflected in the plan.

3. Cost Allocation Plan Requirements

Comment: Official organizational charts are developed and issued once a year. The requirement of submitting organizational charts with every cost allocation plan submission is therefore an unnecessary additional administrative burden.

Response: The submission of an organizational chart is only required in those instances where a plan or plan amendment is being proposed because of an organizational change that materially affects the distribution of costs (see § 95.509). The submission of an organizational chart depicting the change being proposed to a currently approved plan is necessry to allow for an adequate evaluation of the proposal. In those situations where "official" organizational charts are prepared on an annual basis, the plan or plan amendment submitted should, as a minimum, include an interim chart that clearly reflects the organizational relationships and responsibilities of the units being described in the proposal. The accuracy of the interim chart should be certified by the Director of the State agency.

Comment: The requirement for including the "* * * estimated cost impact resulting from a proposed change * * *" should be eliminated or significantly revised. Determining the actual impact would be difficult to predict in a number of cases and, where obtainable, would be prejudicial and only hinder the approval process.

Response: The requirement for the "* * * estimated cost impact resulting from a proposed change * * *" was suggested by a Task Force of State finance officers that worked with the Department in developing the regulation. This provision was proposed as a means of simplifying the current procedure that requires the "* * * estimated costs for an annual period by cost centers or pools which include the costs of all organizational units * * *". While we agree that the acceptance of a proposed cost allocation procedure should be governed primarily by the equity of the procedure, an indication of the dollar effect of the procedure is useful in determining the scope of the Department's review of the procedure. In all situations it may not be practical to obtain this data without incurring significant additional costs and therefore we have modified the language contained in the Notice. Where it is not practical to obtain this information, the revised language requires that the State agency reach agreement with the DCA on an alternative approach, prior to submitting a cost allocation proposal.

Comment: The regulation should address the submission of cost allocation plans for local government agencies who operate public assistance programs under a "State supervised" system.

Response: We agree with this comment and have modified the regulation by adding a new paragraph § 95.507(b)(7). The current requirements allow for the submission of a cost allocation plan for local public assistance agencies as part of a State agency's cost allocation plan. However, this has generally been limited to one plan for all local agencies within the State. The revised regulation specifically suggests that the affected State agency consult with the DCA on this matter during the development of the cost allocation plan.

Other Matters

The Department's Informal Grant Appeals Procedures (Part 75 of this Title) have also been updated and amended to make them consistent with Subpart E of Part 95 and Part 16 of this Title. Part 75 has been amended to reflect current organizational identifications of various components of the Department and incorporates the cost disallowance/appeal procedure previously addressed in the Notice of Proposed Rulemaking for Subpart E of Part 95 (46 FR 7011). Consequently, proposed rulemaking procedures were considered unnecessary with respect to Part 75. Part 75 with the above modifications will be published in its entirety to facilitate reading.

The Department has determined that this is not a "major rule" as defined in Executive Order 12291. Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that this rule will not have a significant economic impact on a substantial number of small entities. The reporting and recordkeeping requirements contained in this regulation have been approved by OMB in accordance with the Paperwork Reduction Act of 1980 (Pub. L. 96–511). The OMB number for these requirements is 0990–0073.

Accordingly, a new Subpart E is added to 45 CFR Part 95 and 45 CFR Parts 75, 205, 232, 302, 304 and 1392 are amended as follows.

Dated: April 1, 1982.

Richard S. Schweiker,

Secretary of Health and Human Services.

PART 205—GENERAL ADMINISTRATION—PUBLIC ASSISTANCE PROGRAMS

A. 45 CFR 205.150 is revised to read as follows:

§ 205.150 Cost allocation.

A State plan under Title I, IV–A, X, XIV, or XVI (AABD) of the Social Security Act must provide that the State agency will have an approved cost allocation plan on file with the Department in accordance with the requirements contained in Subpart E of 45 CFR Part 95. Subpart E also sets forth the effect on FFP if the requirements contained in that Subpart are not met.

PART 1392—SERVICE PROGRAMS FOR FAMILIES AND CHILDREN: TITLE IV PARTS A AND B OF THE SOCIAL SECURITY ACT

B. 45 CFR 1392.64 is revised to read as follows:

§ 1392.64 Cost allocation.

A State plan for the Child Welfare Services Program and the services program in the territories under Title IV Parts A and B of the Social Security Act must provide that the State agency will have an approved cost allocation plan on file with the Department in accordance with the requirements contained in Subpart E of 45 CFR Part 95. Subpart E also sets forth the effect on FFP if the requirements contained in that Subpart are not met.

PART 232—SPECIAL PROVISIONS APPLICABLE TO TITLE IV-A OF THE SOCIAL SECURITY ACT

§ 232.30 [Amended]

C. The title to § 232.30 is revised as follows:

§ 232.30 Cost of staff of special administrative units.

* * * * *

In addition, 45 CFR 232.30 paragraph (a) is removed, and the (b) preceding the second paragraph is also removed.

PART 302—STATE PLAN REQUIREMENTS

§ 302.16 [Redesignated as § 304.15 and Revised]

D. 45 CFR 302.16 is redesignated as § 304.15 and is revised to read as follows:

A State agency in support of its claims under Title IV–D of the Social Security Act must have an approved cost allocation plan on file with the Department in accordance with the requirements contained in Subpart E of 45 CFR Part 95. Subpart E also sets forth the effect on FFP if the requirements contained in that subpart are not met.

PART 95—GENERAL ADMINISTRATION—GRANT PROGRAMS PUBLIC ASSISTANCE AND MEDICAL ASSISTANCE

E. 45 CFR Part 95 is amended by adding a new Subpart E to read as follows:

Subpart E—Cost Allocation Plans

Sec.

95.501 Purpose.
95.503 Scope.
95.505 Definitions.
95.507 Plan requirements.
95.509 Cost allocation plan amendments and certifications.
95.511 Approval of the cost allocation plan or plan amendment.
95.513 Disapproval of the cost allocation plan or plan amendment.
95.515 Effective date of a cost allocation plan or plan amendment.
95.517 Claims for Federal financial participation.
95.519 Cost disallowance.

Authority: Sec. 1102, 49 Stat. 647, 42 U.S.C. 1302.

Subpart E—Cost Allocation Plans

§ 95.501 Purpose.

This subpart establishes requirements for:

(a) Preparation, submission, and approval of State agency cost allocation plans for public assistance programs; and

(b) Adherence to approved cost allocation plans in computing claims for Federal financial participation.

§ 95.503 Scope.

This subpart applies to all State agency costs applicable to awards made under Title I, IV–A, IV–B, IV–C, IV–D, IV–E, X, XIV, XVI (AABD), and XIX, of the Social Security Act, and under the Refugee Act of 1980, Title IV, Chapter 2 of the Immigration and Nationality Act (8 U.S.C. 1521 *et seq.*), and under Title V of Pub. L. 96–422, the Refugee Education Assistance Act of 1980.

§ 95.505 Definitions.

As used in this subpart:

"State agency costs" include all costs incurred by or allocable to the State agency except expenditures for financial assistance, medical vendor payments, and payments for services and goods provided directly to program recipients such as day care services, family planning services or household items as provided for under the approved State program plan.

"Cost allocation plan" means a narrative description of the procedures that the State agency will use in identifying, measuring, and allocating all State agency costs incurred in support of all programs administered or supervised by the State agency.

"FFP" or "Federal financial participation" means the Federal Government's share of expenditures made by a State agency under any of the programs cited in § 95.503.

"Operating Divisions" means The Department of Health and Human Services (HHS) organizational components responsible for administering public assistance programs. These components are the Social Security Administration, Office of Human Development Services, Office of Child Support Enforcement, Health Care Financing Administration, and Office of Refugee Resettlement.

"Public assistance programs" means the programs cited in § 95.503.

"State" means the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, the Northern Mariana Islands, and Guam.

"State agency" means the State agency administering or supervising the administration of the State plan for any program cited in § 95.503. A State agency may be an organizational part of a larger State department that also contains other components and agencies. Where that occurs, the expression "State agency" refers to the specific component or agency within the State department that is directly responsible for the administration of, or supervising the administration of, one or more programs identified in § 95.503.

"State Plan" means a comprehensive written commitment by the State agency to administer or supervise the administration of any of the public assistance programs cited in § 95.503 in accordance with all Federal requirements.

§ 95.507 Cost allocation plan requirements.

(a) The State shall submit a cost allocation plan for the State agency as required below to the Director, Division of Cost Allocation (DCA), in the approporiate HHS Regional Office. The plan shall:

(1) Describe the procedures used to identify, measure, and allocate all costs to each of the programs operated by the State agency;

(2) Conform to the accounting principles and standards prescribed in Office of Management and Budget Circular A–87, and other pertinent Department regulations and instructions;

(3) Be compatible with the State plan for public Assistance Programs described in 45 CFR Chapters II, III and XIII, and 42 CFR Chapter IV Subchatper C; and

(4) Contain sufficient information in such detail to permit the Director, Division of Cost Allocation, after consulting with the Operating Divisions, to make an informed judgment on the correctness and fairness of the State's procedures for identifying, measuring, and allocating all costs to each of the programs operated by the State agency.

(b) The cost allocation plan shall contain the following information:

(1) An organizational chart showing the placement of each unit whose costs are charged to the programs operated by the State agency.

(2) A listing of all Federal and all non-Federal programs performed, administered, or serviced by these organizational units.

(3) A description of the activities performed by each organizational unit and, where not self-explanatory an explanation of the benefits provided to Federal programs.

(4) The procedures used to identify, measure, and allocate all costs to each benefiting program and activity (including activities subject to different rates of FFP).

(5) The estimated cost impact resulting from the proposed changes to a previously approved plan. These estimated costs are required solely to permit an evaluation of the procedures used for identifying, measuring, and allocating costs. Therefore, approval of the cost allocation plan shall not constitute approval of these estimated costs for use in calculating claims for FFP. Where it is impractical to obtain this data, an alternative approach should then be negotiated with the Director, DCA, prior to submission of the cost allocation plan.

(6) A statement stipulating that wherever costs are claimed for services provided by a governmental agency outside the State agency, that they will be supported by a written agreement that includes, at a minimum (i) the specific service(s) being purchased, (ii) the basis upon which the billing will be made by the provider agency (e.g. time reports, number of homes inspected, etc.) and (iii) a stipulation that the billing will be based on the actual cost incurred. This statement would not be required if the costs involved are specifically addressed in a State-wide cost allocation plan, local-wide cost allocation plan, or an umbrella/department cost allocation plan.

(7) If the public assistance programs are administered by local government agencies under a State supervised system, the overall State agency cost allocation plan shall also include a cost allocation plan for the local agencies. It shall be developed in accordance with the requirements set forth above. More than one local agency plan shall be submitted if the accounting systems or other conditions at the local agencies preclude an equitable allocation of costs by the submission of a single plan for all local agencies. Prior to submitting multiple plans for local agencies, the State should consult with the Director, DCA. Where more than one local agency plan is submitted, the State shall identify the specific local agencies covered by each plan.

(8) A certification by a duly authorized official of the State stating:

(i) That the information contained in the proposed cost allocation plan was prepared in conformance with Office of Management and Budget Circular A–87.

(ii) That the costs are accorded consistent treatment through the application of generally accepted accounting principles appropriate to the circumstances.

(iii) That an adequate accounting and statistical system exists to support claims that will be made under the cost allocation plan; and

(iv) That the information provided in support of the proposed cost allocation plan is accurate.

(9) Other information as is necessary to establish the validity of the procedures used to identify, measure, and allocate costs to all programs being operated by the State agency.

§ 95.509 Cost allocation plan amendments and certifications.

(a) The State shall promptly amend the cost allocation plan and submit the amended plan to the Director, DCA if any of the following events occur:

(1) The procedures shown in the existing cost allocation plan become outdated because of organizational changes, changes in Federal law or regulations, or significant changes in program levels, affecting the validity of the approved cost allocation procedures.

(2) A material defect is discovered in the cost allocation plan by the Director, DCA or the State.

(3) The State plan for public assistance programs is amended so as to affect the allocation of costs.

(4) Other changes occur which make the allocation basis or procedures in the approval cost allocation plan invalid.

(b) If a State has not submitted a plan or plan amendment during a given State fiscal year, an annual statement shall be submitted to the Director, DCA certifying that its approved cost allocation plan is not outdated. This statement shall be submitted within 60 days after the end of that fiscal year.

§ 95.511 Approval of the cost allocation plan or plan amendment.

(a) The Director, DCA, after consulting with the affected Operating Divisions, shall notify the State in writing of his/her findings. This notification will be made within 60 days after receipt of the proposed plan or amendment and shall either: (1) Advise the State that the plan or plan amendment is approved or disapproved, (2) advise the State of the changes required to make the plan or amendment acceptable, or (3) request the State to provide additional information needed to evaluate the proposed plan or amendment. If the DCA cannot make a determination within the 60-day period, it shall so advise the State.

(b) For purpose of this subpart, State agency cost allocation plans which have been approved by an authorized official of the Department of HHS prior to the effective date of this regulation are considered approved until such time as a new plan or plan amendment is required by § 95.509(a).

§ 95.513 Disapproval of the cost allocation plan or plan amendment.

(a) The Director, DCA, shall notify a State in writing of the disapproval of its cost allocation plan or plan amendment. The notification will set forth the reasons for the determination and the basic changes required in sufficient detail to enable the State to respond and will inform the State of its opportunity for reconsideration of the determination under 45 CFR Part 75.

(b) If the State in accordance with 45 CFR Part 75, wishes to request a reconsideration of the DCA's determination, the application for reconsideration must be postmarked no later than 30 days after receipt of the DCA's determination letter.

§ 95.515 Effective date of a cost allocation plan amendment.

As a general rule, the effective date of a cost allocation plan amendment shall be the first day of the calendar quarter following the date of the event that required the amendment (See § 95.509). However, the effective date of the amendment may be earlier or later under the following conditions:

(a) An earlier date is needed to avoid a significant inequity to either the State or the Federal Government.

(b) The information provided by the State which was used to approve a previous plan or plan amendment is later found to be materially incomplete or inaccurate, or the previously approved plan is later found to violate a Federal statute or regulation. In either situation, the effective date of any required modification to the plan will be the same as the effective date of the plan or plan amendment that contained the defect.

(c) It is impractical for the State to implement the amendment on the first day of the next calendar quarter. In these instances, a later date may be established by agreement between the State and the DCA.

§ 95.517 Claims for Federal financial participation.

(a) A State must claim FFP for costs associated with a program only in accordance with its approved cost allocation plan. However, if a State has submitted a plan or plan amendment for a State agency, it may, at its option claim FFP based on the proposed plan or plan amendment, unless otherwise advised by the DCA. However, where a State has claimed costs based on a proposed plan or plan amendment the State, if necessary, shall retroactively adjust its claims in accordance with the plan or amendment as subsequently approved by the Director, DCA. The State may also continue to claim FFP under its existing approved cost allocation plan for all costs not affected by the proposed amendment.

§ 95.519 Cost disallowance.

If costs under a Public Assistance program are not claimed in accordance with the approved cost allocation plan (except as otherwise provided in § 95.517), or if the State failed to submit an amended cost allocation plan as required by § 95.509, the costs improperly claimed will be disallowed.

(a)(1) If the issue affects the program(s) of only one Operating

Division and does not affect the programs of other Operating Divisions or Federal departments, that Operating Division will determine the amount of the disallowance and will also inform the State of its opportunity for reconsideration of the determination in accordance with the Operating Division's procedures. Prior to issuing the notification, however, the Operating Division shall consult with the DCA to ensure that the issue does not affect the programs of other Operating Divisions or Federal departments.

(2) If the State wishes to request a reconsideration of the Operating Division's determination, it must submit the request in accordance with the Operating Division's procedures.

(b)(1) If the issue affects the programs of more than one Operating Division, or Federal department or the State, the Director, DCA, after consulting with the Operating Divisions, shall determine the amount inappropriately claimed under each program. The Director, DCA will notify the State of this determination, of the dollar affect of the determination on the claims made under each program, and will inform the State of its opportunity for reconsideration of the determination under 45 CFR Part 75. The State will subsequently be notified by the appropriate Operating Division as to the disposition of the funds in question.

(2) If the State, in accordance with 45 CFR Part 75, wishes to request a reconsideration of the DCA's determination, the application for reconsideration must be postmarked no later than 30 days after receipt of the DCA's determination letter. In considering an appeal under this process, the Regional Director shall consult with HHS Operating and staff Divisions as appropriate.

F. 45 CFR Part 75 is revised to read as follows:

PART 75—INFORMAL GRANT APPEALS PROCEDURES

Subpart A—Indirect Cost Appeals

Sec.
75.1 Purpose.
75.2 Scope.
75.3 Definitions.
75.4 Notification.
75.5 Submission to the Regional Director.
75.6 Action by the Regional Director.

Authority: Sec. 1102, 49 Stat. 647, 42 U.S.C. 1302.

Subpart A—Indirect Cost Appeals

§ 75.1 Purpose.

This subpart establishes informal procedures for resolving disputes arising in the negotiation of indirect cost rates and certain other cost allocations (as set forth in § 75.2) that are used in determining amounts to be reimbursed under grants awarded by the Operating Divisions of the Department of Health and Human Services. A grantee must exhaust the procedures set forth in this subpart prior to appealing a disputed issue(s) to the Departmental Grants Appeals Board under Part 16 of this subtitle.

§ 75.2 Scope.

(a) This subpart applies to all disputes arising from determinations made by a Director, Division of Cost Allocation (DCA), in the Department's regional Offices including, but not limited to:

(1) Indirect cost rates negotiated with colleges and universities, State and local government agencies, hospitals, and non-profit institutions.

(2) Patient care rates and amounts associated with the care of patients participating in research programs supported by the Department.

(3) Cost allocation plans negotiated with State and local units of government other than plans provided for under paragraph (a)(5) of this section.

(4) Fringe benefit rates, computer rates or costing methodologies and other special rates negotiated with colleges and universities, State and local government agencies, hospitals, and non-profit institutions.

(5) Cost allocation plans with State public assistance agencies as described in Subpart E of 45 CFR Part 95.

(6) Disallowances by the Director, DCA, of costs as described in Subpart E of 45 CFR Part 95.

(b) Notwithstanding paragraph (a) of this section, this subpart shall not be applicable to disputed issues which are appealed to the Armed Services Board of Contract Appeals under a contract with the Department.

§ 75.3 Definitions.

For purposes of this subpart:

(a) "Grantee" means the agency institution or organization named as grantee in a grant award document issued by an Operating Division of the Department. For disputes involving cost allocation plans, this term also includes a State or local unit of government which includes an agency that is named as grantee in a grant award document and a State agency as defined in Subpart E of 45 CFR Part 95.

(b) Other terms shall have the meaning set forth in Part 74 of this title, unless the context below indicates otherwise.

§ 75.4 Notification.

Where an agreement cannot be reached between the Director, DCA, and the grantee, the Director, DCA will promptly notify the grantee in writing of the Director's determination. This notification will set forth the reasons for the determination in sufficient detail to enable the grantee to respond and will inform the grantee of its opportunity for reconsideration under this subpart.

§ 75.5 Submission to the Regional Director.

If the grantee wishes to request reconsideration of the DCA Director's determination, it may submit an application for such reconsideration to the Regional Director. The grantee's application must be postmarked or hand delivered no later than 30 days after receipt of the notification described in § 75.4. The Regional Director, however, may grant an extension of time for submission of the application if the extension is requested and justified by the grantee. Although the application need not follow any prescribed format, it must clearly identify the issue(s) in dispute and must contain a full statement of the grantee's position on such issue(s) along with pertinent facts and reasons in support of its position.

§ 75.6 Action by the Regional Director.

(a) Upon receipt of an application for reconsideration, the Regional Director will immediately notify the grantee that its application has been received and will be acted upon as soon as possible.

(b) The Regional Director will review all background material on the issue(s). Within 30 days after receipt of the grantee's application, and with at least 10 days' written notice, the grantee will be provided the opportunity to meet with the Regional Director to discuss the issue(s) and to submit additional information in support of its position. The Regional Director may consult the DCA, other regional officials, Departmental central office officials, and other individuals in conducting the review.

(c) Within 45 days after the meeting described in § 75.6(b) (or 45 days after submission of any supplemental information provided by the grantee) the Regional Director will notify the grantee in writing of the decision, in accordance with the provisions of § 74.304 of this title. If the Regional Director's decision is adverse to the grantee's position, this notification will state the basis of the decision and will inform the grantee of its right to appeal the decision to the Departmental Grants Appeals Board under Part 16 of this title.

(d) The Regional Director may delegate the responsibilities described in this section to another senior

Departmental official in his region. This delegation, however, may not be made to the Director, Regional Administrative Support Center, or to the Director, DCA.

[FR Doc. 82-11110 Filed 4-22-82; 8:45 am]

BILLING CODE 4150-04-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 83

Stations on Shipboard in the Maritime Services; Editorial Amendment

Correction

In FR Doc. 82-9636 appearing on page 15333 in the issue of Friday, April 9, 1982, make the following correction:

On page 15334, middle column, four lines from the bottom of the page, "§ 83.243 [Amended]" should be removed.

BILLING CODE 1505-01-M

[Docket No. 20846; FCC 82-130]

47 CFR Part 90

Interconnection of Private Land Mobile Radio Systems With the Public Switched Telephone Network in Certain MHz Bands

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document adopts new rules to enable private radio communication systems licensed under Part 90 in the 800 MHz bands to interconnect with the facilities of the public switched telephone network. These rules are necessary to enable private licensees to better utilize their radio systems by allowing interconnected operation under certain conditions. An accompanying petition for rulemaking is dismissed as moot.

DATES: Effective May 17, 1982.

FOR FURTHER INFORMATION CONTACT: Charles Turner, Al Catalano, Keith Plourd, Mobile and Fixed Radio Branch, Private Radio Bureau, Washington, D.C. 20554, (202) 634-2443, Room 5120.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 90

Business and Industry, Radio.

In the matter of amendment of Part 90 of the Commission's rules to prescribe policies and regulations to govern the interconnection of Private Land Mobile Radio Systems with the Public Switched Telephone Network in the Bands 806-821 and 851-866 MHz,[1] Docket No. 20846.

Second Report and Order

Adopted: March 18, 1982.

Released: April 8, 1982.

I. Introduction

1. We initiated this proceeding to develop new regulations to govern the interconnection (I/C) of private land mobile radio systems (PLMRS) licensed under Part 90 of our rules with the facilities of the public switched telephone network (PSTN), *Notice of Inquiry and Notice of Proposed Rule Making*, Docket No. 20846, 41 FR 28540 (July 12, 1976). In our *First Report and Order* we adopted new policies and rules to govern the I/C of private systems authorized in the bands below 512 MHz. We decided, however, to postpone a decision on I/C of private systems licensed in the 800 MHz bands.[2]

2. On reconsideration of the *First Report and Order*, we modified and clarified some of the policies and rules we first adopted.[3] However, we left undisturbed our decision to inquire further before amending the regulations to govern I/C at 800 MHz. For that purpose we issued a *Further Notice of Proposed Rule Making*.[4] We have considered the issues outlined in the *Further Notice* and our conclusions concerning I/C for private systems at 800 MHz are specified in this *Second Report and Order*.

II. Background

3. In Docket No. 18262 we adopted the allocation plan for the 800 MHz bands.[5] This plan sought to maximize spectrum usage by allocating spectrum according to the type of land mobile technology (i.e. "system") employed. This systems approach was chosen over the "block" allocation approach, which allocates frequencies according to categories of usage. Block allocation was employed to divide the spectrum among private users operating below 512 MHz, e.g., Police Radio Services, Fire Radio Service, Special Emergency Radio Service, Power Radio Service, *etc.*

4. Docket No. 18262 envisioned that "dispatch" was to be the primary mode of communication for 800 MHz conventional and trunked systems operated by private users. To provide for the development of mobile radiotelephone capability for the general public, 40 MHz of spectrum was allocated to common carriers for the development of cellular systems. However, recognizing that private radio systems needed some radiotelephone capability, we decided to permit I/C capability with the PSTN on an ancillary basis. In light of the history of Docket No. 18262 and the I/C rules already adopted for below 512 MHz, we devised the following issues in the *Further Notice* to explore the permissible options for I/C at 800 MHz:

(a) The needs and requirements of eligibles and licensees in the Public Safety, Industrial, and Land Transportation Radio Services for interconnected systems licensed in the 806-821 MHz and 851-866 MHz bands, including conventional and trunked systems.

(b) The impact, if any, of this proposal on the Commission's overall regulatory program for the 806-947 MHz band. We are particularly interested in comments on the potential impact of interconnection as now allowed in the bands below 800 MHz on the Commission's spectrum efficiency and service objectives which formed the bases for our decision in Docket No. 18262.

(c) Whether the geographic limitations on interconnection we have adopted for the Automobile Emergency, Business, Special Emergency, Special Industrial, and Taxicab Radio Services for the lower bands should also be made to apply at 800 MHz, since the frequency shortage constraints above 800 MHz are not as severe as in the bands below 800 MHz.

5. Comments and replies were filed and have been considered.[6] Now we resolve the issues concerning I/C at 800 MHz and amend our rules to reflect the decisions we have reached.[7]

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[1] The proposal as originally captioned was to amend Parts 89, 91 and 93 of the Commission's rules and regulations. However, Parts 89, 91 and 93 have been consolidated under New Part 90. 47 CFR Part 90. *See Report and Order*, Docket No. 21348, 43 FR 54788 (November 22, 1978). Accordingly, we have corrected the caption to reflect this interim action.

[2] *First Report and Order* (FCC 78-622), Docket No. 20846, *General Mobile Radio-Interconnection*, 69 FCC 2d 1831 (1978), 43 FR 38396 (August 28, 1978).

[3] *Memorandum Opinion and Order* (FCC 79-720), Docket No. 20846, 44 FR 67119 (November 23, 1979).

[4] *Further Notice of Proposed Rule Making* (FCC 79-18), Docket No. 20846, *Interconnection of Private Land Mobile Radio Systems*, 70 FCC 2d 1976 (1979), 44 FR 7987 (February 8, 1979).

[5] *Second Report and Order*, Docket No. 18262, 46 FCC 2d 752 (1974), *recon. granted in part*, 51 FCC 2d 945 (1975), *clarified* 55 FCC 2d 771 (1975), *aff'd sub nom. NARUC v. FCC*, 525 F2d 630 (D.C. Cir. 1976), *cert. denied* 425 U.S. 992 (1976).

[6] The parties filing comments and replies are listed at *Appendix A*. In referring to these parties in our decision, we will use the abbreviated titles also set out at *Appendix A*.

[7] The rules as amended are set out at *Appendix B*. In their comments, API and UTC incorporate requests seeking, in effect, reconsideration of actions taken in our *First Report and Order* in Docket No. 20846. We disposed of their requests on reconsideration in our November 23, 1979, *Memorandum Opinion and Order*, Docket No. 20846, *supra* n.3. Accordingly, except where appropriate, we will not address these points further. Additionally, UTC and the California Mobile Radio Association (now the National Mobile Radio Association, herein CMRA) in separate pleadings, ask for reconsideration or clarification of

Continued

III. I/C Options

A. Status Quo

6. One option for interconnected service at 800 MHz is the *status quo.* This would mean essentially that the rules and policies presently in force would govern I/C for 800 MHz operations. The principal rule provision, § 90.389, 47 CFR 90.389, permits I/C. It may be accomplished "automatically," but only at the licensee's "principal office of place of business" and at a "fixed point" in the licensee's system of communication where "a person directly responsible for the operation of the base station or stations is on duty" and applicable transmitter control requirements are met.[8] I/C under supervision of mobile operators is not allowed. Finally, there are no geographic limitations on I/C service, such as those that apply in the bands below 512 MHz.[9]

B. Same as Below 512 MHz

7. Another option is to follow the 512 MHz I/C plan. This permits I/C in manual and automatic modes and also allows I/C in specially designed systems where transmitter control is under the supervision of the licensee's mobile operators.[10] Furthermore, I/C at common points is allowed in systems that are "cost shared." Common point I/C is not permitted, however, where third parties provide the interface and the telephone facilities on a for-profit basis.[11] Furthermore, I/C in certain licensee categories and in some urbanized areas is barred. In certain instances there are requirements to use equipment with special design features.[12]

C. Alternative Plans and Recommendations

8. Alternative plans for interconnected service were contemplated. Thus, we inquired as to whether the same geographic limitations applicable to I/C systems below 512 MHz should be used. We noted that the frequency shortage constraints below 512 MHz were not the same as those above 800 MHz. Therefore, the need to employ geographic restrictions might not be applicable at 800 MHz. Comments on these subjects were invited and the parties responded with their own plans and recommendations which we consider in reaching our decision herein.

IV. Discussion of Views of Parties

A. Issue (a): The Need for I/C Service

9. Under Issue (a) the parties explored the needs and requirements of eligibles and licensees in the private land mobile radio services (PLMRS) for I/C service. API, CMS, Metronet, Millicom, S.T.A.R., and UTC say that these needs and requirements are substantial. They point out that generally neither the telephone company nor the RCC's offer a "dispatch-radiotelephone" capability that is suitable to their communication needs. They add that in remote and rural operating areas common carrier service does not even exist. API and Metronet.

10. They state that even in those instances in which carriers offer some form of I/C service to the public, there is generally great demand for it, with "waiting times" in terms of "years." Millicom. Moreover, they conclude, it would be contrary to the public interest to require eligibles in the PLMRS to arrange and pay for separate systems of communication, one for "dispatch" and another for I/C service. This would be the inevitable result if I/C were barred or were limited so as to make it impractical. AG-COMM/Merced and S.T.A.R.

11. Other private users contend that it was erroneous to classify their need for I/C service as "ancillary" or "incidental" to their "dispatch" requirements. Although that may be so in some instances, in most cases the need for I/C service is essential to PLMRS licensees and users. APCO, API, CMRA and UTC. Furthermore, they say that while cellular systems may offer the best promise for future radiotelephone service, this alternative means of communication is not available at present and will not be a viable option in most areas for some time to come. S.T.A.R.

12. Notwithstanding these views, TNA contends that the Commission cannot, as a matter of law, allow greater flexibility to the PLMRS licensees or users in I/C arrangements. This follows, TNA argues, from the nature of the 800 MHz allocation plan under which cellular systems were developed for radiotelephone-type service and under which conventional and trunked systems were perfected for "dispatch" operations. In such circumstances, TNA concludes, "need" as a decisional consideration can have little weight—it may be considered, but not unless the 800 MHz allocations are reviewed *de novo.* The private users do not agree with TNA's views. They note that there is a recognized balance between the I/C needs of users and of licensees in the PLMRS, and the 800 MHz allocation objectives stated in Docket No. 18262. They point out that we specifically authorized I/C modes of operation for private systems in Docket No. 18262. They contend that neither law nor policy precludes us from exercising reasonable discretion in working out this balance in favor of a more liberal approach to I/C in the private services. APCO, API, CMRA, CMS, Metronet, Millicom an UTC.

B. Issue (b): Impact

1. In General

13. Under Issue (b) the parties addressed the effect of I/C service on our overall 800 MHz regulatory plan that developed in the proceedings in Docket No. 18262. In so doing, they commented specifically on the impact potentials of I/C on the allocation scheme itself, on the systems approach to spectrum management, on spectrum efficiency goals, and on quality of service potentials inherent in the plan.

2. Impact on Allocation Scheme

14. AMST, AT&T and TNA point out that the 800 MHz allocation plan envisages a systems approach to spectrum management, with efficient cellular systems designated to serve the needs of the public for nationwide, compatible radiotelephone communications and with conventional and trunked systems designed to meet the requirements of eligibles and licensees in the PLMRS for "dispatch" communications. That, they say, is the essence of the allocation scheme adopted in Docket No. 18262 and it is the controlling consideration. Furthermore,

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certain related rules and policies. To the degree appropriate, we will dispose of these requests in this decision. We also have pending several waiver requests that are resolved by the decisions we reach herein.

[8] Section 90.389 reads as follows:

§ 90.389 Restriction on interconnection. Radio systems licensed under thius subpart may be interconnected with wire line facilities of any telephone company; *Provided, however,* Such interconnection is accomplished at a control point or control station which is situated at a fixed location (not in a mobile unit), licensed to the user, where a person directly responsible for the operation of the base station or stations is on duty, and where all of the applicable requirements set out at §§ 90.461–90.467 are met. Such interconnection may not be accomplished at the base station site or sites; nor may be it be accomplished at any location other than the licensee's principal office or place of business. This shall be construed to bar interconnection at a common location, used for dispatching or for control, by the licensee together with other licensees or users, such as, a telephone answering service. *Provided further, however,* This provision shall not be interpreted to preclude common dispatching from such a location nor the relaying of messages through to mobiles of the licensee by such a dispatcher.

[9] See § 90.477(c) of the Commission's rules, 47 CFR 90.477(c).

[10] Sections 90.483 (a), (b) and (c) of the rules, 47 CFR 90.483 (a), (b), and (c).

[11] Section 90.481 of the rules, 47 CFR 90.481.

[12] See §§ 90.477(c) and 90.483 of the rules, 47 CFR 90.477(c), 90.483.

AMST states, it was understood that there would be no further reallocation of spectrum from television broadcasting to the land mobile services and this assurance requires that the radio channels already assigned be used efficiently. AMST fears that if permissive I/C operation is allowed it will lead to further demands by PLMRS eligibles for spectrum now allocated to the broadcast services. AMST sees this possibility as a potential inconsistency with the allocation scheme and urges us to reject it.

15. In contrast, licensees and users in the PLMRS see no basic inconsistency between the objectives of the 800 MHz plan and their requests for permissive I/C. They say that the common carriers' position is too narrow. The overriding purpose of the proceedings in Docket No. 18262, they argue, was to provide spectrum resources to permit eligibles in the private services to meet their communication requirements, "whatever they are." API and Millicom. Such requirements, they contend, simply are not limited to "dispatch" transmissions, but legitimately encompass both "dispatch" and I/C modes of operation. This was recognized at the beginning of the Docket No. 18262 proceeding. API. If present restrictions are such as to inhibit licensees and users in the PLMRS from satisfying their communication requirements, this denial is inconsistent with ultimate 800 MHz goals and objectives. There must be, they reason, sufficient flexibility in our administrative processes to allow relief when it is manifestly just and proper and where it clearly advances the public interest. APCO, API, CMRA, CMS, Metronet, Millicom and UTC. Accordingly these parties see no legal bar to permissive I/C in the PLMRS.

3. Impact on Systems Approach

16. AT&T and TNA point out that our 800 MHz plan envisages a systems approach. Thus, cellular systems were especially designed to meet the needs of the public for mobile radiotelephone service. Furthermore, they say that conventional and trunked systems were developed to meet the needs of eligibles in the PLMRS for "dispatch" service. From this they reason that any plan that promotes operation in the I/C mode using 800 MHz conventional or trunked systems detracts from the high degree of spectrum efficiency built into the 800 MHz plan, which was the objective of the systems approach.

17. Private users concede that the 800 MHz plan does embody a systems approach to spectrum management, with cellular systems essentially proposed for radiotelephone traffic and conventional and trunked systems for "dispatch" communications. However, the systems approach never contemplated the exclusion of I/C capability from private systems. In Docket No. 18262, the Commission specifically recognized the need for interconnection of private 800 MHz systems, although certain design limitations were imposed on the implementation of interconnection of private systems (*i.e.*, restrictions on where and how such interconnection might be accomplished). A similar approach of maximizing choices available to users was implicit in the Commission's finding that common carrier cellular operators could provide dispatch services, *Second Report and Order*, Docket No. 18262, *supra*, at 761. The private users state that even with interconnection of private systems, conventional and trunked system facilities will remain intact, and that no adverse consequences have obtained from use of the interconnection option under present design limitations. They argue that it is mere speculation to say that adverse consequences could flow from greater design flexibility in implementing interconnection of private systems.

18. Furthermore, Millicom stresses that cellular systems will never be in all geographic locations. Therefore, they conclude that it is unlikely that conflicts will arise that would require denial of permissive I/C for the PLMRS.

4. Impact on Spectrum Efficiency

19. Those opposed to liberalized I/C at 800 MHz argue that such liberalization will have a negative effect on spectrum efficiency. They reason as follows: A major objective of the Commission in working out the details of the 800 MHz allocation plan was to promote spectrum efficiency. The Commission sought to accomplish this objective through a functional approach to spectrum management, with cellular systems designed for radiotelephone operations and conventional and trunked facilities for "dispatch" usages. Permissive I/C upsets in a fundamental way this working predicate of the plan, since it reverses the role that conventional and trunked systems were to play, preventing achievement of the stated spectrum efficiency goal. AMST, AT&T, Bingham and TNA. This would certainly be so, it is contended, because of the nature of radiotelephone-type communications. TNA.

20. They add that the Commission's own studies demonstrate the adverse impact permissive I/C in the PLMRS would have on "dispatch" operations.[13] This mode of operation necessarily involves "dialing" and "hold" times. Delays are also incurred by "switching" through the PSTN. This adds to message length and lessens the air time available to accommodate users. TNA. Furthermore, radiotelephone communication is different from normal "dispatch" traffic because radiotelephone communication is usually longer in duration. Radiotelephone communications are not directed to or from a licensee's dispatcher and associated mobile units, rather these communications are with some third party who is unfamiliar with radio operations and the need for brevity in transmitting. These factors cause "inefficiencies" in spectrum use not present in normal "dispatch" operations and, consequently, such an operational mode would impact adversely on the spectrum efficiency goals set by the Commission in Docket No. 18262. Motorola and TNA.

21. It is further argued that I/C cannot be justified by saying that 800 MHz channels have the capacity to accommodate both "dispatch" and I/C traffic. If there is this excess capacity then the prescribed loading levels should be increased and not new types of service added. AMST, AT&T and TNA. They say that it is foolish to argue that trunked systems can be employed to accommodate I/C traffic without adverse impact on spectrum efficiency. Neither trunked nor conventional systems can operate in the I/C mode without decreasing the air time available for "dispatch" messages. This leads to spectrum inefficiencies, in terms of the types of needs conventional and trunked systems were designed to meet. TNA.

[13] The reference here is to *Report No. SMD 77-01, Land Mobile Spectrum Utilization*, prepared by Reed, Larson and Tranavitch. That report, in essence, reflects measurements of a particular spectrum sample and gives the percentage of time certain land mobile radio channels were utilized by licensees in the PLMRS. We can agree with TNA's general thesis that the longer an average message length is, the less the number of transmissions that will be possible. However, we do not believe that one may conclude from this or from the report that operation in the I/C mode at 800 MHz would necessarily result in spectrum inefficiency. That conclusion depends on the definition of "efficiency." In the private services "efficiency" is not necessarily equivalent to "channel occupancy." For example, in the Police Radio Service a channel assignment may be "efficiently" used even though there are few messages exchanged during a given time segment. This same usage might be considered "inefficient" in the Business Radio Service. We find nothing in the referenced report that conflicts with the decision we reach here as to the I/C policies in the Part 90 services at 800 MHz.

22. They disagree that uncongested channels in rural areas can be used for I/C operations without adverse impact on spectrum efficiency. Those channels are as much subject to the guiding principles of the Commission's 800 MHz plan as the ones allocated and assigned in urban areas. If there is excess capacity in rural areas, because the 800 MHz channels are lightly loaded there, then that spectrum should be reallocated to services where it is needed. AMST, AT&T and TNA.

23. In contrast, those parties favoring permissive I/C assert that the Commission can permit greater flexibility in the design requirements for I/C systems and that this can be done without any adverse impact on spectrum efficiency. Thus, licensees can be allowed to I/C at their base stations or at any other point as long as they maintain supervision of and control over the use of their facilities. Such design options do not effect efficiency in any way. Metronet and S.T.A.R.

24. They state that at 800 MHz a new class of licensee was created called the Specialized Mobile Radio System (SMRS) licensee. As the entity controlling the base station and the use to which it is put, the SMRS licensee is in a position to eliminate any inefficiencies that might result from operation in the I/C mode. Furthermore, as private carriers, they are free to deny service to any customer whose method of operation results in inefficiencies. In the event I/C is first allowed but later found to conflict with "dispatch" usage, then the offending customer can be "dropped," thereby eliminating the inefficiency claimed by AT&T and TNA. The Commission could confine I/C service to SMRS's. If it chose to do this there would be no basis for denial of permissive I/C on the grounds of spectrum efficiency considerations. Metronet and Millicom.

25. Furthermore, they continue, SMRS's usually have exclusive channel assignments. Therefore, any adverse effect on the capacity of the assignments to support the loading levels prescribed (or those that might be prescribed in the future) can be adjusted among the customers of the SMRS's. Only customers of the SMRS licensee would be affected because co-channel licensees in adjacent areas are protected by the Commission's reuse standards. Thus, whatever the impact in terms of spectrum efficiency might be, it can be confined and remedied. Metronet and Millicom. Moreover, it is well established that persons served by private radio facilities have a need to communicate with persons served by the telephone company. If such a need exists and I/C is barred or restricted substantially, it must be assumed that these messages will still have to go through somehow, perhaps relayed by a dispatcher. This method of operation does not promote efficiency. It involves more, not less, air time. It is a consequence the Commission should weigh in deciding this issue on I/C service. AG–COMM/Merced and Metronet.

26. API and UTC point out that in the Petroleum and Power Radio Services, the nature and time of messages transmitted are almost the same for interconnected and non-interconnected radio systems. Therefore, there will be no inevitable adverse impact in terms of spectrum efficiency flowing out of operation in the I/C mode. Moreover, the Commission should not look at spectrum efficiency as an abstract concept. Rather, it should consider it as just one factor to be weighed in determining whether licensees of private systems should be permitted to I/C their facilities. The public interest should be the ultimate test and if it is clear that the public interest would be served best by permissive I/C rules and policies, then that is the proper result.

27. Overall, those favoring permissive I/C conclude that there will be no adverse impact on the spectrum efficiency goals developed by the Commission in Docket No. 18262. To the degree that such an impact may be forecast, the Commission is free to guard against it by suitable measures. These measures do not necessarily include ones as strict as those presently limiting I/C at 800 MHz. APCO. API, Metronet, Millicom and UTC.

5. Impact on Quality or Grade of Service

28. Motorola contends that one of the promises of Docket No. 18262 was a better grade of service for PLMRS operations. Thus, in the bands below 470 MHz there are no formal loading or reuse standards and in many areas the frequencies available are intensively used. At 800 MHz this was to be improved through specific loading and reuse criteria and by limiting licensees to operation in the "dispatch" mode. I/C was to be as an ancillary function. While the loading and reuse criteria will remain in place, Motorola feels that mixing "dispatch" and radiotelephone communications will degrade the quality of service available. These two modes of operation, Motorola says, are incompatible. Therefore, it concludes, to maintain grade of service expectations, extensive use of the available channels for interconnected communications should not be allowed.

29. Other parties say that this is only speculation. They claim that it does not necessarily follow that I/C will impair quality of service expectations. Moreover, they say, quality of service is a subjective concept. If licensees cannot employ authorized radio facilities to meet what they perceive to be their urgent needs and requirements, then the quality of service is very low. Furthermore, if alternative means of meeting I/C requirements do not exist, or if they do but are too costly or ill-suited for operations in the PLMRS, then the result is also unsatisfactory service. APCO, API, CMS, Metronet, Millicom and UTC.

C. Issue (c): Decision Alternatives

1. Status Quo

30. No private user or user group supported maintaining the *status quo*. Some modification of the *status quo* by liberalizing present practices and policies was thought desirable. APCO, API, Metronet, Millicom and UTC were in favor of giving licensees greater flexibility in the design of their systems, possibly eliminating the requirement to locate the "patch" or "switch" at the "licensee's principal office or place of business," and permitting supervision and control of radio operations by mobile operators. On the other hand, there was no great opposition to the *status quo* from AT&T, Motorola or TNA. In their view, no liberalization of current I/C rules and policies should be allowed since that would be in derrogation of the controlling features of the Commission's allocation plan. They argue that the *status quo* preserves the "dispatch" character of the 800 MHz plan for private systems yet gives licensees the right to I/C when that mode of operation is important to them. AT&T and TNA.

2. Same as Below 512 MHz

31. We asked whether we should apply at 800 MHz the same geographic limitations imposed on I/C for private systems operating below 512 MHz in particular radio services in the congested urban regions. Motorola stated that it would be impractical to employ these same limitations since at 800 MHz there are no "service blocks." Other parties thought these measures too restrictive because they deprive eligibles of essential communication capabilities and would prevent use of I/C circuits over trunked systems. They added that most trunked systems are situated in the urban areas where I/C would be barred. Metronet and Millicom.

32. TNA reasons, however, if congestion is a valid ground for barring I/C in the bands below, then it should be applied similarly to bar I/C at 800 MHz. This is so because there is congestion in the same geographic areas for systems operating below 512 MHz and those operating above 800 MHz. Furthermore, it says, there is no basis for following the 512 MHz I/C plan even in suburban (less congested) areas, because the cellular concept is nationwide, i.e., the 800 MHz plan calls for radiotelephone needs to be met in all areas through the use of cellular system technology. Permitting intrusions into the nationwide market for cellular service will frustrate that objective.

33. On the other hand, it was argued that if there is a need for I/C below 512 MHz, then there is a need for such service at 800 MHz because the need for I/C service is not a function of frequency band. TNA counters that what was done for I/C service below 512 MHz does not provide a proper rationale for permissive I/C at 800 MHz because of the significant policy differences underlying the two allocation schemes.

3. Alternative Plans and Recommendations

34. AT&T and TNA recommend that we not take a more liberal approach to I/C service for PLMRS systems at 800 MHz. Private users, however, favor a more liberal approach. They feel that a plan like that followed below 512 MHz might be acceptable, but that it should be modified to accommodate their particular operating requirements at 800 MHz. APCO, API, Millicom and UTC.

35. Others believe that there is no merit in restricting the facility design for I/C service. AG–COMM/Merced, CMRA, CMS, Metronet and S.T.A.R. Their basic recommendation is to allow full freedom to design I/C facilities. They feel that if some restrictions are deemed necessary, then they should be made specific, e.g., "time limits" on I/C traffic. However, they say, such limitations should be employed only where the channel assignments are shared by disparate users. They claim that there is no need for such limitations when service is provided by SMRS licensees, where the channel assignment is "exclusive," and where channel congestion does not exist, e.g., in rural or remote areas. Also, these parties advocate greater liberality for I/C for trunked systems and in those instances in which the system's design will accommodate I/C without service degradation, such as, where channels are preselected for use in the I/C mode. API, CMS, CMRA, Metronet, Millicom, Motorola and UTC.

36. Of particular concern to those favoring permissive I/C are the rather severe restrictions that flow out of the provisions of § 90.389 of the rules, 47 CFR § 90.389. They recommend that we eliminate the ban on mobile operator supervision, and that we drop the requirement that allows I/C only at the "principal office or place of business" of the licensee. Finally, they say that we should not bar I/C completely in any geographic area. However, if we do, they ask us to "grandfather" existing systems to permit recovery of invested capital.

V. Decision

A. Summary of Conclusions and Rationale

37. We have concluded that the public interest would be served by adopting less rigid rules and policies to govern I/C of private systems operating at 800 MHz. Eligibles in the private services should have freedom to use state-of-the-art equipment and system designs and not have them fettered unnecessarily by artificial limitations and restrictions.

38. However, we are placing I/C service on a secondary basis to "dispatch" operations in circumstances in which there is a likelihood that I/C operation could impede the dispatch requirements of co-channel users. Thus, in any instance where there is a serious conflict between operation in the I/C mode and "dispatch" operations of the traditional type, the former must give way to the latter. We feel that this may occur when frequencies are shared with co-channel users. However, where frequencies are assigned for the exclusive use of a single licensee and in trunked systems where a number of frequencies are available to end-users, we do not believe that there is a significant likelihood that dispatch operation will be impeded by I/C. Therefore, in these situations we will permit I/C on a primary basis. Furthermore, this limitation on co-channel users eliminates any concern as to possible negative impacts on the 80 MHz allocation scheme.

39. An interconnection capability permits licensees and users to increase the utility of their private radio systems by facilitation the passage of information from a telephone user to the radio user and *vice versa*. Electrical interconnection diminishes the possibility of error that exists when an intermediary relays information. It also reduces the time necessary for communication. Therefore, we are permitting I/C at any location with the public network.

40. In some instances, it may also be economically beneficial for a group of licensees or users to share a common means of interconnecting. We will permit such sharing arrangements. However, the rules being adopted expect licensees, either individually or collectively on a non-profit, cost-shared basis, to make arrangements for the telephone service directly with the local telephone company in accordance with any exchange tariff restrictions.[14] Users in a cooperative cost-sharing arrangement may qualify for single customer treatment under such tariffs, and if so, they may as a group employ common interconnected telephone lines. Similarly, if non-profit sharing of telephone lines is permitted under the telephone company's tariffs, licensees in multiple licensed systems or users in cooperative systems may as a group employ common interconnected telephone lines, provided that no person engaged in the shared use of the common telephone lines profits from the arrangement. However, in a cooperative, cost-shared system, the licensee, under whose license the users are operating and who is responsible for the system, must make all telephone arrangements. With regard to persons employing SMRs, we will permit each licensee to either make an individual arrangement for telephone service or to make arrangements collectively with other licensees on a non-profit cost-shared basis, provided all telephone arrangements are made pursuant to local tariffs. In the case of SMRs, however, we are specifically prohibiting the base station licensee from arranging for the telephone service. In all events, we shall require that no licensee or user may profit from the telephone service.[15]

41. To meet the need for I/C at 800 MHz the basic I/C plan for private systems operating below 512 MHz will be followed. We will allow three options for operation in the I/C mode: manual interface, automatic I/C under supervision and control of a licensee's transmitter control operator, and automatic I/C under supervision of mobile operators. However, we have

[14] To the extent that exchange tariffs might unreasonably restrict licensees' and users' interconnection rights, we retain jurisdiction to address such restrictions on complaint or on our own motion.

[15] Under present FCC policies, were such profit to be taken, this party might be classifiable as a resale common carrier. By avoiding earning a profit on the telephone service, licensees will assure the Commission that the private radio services involved are not directly or indirectly involved in common carriage.

modified the below 512 MHz I/C plan somewhat. Thus, at 800 MHz there will be no "geographic" or "service" limitations such as are in force in the lower bands. There is no need for such restrictions because I/C service is placed on a secondary basis to "dispatch" in situations of co-channel sharing. Additionally, at 800 MHz the reuse and loading standards protect against undue impairment of quality of service. Furthermore, we have decided not to impose strict "time limits" on messages. Again, there is no need to do so with I/C on a secondary basis in those situations in which I/C would most likely present a problem.

B. Issue (a): Need

42. Modern society could not function as it does without telephone communications, and information transmitted over private radio facilities often originates from a telephone and *vice versa*. Without interconnection, transfer of such information between radio and telephone facilities can only be accomplished orally through a third party, with the possibility of errors. For this reason, we concluded in *Carterfone*, 13 FCC 2d. 420 (1968), that interconnection of private radio and telephone facilities is in the public interest, and it increases the utility both of radio facilities and of the telephone facilities involved. Even parties opposing permissive interconnection herein do not deny this. Their main concern, rather, relates to the way in which interconnection of private systems to telephone facilities should be accomplished *i.e.*, the means and the location of accomplishing interconnection. In sum, the need for interconnection at 800 MHz is clear.

43. We conclude, on the basis of the record herein, that this need for efficient interconnection is not now fully being met, in view of the present interconnection restrictions at 800 MHz. Users and licensees at 800 MHz should have the same range of options and choices available as do users and licensees at other frequencies, including the option of efficient interconnected service. Finally, we reject the notion that interconnected service should only be available in common carrier 800 MHz systems and not in private 800 MHz systems. Such a result would be inconsistent with our treatment of similar issues at other frequencies and it would be inconsistent with our public interest objective of maximizing consumer choice.

C. Issue (b): Impact

44. Opponents of permissive I/C argue that such policies would be inconsistent with the 800 MHz plan adopted in Docket No. 18262. They say that it would adversely impact on the systems approach to spectrum efficiency and result in a loss in quality of service. In contrast, those favoring more liberal I/C believe that the public interest is the standard. They argue that to the degree the record demonstrates that the public interest would be better served by more liberal I/C, we should adopt rules allowing it.

45. We agree that the plan adopted in Docket No. 18262 was designed to meet the needs of users of private services and of common carrier radio services. While dispatch services were primarily identified with the private systems, and interconnected services were primarily identified with common carrier systems, Docket No. 18262 recognized that cross-over of these primary attributes would be permitted; interconnection of private systems would be permitted (under certain limitations which we are addressing herein) and dispatch would be permitted in common carrier radio systems. This latter conclusion was recently affirmed in the *Report and Order* in CC Docket No. 79–318, 86 FCC 2d 469 (1981). In this order, we affirm the first conclusion, that interconnection will be permitted for private systems.

46. Additionaly, we disagree that the use of either conventional or trunked systems to meet the I/C requirements of private users will result in inefficiencies that will destroy the effectiveness of our allocations to the private services for "dispatch" communications. Correlations between operations at 800 MHz in a permissive "I/C-dispatch" mode and the length of air time used is mere speculation. What is not speculative is that permissive I/C at 800 MHz will not undermine our goals and objectives if I/C is properly subordinated to private "dispatch" operations.

47. I/C is already allowed in the 800 MHz bands and it has not adversely affected either our overall allocation scheme or our spectrum efficiency goals. Nor is there any evidence in this rulemaking record that more permissive I/C would lead to such results.

48. We conclude that there are no serious negative impacts on the 800 MHz plan that flow out of permissive I/C. Nevertheless, as a precaution, I/C operation will remain on a secondary basis to "dispatch" in situations in which I/C is likely to result in serious disruption to efficient "dispatch" operation.

D. Issue (c): I/C Plan

1. Selection of Plan

49. We will follow the below 512 MHz I/C plan, but with appropriate modifications. This modified plan is sufficiently flexible to meet demonstrated requirements in the private services at 800 MHz. We reject the *status quo* approach because it unduly impedes licensees and users in the operation of authorized systems of radio communication. Thus, we reject continuation of the present restriction of 800 MHz interconnection to the licensees' premises, and not at common locations, as unnecessarily inefficient and as denying private radio licensees and users of alternatives which may be economically more desirable. Also, we reject alternative plans advanced by the parties because such plans, like the present restrictions, are inconsistent with our statutory mandate to promote "rapid" and "efficient" communications, 47 U.S.C. 151, and to "encourage the larger and more effective use of radio in the public interest," 47 U.S.C. 303(g).

2. Description of Plan Adopted

50. The adopted plan calls for three design options for I/C systems. I/C may be manual, automatic under the supervision of a transmitter control operator stationed at fixed position, or automatic under the supervision of mobile operators.[16] There will be no geographic or service limitations. Nor will there be any time limit on calls.[17] Finally, there will be no requirement for specially designed monitoring equipment.[18] [19]

51. Additionally, we will eliminate the requirement to I/C only at "the licensee's office or principal place of business." Licensees will be free to I/C their systems anywhere, including offices of telephone answering services, subject to the limitations specified in our new rules.[20] The definition of "interconnection" will be clarified in amended Section 90.7, Appendix B. Furthermore, the rules governing transmitter control and those applicable to internal communication systems and to paging systems will continue to apply to operations at 800 MHz.[21] The special provisions governing fixed stations and certain mobile stations, will remain in

[16] Amended § 90.483, Appendix B.

[17] Amended § 90.483(d), Appendix B.

[18] Amended §§ 90.483 (b)(1)(ii) and (b)(2)(i), Appendix B.

[19] *See* 47 CFR 90.483 for a description of the special requirements pertaining to the methods of interconnection below 800 MHz.

[20] Amended § 90.477, Appendix B.

[21] Sections 90.460 through 90.475 and §§ 90.485 through 90.487, 47 CFR 90.460–90.475, 90.485–90.487.

effect for 800 MHz operations.[22] To aid in the clarification of our I/C rules, Sections 40.479 and 90.481, 47 CFR 90.479 and 90.481, have been eliminated. The content of these rules is now included in amended §§ 90.477 and 90.483, Appendix B.

52. A new provision is added setting forth the secondary nature of I/C operation at 800 MHz where it applies.[23] Also, we have adopted a rule to make clear under what conditions I/C at the same location by more than one licensee or user is permitted.[24]

3. Specifics of Plan

(a) *I/C Secondary to "Dispatch" Operations.*

53. A key element for the new plan is our policy decision to place operation in the I/C mode at 800 MHz on a secondary basis to "dispatch" operations in situations in which we believe there is a substantial likelihood that I/C will impede the dispatch requirements of co-channel users.[25] This policy is in harmony with our decisions in Docket No. 18262, and it parallels our discussion in the *Further Notice* as to the ancillary or incidental nature of I/C systems at 800 MHz. Moreover, this limitation resolves the potential conflicts that AT&T, Motorola and TNA have advanced regarding permissive I/C. Thus, we are creating a mechanism for addressing any adverse impact on the systems approach, on spectrum efficiency goals and objectives, and on service quality expectations, should the need therfor arise. See Amended §90.477, Appendix B.

54. Under this new policy, a licensee's I/C operation may not adversely affect another co-channel licensee's "dispatch" usages. The former must give way to the latter when conflict results. Moreover, if loading levels are increased in a particular area due to modification of our loading standards, then even though I/C operation under prior loading standards may have resulted in satisfactory communications for all, it must be abandoned if the same condition does not result under the revised standard. The same would apply if we reduce mileage separations required for co-channel stations.

55. The technology of trunked systems eliminates the likelihood of conflict because of the availability of multiple frequencies to accommodate user demand. Therefore, there is no need to place I/C on a secondary basis for these systems because it is not likely to impede dispatch use. For stations in adjacent operating areas, current co-channel separation criteria will prevent conflict. Additionally, any conflicts that may arise for licensees sharing a trunked facility are controllable.

56. In sum, our restrictions on the use of interconnected 800 MHz service will assure that there is no adverse impact on the efficiency of private 800 MHz communications. A related argument raised by AT&T and TNA is that the availability to consumers of alternative common carrier and private radio systems which are interconnected with the telephone network might adversely affect the economics of common carrier systems. Such claims are speculative and have not been documented in the record of this proceeding. As was noted earlier, interconnection has long been permitted in both private and common carrier systems, and has given consumers the ability to choose which type of system is better suited to their needs. No evidence has been presented herein to warrant a departure from this established policy. Finally, the end result of these parties' arguments could be a need for users to maintain dual radio systems, *i.e.*, private systems tailored to their private radio communications needs, and common carrier systems to also employ interconnected radio communications. Such a result would manifestly be inefficient, and inconsistent with the efficiency and effectiveness mandates of this Commission. See, 47 U.S.C. 151 and 303(g).

(b) *Design Features.*

57. Three design options will be allowed. First, I/C will be permitted manually, where the radio facility is "patched" through to the wire line telephone system by a control operator. In such cases, the control operator must be able to monitor the transmissions and take appropriate steps to remedy unlawful use of the system. This is in accordance with the existing § 90.483(a) 47 CFR 90.483(a), for I/C below 512 MHz.

58. The second option is automatic I/C under supervision of a transmitter control operator and is in accordance with the existing § 90.483(b) option for below 512 MHz systems. 47 CFR 90.483(b). At 800 MHz, however, there will be no requirement for automatic monitoring equipment and the new rules reflect this. This requirement is being eliminated because at 800 MHz I/C service is on a secondary basis to co-channel "dispatch" operations.

59. The third option is automatic I/C under supervision of mobile operators. Once again, because our policy is to accord I/C secondary status to "dispatch" operations, we have greater flexibility in prescribing design specifications, and, therefore, we can eliminate the requirement for special monitoring equipment. See amended § 90.483(b)(2), Appendix B. We also find no need for "alerting signals" for calls originating in the telephone network and no need for "time limits" on I/C transmission. Accordingly, these requirements will be eliminated.

60. There are other reasons for eliminating these requirements. At 800 MHz the operating characteristics of trunked systems are such that they make some of the design features followed below 512 MHz redundant. For example, trunked systems always operate on exclusive channel assignments and there are always electronic means of "alerting" a person that he or she is being called. In these circumstances a prescribed "alerting signal" would serve no useful purpose. Furthermore, conventional systems operated by SMRS's are "managed" systems, and this makes doubtful the need for time limits other than those imposed by the licensee of the base station. This plan will simplify the design requirements for 800 MHz I/C operations, leaving it to licensees and users to work out the most effective and efficient way to use the assigned channels.

61. Finally, present rules and policies for I/C at 800 MHz require that the interface ("patch" or "switch") between the private radio systems and public telephone facilities be located at a fixed control point or control station at the licensee's "principal place of business." This is a very restrictive measure. For example, it precludes I/C at the base station although there are clear advantages to such I/C. One advantage is that I/C is less costly when it is accomplished at the base station. Furthermore, I/C accomplished at the base station permits duplex operation to be more easily achieved and affords more reliable I/C service. To prevent inhibiting unnecessarily the technological potential of I/C, we will permit it to be accomplished at any location. However, the licensee must make arrangements for the telephone service directly with the telephone company. See Amended § 90.477(a)(2), Appendix B.

(c) *Same Location I/C.*

62. In some situations, it may be cost efficient for a group of licensees or users to share the means of effectuating interconnection (*i.e.*, a "patch"). Such interconnection will be permitted at any

[22] Section 90.476, 47 CFR 90.476.

[23] Amended § 90.477(a)(1).

[24] Amended § 90.477(a)(2), Appendix B.

location, but only under the conditions discussed previously in para. 39. See Amended § 90.477(a)(2), Appendix B.

VI. Miscellaneous Matters

63. In its "Petition for Reconsideration and Clarification," UTC asks that we add language to § 90.475(a)(2) clarifying this rule. They ask us to better define the design requirement for I/C service where mobile and fixed systems are employed with one another. Section 90.475(a)(2), 47 CFR 90.475(a)(2). While this matter does not pertain directly to the issues now under consideration, we feel that the relief asked for can be granted because it falls within the general purview of Docket No. 20846. Furthermore, UTC correctly expresses our intent concerning the meaning of the rule as adopted, and we agree that clarification is needed. Accordingly, the rule provision will be clarified to read as follows:

An internal transmitter control system may be used in conjunction with other approved methods of transmitter control and interconnection so long as the internal transmitter control system, itself, is neither accessed from telephone positions in the public switched telephone network, nor uses dial-up circuits in the public switched telephone network. Licensees with complex communications systems involving fixed systems whose base stations are controlled by such systems may automatically access these base stations through the microwave or operational fixed systems from positions in the PSTN, so long as the base stations and mobile units meet the requirements of Section 90.483 and if a separate circuit is provided for each mode of transmitter operation (*i.e.*, conventional dial-up or internal).

64. In addition, in its "Petition for Clarification," CMRA asks that the provisions of § 90.487(c) be clarified. 47 CFR 90.487(c). This section deals with paging operations. Once again, the subject is not directly related to 800 MHz I/C. For that reason, CMRA's petition was assigned a separate rulemaking number, RM–3633. However, CMRA's request does relate to the general body of rules adopted in Docket No. 20846, and we will address the matter here.

65. CMRA says the rule as drawn leads to confusion because many telephone-type instruments serve dual purposes. For example, the same instrument used to access positions in the PSTN might also be used to connect points in an internal system of communication, although through different electrical circuits. A further example is where the instrument serves both as a regular telephone and as a part of a dial-up transmitter control point, although again through different electrical circuits and using different codes and tones. CMRA suggests that the situations in which the rule's prohibitions apply is unclear. CMRA seeks clarification by adding language to § 90.487(c) so that it would read:

(c) Paging signals may not be transmitted from telephone positions in the public switch telephone network which do not fall under one of the special provisions set forth at paragraphs (a)(2) or (b) above.

66. Our intention was to prohibit paging transmitters from being accessed directly from telephone positions in the PSTN. Although that was allowed under prior policies (telephone positions were treated as dispatch points), the rules adopted in Docket No. 20846 limited the access of paging transmitters to control points in the licensee's system of communication (§ 90.487(a)(1), 47 CFR 90.487(a)(1)); operating positions within an internal system of communication (§ 90.487(a)(2), 47 CFR 90.487(a)(2)); dispatch points within the licensee's system of communication (§ 90.487(a)(3), 47 CFR 90.487(a)(3)); and "dial-up circuits" (§ 90.487(b), 47 CFR 90.487(b)). What CMRA requests would further confuse the matter. Their proposed rule change broadens the term "telephone positions" to include dial-up circuits, operating positions in internal systems of communication, and "dispatch points." This was not our intent.

67. Nevertheless, we feel the rule may be clarified to achieve CMRA's ultimate purpose. Accordingly, we will adopt revised language to read as follows:

(c) Paging signals (tone only as well as tone and voice) may not be transmitted from telephone positions in the public switched telephone network. This limitation, however, shall not be interpreted to bar access to paging transmitters through radio or wireline circuits provided under tariff by the telephone company or any other common carrier and equipped as a transmitter control circuit. This includes, among others, circuits which are integral parts of internal systems of communication; dial-up transmitter control circuits; and dispatch point circuits used in private radio systems. Paging signals may be originated from all such operating positions.

In light of this action, we will by separate order dismiss CMRA's petition in RM–3633 as moot.

VII. Summary and Conclusion

A. I/C Plan

68. The plan adopted for I/C of private 800 MHz systems is a flexible one. It allows system control by either mobile operators or a transmitter control operator stationed at fixed positions. It provides latitude in the choice of interface. It places operation in the I/C mode on a secondary basis to traditional "dispatch" operations in those situations in which there is the greatest potential for conflict. The plan strikes a balance between the objectives of the 800 MHz allocation plan and the I/C needs of licensees and users in the private services.

B. Miscellaneous Matters

69. The petition filed by UTC on December 26, 1979, asking for reconsideration and clarification is being granted. Section 90.475(a)(2), 47 CFR 90.475(a)(2), is hereby amended and clarified. The request of CMRA for clarification of § 90.487(c), 47 CFR 90.487(c), is also being granted. However, its "Petition for Clarification," filed March 13, 1980 will be dismissed in the RM–3633 proceeding.

70. There is no need for certification under the Regulatory Flexibility Act of 1980 because that Act does not apply to rules adopted after July 1, 1981, where the underlying notice of proposed rulemaking, as here, was adopted before that date. See 5 U.S.C. 601.

VIII. Ordering Clauses

71. Accordingly, it is ordered, effective May 17, 1982, That Part 90, 47 CFR Part 90, is amended as shown in *Appendix B*, attached hereto. The authority for this action is found in Sections 4(i) and 303 of the Communications Act of 1934, as amended. 47 U.S.C. 4(i) 303.

72. It is further ordered, That the Petition for Reconsideration and Clarification filed herein on December 26, 1979, by the Utilities Telecommunications Council is granted.

73. It is further ordered, That this proceeding is terminated.

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

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix A

Parties Filing Comments

AG-Comm, Inc., and Darwin W. Simmons, Jr., d/b/a Merced Two-Way Radio Dispatch (AG-COMM/Merced)
Association of Maximum Service Telecasters, Inc. (AMST)
Associated Public-Safety Communications Officers, Inc. (APCO)
American Petroleum Institute (API)
American Telephone and Telegraph Company (AT&T)
Robert L. Bingham (Bingham)
California Mobile Radio Association (CMRA)
Centralized Message Center (Nationwide Paging Service, Inc.) (CMC)

Communications Marketing Services, Inc. (CMS)
Interstate Radio Telephone, Inc. (IRT)
Metronet, Inc. (Metronet)
Millicom, Inc. (Millicom)
Motorola, Inc. (Motorola)
National Association of Business and Educational Radio, Inc. (NABER)
S.T.A.R. Communications, Inc. (S.T.A.R.)
Syntonic Technology, Inc. (STI)*
Telocator Network of America (TNA)
Utilities Telecommunications Council (UTC)

Parties Filing Reply Comments

American Petroleum Institute (API)
American Telephone and Telegraph Company (AT&T)
Millicom, Inc. (Millicom)
Montclair Company (Montclair)*
Telocator Network of America (TNA)
Utilities Telecommunications Council (UTC)

PART 90—PRIVATE LAND MOBILE RADIO SERVICES

Appendix B

Part 90 of Chapter 1 of Title 47 of the Code of Federal Regulations is amended as follows:

1. Section 90.7 is amended by revising the definition of "Interconnection" to read as follows:

§ 90.7 Definitions.

* * * * *

Interconnection. Connection or interface, either through automatic or manual means, of private mobile communication systems with the facilities of the public switched telephone network to permit the transmission of messages or signals between points in the wire line or radio network of a public telephone company and persons served by private mobile radio systems. Wire line or radio circuits or links furnished by common carriers, including telephone companies, and used by licensees or other authorized persons for transmitter control (including dial-up transmitter control circuits), or used as an integral part of an authorized, private internal system of communication, or as an integral part of dispatch point circuits in a private radio system are excluded from this definition of interconnected systems. Such facilities are to be treated as separate and distinct from interconnection and interconnected circuits, notwithstanding the fact that wire line or radio circuits of the telephone company or of any common carrier are employed in them.

* * * * *

*The comments of Syntonic Technology, Inc., and Montclair Company were not timely filed.

§ 90.385 [Amended]

2. Section 90.385(a)(4) is removed.

§ 90.389 [Removed]

3. Section 90.389 is removed.

4. Section 90.477 is revised to read as follows:

§ 90.477 Restrictions on interconnected systems.

(a) In the frequency ranges 806–821 MHz and 851–866 MHz, interconnection with the public switched telephone network is authorized under the following conditions:

(1) Operation in the interconnected mode will be on a secondary basis to dispatch operation. Upon a sufficient showing, the Commission may impose specific or general constraints upon a licensee's privilege of interconnecting a particular system. This restriction will not apply to trunked systems, or on any channel assigned exclusively to one licensee.

(2) Interconnection may be accomplished at any location, through a separate or shared interconnect device. Arrangements for telephone service must be made by each licensee directly with the telephone company either individually, or collectively with other licensees on a non-profit, cost-shared basis. However, arrangements for telephone service may not be made by the base station licensee of a Specialized Mobile Radio System. In all cases, arrangements with the telephone company must disclose the number of licensees and users and the nature of the use.

(b) Interconnection of facilities in the Radiolocation Service (Subpart F) shall not be permitted.

(c) In the frequency ranges below 800 MHz, interconnection with the public switched telephone network is authorized under the following conditions:

(1) Interconnection may be accomplished at any location. However, there may not be interconnection at a common point when the radio equipment is provided by a third party, except where systems are cost-shared on a non-profit basis with costs prorated among the users and third party involvement is limited to sale or lease of radio equipment and to incidental maintenance.

(2) Arrangements for the telephone service must be made by the licensee of the radio facility directly with the telephone company.

(3) In the Special Emergency Radio Service (Subpart C of this part), except for medical emergency systems in the 450–470 MHz band, the Business and Special Industrial Radio Services (Subpart D of this part) and the Automobile Emergency and Taxicab Radio Services (Subpart E of this part), interconnection will be permitted only where the base station site or sites of proposed stations are located 75 miles or more from the designated centers of the following urbanized areas:

Urbanized area	North latitude	West longitude
New York, N.Y.-northeastern N.J.	40°45'06"	73°59'39"
Los Angeles-Long Beach, Calif.	34°03'15"	118°14'28"
Chicago, Ill.	41°52'28"	87°36'22"
Philadelphia, Pa.-New Jersey	39°56'58"	75°09'21"
Detroit, Mich.	42°19'48"	83°02'57"
San Francisco-Oakland, Calif.	37°46'39"	122°24'40"
Boston, Mass.	42°21'24"	71°03'25"
Washington, D.C.-Maryland-Virginia	38°53'51"	77°00'33"
Cleveland, Ohio	41°29'51"	81°41'50"
St. Louis, Mo-Illinois	38°37'45"	90°12'22"
Pittsburgh, Pa.	40°26'19"	80°00'00"
Minneapolis-St. Paul, Minn.	44°58'57"	93°15'43"
Houston, Tex.	29°45'26"	95°21'37"
Baltimore, Md.	39°17'26"	76°36'45"
Dallas, Tex.	32°47'09"	96°47'37"
Milwaukee, Wis.	43°02'19"	87°54'15"
Seattle-Everett, Wash.	47°36'32"	122°20'12"
Miami, Fla.	25°46'37"	80°11'32"
San Diego, Calif.	32°42'53"	117°09'21"
Atlanta, Ga.	33°45'10"	84°23'37"
Cincinnati, Ohio-Kentucky	39°06'07"	84°30'35"
Kansas City, Mo.-Kansas	39°04'56"	94°35'20"
Buffalo, N.Y.	42°52'52"	78°52'21"
Denver, Colo.	39°44'58"	104°59'22"
San Jose, Calif.	37°20'16"	121°53'24"

(d) Additional frequencies shall not be assigned to enable any licensee to employ a preferred interconnection capability.

§ 90.479 [Removed]

5. Section 90.479 is removed. The substance of the section is contained in amended § 90.477.

§ 90.481 [Removed]

6. Section 90.481 is removed. The substance of the section is contained in amended §§ 90.477 and 90.483.

7. Section 90.483 is amended as follows:

§ 90.483 Permissible methods and requirements of interconnecting private and public systems of communications.

Interconnection may be accomplished either manually or automatically under the supervision and control of a transmitter control operator at a fixed position in the authorized system of communications or it may be accomplished under the supervision and control of mobile operators.

(a) Where the system is interconnected manually, all transmissions, regardless of their point of origin, must be capable of being aurally monitored at the control point to assure that all communications are permissible.

(b) When the system is interconnected automatically it may be supervised at the control point or in mobile units.

(1) For control point supervision, the following is required:

(i) All transmissions must be capable of being aurally monitored at the control point to assure compliance with rules governing permissible communications.

(ii) When a frequency is shared by more than one system, automatic monitoring equipment shall be installed at the base station to prevent activation of the transmitter when signals of co-channel stations are present and such activation would interfere with communications in progress. Systems on frequencies above 800 MHz are exempt from this requirement.

(2) For mobile unit supervision, the following is required:

(i) When a frequency is shared by more than one system, automatic monitoring equipment shall be installed at each base station to prevent its activation when signals of other co-channel stations are present and activation would interfere with communications in progress. Systems above 800 MHz are exempt from this requirement.

(ii) Initial access from points within the public switched telephone network shall be limited to transmission of a 3 second tone, after which time the transmitter shall close down. No additional signals shall be transmitted until acknowledgment from a mobile station of the licensee is received.

(c) In single frequency systems, equipment shall be installed at the base station(s) which will limit any single transmission from within the public switched telephone network to 30 seconds duration and which in turn will activate the base station receiver(s) to monitor the frequency for a period of not less than three (3) seconds. The mobile station shall be capable of terminating the communications during the three (3) seconds, if necessary.

(d) A timer shall be installed at the base station transmitter(s) which shall limit communications to three (3) minutes. After the three (3) minutes, the system shall close down, with all circuits between the base station and the public switched telephone network disconnected. This provision will not apply to systems licensed in the Police, Fire, Local Government, Special Emergency, Power, Petroleum, Railroad Radio Services, and all systems above 806 MHz. However, systems not using a timer to limit communications to three minutes shall be equipped with one that will close down the transmitters within three minutes of the last transmission.

8. Section 90.475(a)(2) is revised as follows:

§ 90.475 Operation of internal transmitter control systems in specially equipped systems.

(a) * * *

(1) * * *

(2) An internal transmitter control system may be used in conjunction with other approved methods of transmitter control and interconnection so long as the internal transmitter control system, itself, is neither accessed from telephone positions in the public switched telephone network, nor used dial-up circuits in the public switched telephone network. Licensees with complex communications systems involving fixed systems whose base stations are controlled by such systems may automatically access these base stations through the microwave or operational fixed systems from positions in the PSTN, so long as the base stations and mobile units meet the requirements of § 90.483 and if a separate circuit is provided for each mode of transmitter operation (*i.e.*, conventional, dial-up or internal).

9. Section 90.487(c) is revised as follows:

§ 90.487 One-way paging operations in the bands below 512 MHz.

* * * * *

(c) Paging signals (tone only as well as tone and voice) may not be transmitted from telephone positions in the public switched telephone network. This limitation, however, shall not be interpreted to bar access to paging transmitters through radio or wireline circuits provided under tariff by the telephone company or any other common carrier and equipped as a transmitter control circuit. This includes, among others, circuits which are integral parts of internal systems of communication; dial-up transmitter control circuits; and dispatch point circuits used in private radio systems. Paging signals may be originated from all such operating positions.

10. Contents—Part 90 is amended by revising section references as follows:

Reference § 90.389 is removed.

Reference § 90.479 is removed.

Reference § 90.481 is removed.

The heading for § 90.483 is revised to read:

§ 90.483 Permissible methods and requirements of interconnecting private and public systems of communications.

[FR Doc. 82-11053 Filed 4-22-82; 8:45 am]

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Parts 12 and 22

Disposal of Forfeited or Abandoned Property

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Service amends 50 CFR Part 12 by including a procedure for disposing of property forfeited or abandoned to the United States as a result of the Service's enforcement of a number of Federal wildlife or plant conservation laws. This property, which includes wildlife, plants, vehicles, vessels, aircraft, cargo, guns, nets, traps, and other equipment, is separated into two categories with a separate disposal procedure for each. Existing Service procedures based on current Federal Property Management Regulations and Interior Property Management Regulations are used to dispose of all property except wildlife and plants. Wildlife and plants, however, are subject to disposal at the discretion of the Director by one of the following means: return to the wild, use by the Service or transfer to another government agency for official use, donation or loan, sale, or destruction.

This action enables the Service to insure that wildlife and plants are disposed of in accordance with the conservation aims of the statute under which they were obtained while establishing a timely, orderly, and cost efficient disposal procedure. This procedure is needed to eliminate unnecessary expense and overcrowding at government storage facilities and to provide a uniform means of satisfying the needs of a variety of possible users of wildlife and plants upon disposal.

EFFECTIVE DATE: May 24, 1982.

FOR FURTHER INFORMATION CONTACT: John T. Webb, Branch of Investigations, Division of Law Enforcement, Fish and Wildlife Service, U.S. Department of the Interior, P.O. Box 28006, Washington, D.C. 20005, telephone: (202) 343-9242.

SUPPLEMENTARY INFORMATION:

Background

The U.S. Fish and Wildlife Service is responsible for enforcing a number of wildlife or plant protection laws. Generally, these laws provide for the forfeiture of wildlife, plants, or other property which is involved in a violation. For example, the Endangered species Act of 1973 (ESA) authorizes the

forefeiture of unlawfully imported endangered wildlife, wildlife products, and plants (16 U.S.C. 1540(e)(4)(A)). In addition, some of the laws provide for the forfeiture of guns and equipment used in committing a violation (e.g., the Eagle Protection Act, 16 U.S.C. 668(b)) or for the foreiture of the cargo of a vessel involved in taking wildlife illegally (e.g., the Marine Mammal Protection Act of 1972, 16 U.S.C. 1376(a)).

Wildlife parts, wildlife products, and plants forfeited under these laws for the most part have been stored at Service facilities throughout the United States. Until 1978, there was a patchwork of statutory authority providing for the disposition of forfeited property, usually requiring disposal under the excess and surplus property statutes administered by the General Services Administration (GSA). Property management regulations issued by GSA and the Department were the only rules regarding the methods of disposal. Because most of the property held by the Service was wildlife, almost all of the provisions of both the Federal Property Management Regulations (41 CFR Chapter 101) and Interior Property Management Regulations (41 CFR Chapter 114) were inappropriate for use by the Service. These provisions would have compelled the Service to transfer property to GSA for sale or to allocate property in excess of the Service's needs to other agencies in situations where such action may have been in conflict with existing Service policy.

The Service authority for disposal, however, was consolidated and broadened in 1978 with passage of the fish and Wildlife Improvement Act of 1978 (FWIA), which states, in relevant part:

> (c) *Disposal of Abandoned or Forfeited Property. Notwithstanding any other provisions of law, all* fish, wildlife, plants, or any other items abandoned or forfeited to the United States under any laws administered by the Secretary of the Interior or the Secretary of Commerce relating to fish, wildlife, or plants, shall be disposed of by either Secretary in such a manner as he deems appropriate (including, but not limited to, loan, gift, sale or destruction).

16 U.S.C. 742*l*(c) (emphasis added).

The FWIA provides the Service with the authority and flexibility to dispose of forfeited or abandoned property, which now totals at least several million dollars, without following any existing GSA procedures or being restricted by limitations found in the statute under which the property was seized.

On September 21, 1981 (46 FR 46605), the Service proposed a disposal procedure under authority of the FWIA to meet the needs addressed above. The proposed rule invited comments for 30 days ending October 2, 1981.

Summary and Analysis of Comments

The Service received 14 comments on the proposal. The following is a summary of the comments arranged by topic; a discussion of any issues raised under the topic; and the Service's response to those issues, including changes from the proposed rule, except corrections to typographical errors or minor technical or editorial changes.

Because the comments addressed only the disposal of wildlife and plants under the proposal, and not the disposal of other property, the discussion of the comments and the final rule is for the most part similarly restricted.

Definitions

One commenter requested that the Service include definitions of the terms "loan" and "donation." No definition of either term has been included in the final rule because the common meaning of each is intended. The two can be distinguished by the fact that a donation involves the transfer of title. The transfer document that the Service will use to make a loan or donation is explicit on a recipient's rights and responsibilities.

Disposal (generally)

The general impression of the commenters is that the Service has established a suitable procedure for disposing of wildlife and plants. This impression is reinforced by the specificity of the comments, which for the most part address specific issues raised by a particular disposal method, and not with general issues raised by the overall procedure.

One commenter queried, "What is available and where?" The Service currently is completing a final inventory of property subject to disposal. The property now is held at field offices throughout the country. From these locations the Service will initiate disposal. As a result, a new section has been added, § 12.39, which identifies the Service official to contact for additional information. The alternative would be to establish a central repository. However, such a plan may substantially increase the costs a recipient must bear. An item may be shipped from a field office to the central repository and back to a recipient near the field office when it might have been shipped directly from the field office. In the near future, each field office will have computer access to the inventories of other field offices, so that an inquiry made to one will not be restricted to the inventory on hand in that office. A central repository only would increase shipping costs without creating savings or improving service.

The order in which the disposal methods appear is the order the Service will follow generally in determining which method has priority. Return to the wild is the most favored; destruction the least favored. The other methods, for purposes of priority, are nearly interchangeable. The Service will attempt to avoid destroying items, but as the higher priority uses for an item are exhausted, of necessity, the Service will resort to destruction.

The final rule clarifies the period of time the Service must wait from the date of forfeiture or abandonment before disposal may begin. Live wildlife and plants and any other wildlife or plant that the Director determines is liable to perish, deteriorate, decay, waste, or greatly decrease in value by keeping, or that the expense of keeping is disproportionate to its value may be disposed of immediately. All other property must be held for 60 days before disposal. These are not time periods during which disposal must be completed, as one commenter erroneously assumed, but time periods which designate when disposal may begin. The actual disposal of an item may not be accomplished until a much later date.

Each of the methods of disposing of wildlife and plants is discussed in more detail below. One premise underlies these methods which is stated in § 12.32. The effect of any prior illegality on the subsequent use of wildlife or plants is terminated once they are forfeited or abandoned to the U.S. Prohibitions which rely upon a prior unlawful act, such as the Endangered Species Act's prohibition on the possession of unlawfully taken endangered species, would not apply. Therefore, for example, wildlife that was seized and forfeited or abandoned because it was unlawfully taken would not be subject to prohibitions based on that fact alone (i.e., unlawful taking) upon disposal. Simply, forfeiture or abandonment eliminates the taint of any prior illegality for the purpose of establishing a violation by the subsequent holder based on that prior illegality.

Upon disposal, however, prohibitions, restrictions, conditions, or requirements imposed by law which apply to a particular species of wildlife or plant remain in effect.

Therefore, for instance, upon disposal a recipient of a specimen listed as "Appendix II" in 50 CFR 23.23 under the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) which was unlawfully

taken and imported could lawfully possess the item, but must be able to satisfy the requirements of CITES to obtain any necessary documentation.

Return to the Wild (§ 12.34)

At the urging of one commenter, the Service has included a provision to restrict the release of live members of native species of wildlife and the transplantation of native species of plants to suitable habitat *within the historical range of the species.* (Emphasis added.) One of the legal authorities under which this section is promulgated is Executive Order 11987 (42 FR 26949) entitled "Exotic Organisms," which directs Executive agencies to restrict the introduction of exotic species into natural ecosystems of the U.S. As defined by the Executive Order an exotic species "means all species of plants and animals not naturally occurring, either presently or historically, in any ecosystem of the United States." The intent of E.O. 11987 is clear and a species' return to the wild in the U.S. should be limited to its historic range.

The same commenter also urged the Service to enlarge the scope of foreign countries in which an exotic species may be returned to the wild. The Service proposed to implement that portion of Article VIII 4(b) of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) which states that, "Where a living specimen is confiscated * * * the Management Authority (i.e., Service) shall, after consultation with the State of export, return the specimen to that State at the expense of that State * * *" That same article of the CITES also authorizes return to "such other place as the Management Authority deems appropriate." Therefore, a provision also has been included to allow return to a country within the historic range of the species which is party to the CITES after consultation with and at the expense of such country.

One commenter wanted the Service to obtain the permission of the appropriate State agency before releasing wildlife. The provision on releasing wildlife and transplanting plants in the U.S. has been changed so that each requires "the permission of the landowner." This limitation in many cases will result in the Service obtaining the approval of a State or Federal agency before a species is returned to the wild. Further, under 43 CFR 24.3 the Service must consult with the State and comply with State permit requirements in connection with programs involving the introduction of wildlife.

Use by the Service or Transfer to Another Agency for Official Use (§ 12.35)

This section has been slightly reworded to allow the Service to transfer items to another agency for the official use of that agency. A list of expected uses is included, that it is not intended to be exhaustive or to preclude an official use not listed.

Several commenters identified what they considered top priority uses within this section. The uses that are listed are not placed in any order and the Service believes it is inappropriate to do so. First, the priority would depend upon a number of variables, such as the species of wildlife or plant, whether it is alive or dead, whether it is a product or not, etc. Second, because of these variables the potential transferees are not likely to be competing for the same items.

Donation or Loan (§ 12.36)

By far the most detailed comments were received on this section. Most objected to restricting a loan or donation to "noncommercial" purposes. First, the Service failed to define the term and several commenters assumed that the recipient would have to qualify as a non-profit organization under Federal tax law. Many organizations which in the past have supported the Service's efforts to conserve wildlife and plants would not qualify. The Service does not want to discourage their efforts and seeks their continued support and cooperation. Second, the Department of Justice has been working on a Memorandum of Understanding (MOU) to be effective among the Departments of Justice, Interior, Agriculture, and Treasury, concerning the disposition of certain live wildlife illegally exported. One provision of the MOU would enable institutions accredited by the American Association of Zoological Parks and Aquariums (AAZPA) which care for seized wildlife to have the right to receive the wildlife upon forfeiture or abandonment. AAZPA members have been working with the Service for many years to provide care for sick or injured wildlife, frequently at considerable cost to themselves. The care of seized wildlife also is of great concern to the Service and competent, professional care must be assured. The MOU takes a large step in providing such assurance. To prevent any conflicts between the MOU and the disposal regulations, the term "noncommercial" has been deleted from the final rule.

One commenter felt that the procedure for donating or loaning items is susceptable to abuse by the recipients. The Service believes that the transfer document and the Service's rights under it significantly reduce the likelihood of abuse. Any abuse which may occur should be greatly offset by the benefit of making items generally available for scientific, educational, or public display purposes.

Any item may be donated or loaned for a proper purpose if the recipient can satisfy the requirements of law which may apply to the particular species of wildlife or plant. If the donee/borrower must obtain a permit to possess the item, an application for such a permit must be made when the loan or donation is sought. Contrary to the concerns of one commenter, the distinction between a donation and a loan was not made to restrict the availability of certain wildlife to loans only.

One commenter suggested that systematic zoologists employed by natural history museums, research institutes, universities, and other non-profit organizations be given the first opportunity to receive items from the Service. Other commenters looked at this section and the preceding one and identified other priority users or uses. For the reasons noted earlier, a number of variables affect which method will be used to dispose of a particular item making it inappropriate for the Service to establish rigid priorities. However, the applicant's purpose for requesting a loan or donation is a factor the Service will take into consideration in choosing among several applicants requesting the same item.

One commenter wanted the Service to include instructions on how to care for items provided to recipients. Where necessary such instructions can be included in the transfer documents, including the identification of experts if they are known. Such instructions would supplement the applicant's demonstration that adequate care and security for the item can be provided.

Sale (§ 12.37)

Several commenters objected either to the sale of wildlife or plants generally or to the sale of particular species, arguing that sales stimulate demand which increases the pressure on wild populations, resulting in a detrimental effect on the conservation of wildlife or plants. Other commenters recognized that sales generate proceeds which may be used to promote conservation efforts, resulting in a net beneficial effect on the Service's conservation programs. Some elements of each of these positions the Service believes are correct and they appear in the final rule.

In the Service's opinion, the balance has been reached which Congress sought when granting the Service disposal authority under the FWIA. The Service will sell only wildlife or plants which may be lawfully traded by private individuals in interstate commerce. Therefore, any demand for a particular item also may be met by existing lawful trade apart from sale by the Service. The Service will not be selling any species for which it would be the only source.

The Service is prohibiting disposal by sale of the following wildlife or plants: (1) Migratory birds, (2) bald or golden eagles, and (3) CITES Appendix I specimens. Sale of migratory birds and bald or golden eagles is prohibited because the Service believes that sale is inappropriate when possession and sale of these birds is highly regulated or prohibited by the Migratory Bird Treaty or Eagle Protection Acts in order to conserve them. Disposal of CITES Appendix I specimens was the subject of Resolution 3.14 entitled "Disposal of Confiscated or Accumulated Specimens of Appendix I Species" passed at the third meeting of the Conference of the Parties. That resolution recommended that Parties to the Convention dispose of Appendix I specimens without selling them. Other recommendations on the disposal of Appendix I specimens found in the resolution have generally been adopted in the final rule as well.

Two categories of wildlife would be disposed of by sale in very limited circumstances. One category is species of wildlife or plants listed as "endangered" or "threatened" in 50 CFR 17.11 under the ESA would only be sold if the species or part from the species may be lawfully traded in interstate commerce. This provision would allow the sale of those few species whose entire population is not listed as endangered or threatened and certain threatened species when the species may be sold lawfully in interstate commerce. It would also allow the sale of the parts from certain species, if those parts may be lawfully sold in interstate commerce. The second is wildlife protected by the Marine Mammal Protection Act. The Marine Mammal Protection Act Amendments of 1981 (Pub. L. 97–58, 95 Stat. 979) greatly restricted interstate sale of marine mammals. Again, the final rule allows sale only if the item or species may be lawfully traded in interstate commerce.

By limiting the categories of wildlife and plants subject to sale, the Service believes that no pressure will be placed on those species which would be harmed by the Service's entry into the market. For those species not harmed by trade, where forfeiture or abandonment was obtained only as a deterrent, and where demand may be satisfied lawfully in interstate commerce, the Service believes that sale is proper.

For clarity, the final rule states that the proceeds of sale must be used to either reimburse the Service for any costs which by law it is authorized to recover or pay any rewards which by law may be paid from sums the Service receives. Any excess must be deposited in the general fund of the U.S. Treasury. For instance, conservation laws enforced by the Service which incorporate provisions of customs laws relating to the seizure, forfeiture, and condemnation of property for violation of customs' laws, such as the Endangered Species Act, provide limited authority for reimbursement. The customs laws made applicable to the ESA specify the following rules for disbursing proceeds (19 U.S.C. 1613):

> The proceeds of sale shall be disposed of as follows:
>
> (1) For the payment of all proper expenses of the proceedings of forfeiture and sale, including expenses of seizure, maintaining the custody of the property, advertising and sale, and if condemned by a decree of a district court and a bond for such costs was not given, the costs as taxed by the court * * *
>
> (3) The residue shall be deposited with the Treasurer of the United States as a customs or navigation fine.

The Service expects sales initially to result in substantial reimbursement, allowing the Service to recycle funds into its enforcement program. Once the inventory of stockpiled items is exhausted, sales should be intermittent and the number of items offered should be relatively few.

The agency which will actually conduct the sales has not been determined. However, the Director has been given authority to sell immediately any wildlife or plant for its fair market value after determining that it is liable to perish, deteriorate, decay, waste, or greatly decrease in value by keeping, or that the expense of keeping it is disproportionate to its value. In instances when the Service has seized and immediately obtained forfeiture or abandonment of highly perishable items, such as fresh fish, any undue delay in selling them may cause a rapid decrease in their value. Procedures which will preserve perishables often are expensive and ineffective in preventing a substantial reduction in their market value. While resort to immediate sale should be infrequent, the Lacey Act Amendments of 1981, Pub. L. 97–79, (16 U.S.C. 3371–3378) have increased the penalties for violations involving fish and enforcement is likely to be more vigorous.

Destruction (§ 12.38)

The destruction if items which are not otherwise disposed of remains mandatory. However, no time period has been established during which disposal must be completed. As long as an item has the potential to be disposed of by another method, the Service will be reluctant to destroy the item. Even so, a partial list of items likely to be destroyed include the following: the carcasses of common migratory birds, stuffed iguanas from Mexico (where the iguana is a game species), tainted meat, spoiled fish, etc. The purpose of destruction is not to clear out the Service's storage facilities, but to eliminate storage costs for items which are not fit for any other method of disposal.

Determinations of Effects of the Rule

The Department of the Interior has determined that this is not a major rule under Executive Order 12291.

The Department has also determined that the rules will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act. These determinations are discussed in more detail in a Determinations of Effects which has been prepared by the Service. A copy of that document may be obtained by contacting the person identified above under the caption **"FOR FURTHER INFORMATION CONTACT."**

National Environmental Policy Act

The Service also solicited comments on the draft environmental assessment prepared in conjunction with the proposal. No comments were received. The final assessment is on file in the Service's Division of Law Enforcement, 1375 K Street, NW., Washington, D.C., and may be examined during regular business hours. This assessment forms the basis for the decision that this final rule is not a major Federal action which would significantly affect the quality of the human environment within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969.

List of Subjects in 50 CFR

Part 12

Administrative practice and procedure, Fish, Penalties, Plants (agriculture), Seizures and forfeitures, and Wildlife.

Part 22

Wildlife.

Regulation Promulgation

For the reasons set out in the preamble, Subchapter B, Chapter I of Title 50, Code of Federal Regulations is amended as follows:

PART 12—SEIZURE AND FORFEITURE PROCEDURES

1. The authority citation for Part 12 is revised to read as follows:

Authority: Act of September 6, 1966, 5 U.S.C. 301; Eagle Protection Act, 16 U.S.C. 668–668b; National Wildlife Refuge System Administration Act, 16 U.S.C. 668dd(f); Migratory Bird Treaty Act, 16 U.S.C. 704, 706–707, 712; Migratory Bird Hunting and Conservation Stamp Act, 16 U.S.C. 718f; Airborne Hunting Act, 16 U.S.C. 742j–1(d)–(f); Marine Mammal Protection Act, 16 U.S.C. 1375–1377, 1382; Endangered Species Act, 16 U.S.C. 1540; Lacey Act Amendments of 1981, 16 U.S.C. 3374–3375; Tariff Act of 1930, 19 U.S.C. 1602–1624; Fish and Wildlife Improvement Act of 1978, 16 U.S.C. 742*l*; Exotic Organisms, E.O. 11987, 42 FR 26949; American Indian Religious Freedom Act, 42 U.S.C. 1996.

2. The table of contents for Part 12 is amended by adding the following entry in sequence:

* * * * *

Subpart D—Disposal of Forfeited or Abandoned Property

Sec.

12.30 Purpose.
12.31 Accountability.
12.32 Effect of prior illegality.
12.33 Disposal.
12.34 Return to the wild.
12.35 Use by the service or transfer to another government agency for official use.
12.36 Donation or loan.
12.37 Sale.
12.38 Destruction.
12.39 Information on property available for disposal.

3. Amend § 12.3(a) by adding the following definition in alphabetical order:

§ 12.3 Definitions.

* * * * *

"Disposal includes, but is not limited to, remission, return to the wild, use by the Service or transfer to another government agency for official use, donation or loan, sale, or destruction.

4. A new Subpart D is added to read as follows:

Subpart D—Disposal of Forfeited or Abandoned Property

§ 12.30 Purpose.

Upon forfeiture or abandonment of any property to the United States under this part the Director shall dispose of such property under the provisions of this Subpart D.

§ 12.31 Accountability.

All property forfeited or abandoned under this part must be accounted for in official records. These records must include the following information:

(a) A description of the item.

(b) The date and place of the item's seizure (if any) and forfeiture or abandonment.

(c) The investigative case file number with which the item was associated.

(d) The name of any person known to have or to have had an interest in the item.

(e) The date, place, and manner of the item's initial disposal

(f) Name of the official responsible for the initial disposal.

(g) Domestic value of the property.

§ 12.32 Effect of prior illegality.

The effect of any prior illegality on a subsequent holder of any wildlife or plant disposed of or subject to disposal is terminated upon forfeiture or abandonment, but the prohibitions, restrictions, conditions, or requirements which apply to a particular species of wildlife or plant under the laws or regulations of the United States or any State, including any applicable conservation, health, quarantine, agricultural, or Customs laws or regulations remain in effect as to the conduct of such holder.

§ 12.33 Disposal.

(a) The Director shall dispose of any wildlife or plant forfeited or abandoned under the authority of this part, subject to the restrictions provided in this subpart, by one of the following means, unless the item is the subject of a petition for remission of forfeiture under § 12.24 of this part, or disposed of by court order:

(1) Return to the wild;

(2) Use by the Service or transfer to another government agency for official use;

(3) Donation or loan;

(4) Sale; or

(5) Destruction.

In the exercise of the diposal authority, the Director ordinarily must dispose of any wildlife or plant in the order in which the disposal methods appear in this paragrpah (a) of this section.

(b) The Director shall dispose of any other property forfeited or abandoned under the authority of this part (including vehicles, vessels, aircraft, cargo, guns, nets, traps, and other equipment), except wildlife or plants, in accordance with current Federal Property Management Regulations (41 CFR Chapter 101) and Interior Property Management Regulations (41 CFR Chapter 114), unless the item is the subject of a petition for remission of forfeiture under § 12.24 of this part, or disposed of by court order.

(c) The Director shall dispose of property according to the following schedule, unless the property is the subject of a petition for remission of forfeiture under § 12.24 of this part:

(1) Any live wildlife or plant and any wildlife or plant that the Director determines is liable to perish, deteriorate, decay, waste, or greatly decrease in value by keeping, or that the expense of keeping is disproportionate to its value may be disposed of immediately after forfeiture or abandonment; and

(2) All other property may be disposed of no sooner than 60 days after forfeiture or abandonment.

(d) If the property is the subject of a petition for remission of forfeiture under § 12.24 of this part, the Director may not dispose of the property until the Solicitor or Attorney General makes a final decision not to grant relief.

§ 12.34 Return to the wild.

(a) Any live member of a native species of wildlife which is capable of surviving may be released to the wild in suitable habitat within the historical range of the species in the United States with the permission of the landowner, unless release poses an imminent danger to public health or safety.

(b) Any live member of a native species of plant which is capable of surviving may be transplanted in suitable habitat on Federal or other protected lands within the historical range of the species in the United States with the permission of the landowner.

(c) Any live member of an exotic species of wildlife (including injurious wildlife) or plant may not be returned to the wild in the U.S., but may be returned to one of the following countries for return to suitable habitat in accordance with the provisions of § 12.35 of this part if it is capable of surviving:

(1) The country of export (if known) after consultation with and at the expense of the country of export, or

(2) A country within the historic range of the species which is party to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (TIAS 8249) after consultation with and at the expense of such country.

§ 12.35 Use by the Service or transfer to another government agency for official use.

(a) Wildlife and plants may be used by the Service or transferred to another government agency (including foreign agencies) for official use including, but not limited to, one or more of the following purposes:

(1) Training government officials to perform their official duties;

(2) Identifying protected wildlife or plants, including forensic identification or research;

(3) Educating the public concerning the conservation of wildlife or plants;

(4) Conducting law enforcement operations in performance of official duties;

(5) Enhancing the propagation or survival of a species or other scientific purposes;

(6) Presenting as evidence in a legal proceeding involving the wildlife or plant; or

(7) Returning to the wild in accordance with § 12.34 of this part.

(b) Each transfer and the terms of the transfer must be documented.

(c) The agency receiving the wildlife or plants may be required to bear all costs of care, storage, and transportation in connection with the transfer from the date of seizure to the date of delivery.

§ 12.36 Donation or loan.

(a) Except as otherwise provided in this section, wildlife and plants may be donated or loaned for scientific, educational, or public display purposes to any person who demonstrates the ability to provide adequate care and security for the item.

(b) Any donation or loan may be made only after execution of a transfer document between the Director and the donee/borrower, which is subject to the following conditions:

(1) The purpose for which the wildlife or plants are to be used must be stated on the transfer document;

(2) Any attempt by the donee/borrower to use the donation or loan for any other purpose except that stated on the transfer document entitles the Director to immediate repossession of the wildlife or plants;

(3) The donee/borrower must pay all costs associated with the transfer, including the costs of care, storage, transportation, and return to the Service (if applicable);

(4) The donee/borrower may be required to account periodically for the donation or loan;

(5) The donee/borrower is not relieved from the prohibitions, restrictions, conditions, or requirements which may apply to a particular species of wildlife or plant imposed by the laws or regulations of the United States or any State, including any applicable health, quarantine, agricultural, or Customs laws or regulations.

(6) Any attempt by a donee to retransfer the donation during the time period specified in the transfer document within which the donee may not retransfer the donation without the prior authorization of the Director entitles the Director to immediate repossession of the wildlife or plants;

(7) Any attempt by a borrower to retransfer the loan without the prior authorization of the Director entitles the Director to immediate repossession of the wildlife or plants;

(8) Subject to applicable limitations of law, duly authorized Service officers at all reasonable times shall, upon notice, be afforded access to the place where the donation or loan is kept and an opportunity to inspect it;

(9) Any donation is subject to conditions specified in the transfer document, the violation of which causes the property to revert to the United States;

(10) Any loan is for an indefinite period of time unless a date on which the loan must be returned to the Service is stated on the transfer document; and

(11) Any loan remains the property of the United States, and the Director may demand its return at any time.

(c) Wildlife and plants may be donated to individual American Indians for the practice of traditional American Indian religions. Any donation of the parts of bald or golden eagles to American Indians may only be made to individuals authorized by permit issued in accordance with § 22.22 of this title to possess such items.

(d) Edible wildlife, fit for human consumption, may be donated to a non-profit, tax-exempt charitable organization for use as food, but not for barter or sale.

(e) Wildlife and plants may be loaned to government agencies (including foreign agencies) for official use. Each transfer and the terms of the transfer must be documented.

§ 12.37 Sale.

(a) Wildlife and plants may be sold or offered for sale, except any species which at the time it is to be sold or offered for sale falls into one of the following categories:

(1) Listed in § 10.13 of this title as a migratory bird protected by the Migratory Bird Treaty Act (16 U.S.C. 703–712);

(2) Protected under the Eagle Protection Act (16 U.S.C. 668–668d);

(3) Listed in § 23.33 of this title as "Appendix I" under the Convention on International Trade in Endangered Species of Wild Fauna and Flora;

(4) Listed in § 17.11 of this title as "endangered" or "threatened" under the Endangered Species Act of 1973 (16 U.S.C. 1533), unless the item or species may be lawfully traded in interstate commerce; and

(5) Protected under the Marine Mammal Protection Act (16 U.S.C. 1361–1407), unless the item or species may be lawfully traded in interstate commerce.

(b) Wildlife and plants must be sold in accordance with current Federal Property Management Regulations (41 CFR Chapter 101) and Interior Property Management Regulations (41 CFR Chapter 114) or U.S. Customs laws and regulations, except the Director may sell any wildlife or plant immediately for its fair market value if the Director determines that it is liable to perish, deteriorate, decay, waste, or greatly decrease in value by keeping, or that the expense of keeping it is disproportionate to its value.

(c) Wildlife or plants which may not be possessed lawfully by purchasers under the laws of the State where held may be moved to a State where possession is lawful and may be sold.

(d) Wildlife or plants purchased at sale are subject to the prohibitions, restrictions, conditions, or requirements which apply to a particular species of wildlife or plant imposed by the laws or regulations of the United States or any State, including any applicable conservation, health, quarantine, agricultural, or Customs laws or regulations, except as provided by § 12.32 of this part.

(e) The Director may use the proceeds of sale to reimburse the Service for any costs which by law the Service is authorized to recover or to pay any rewards which by law may be paid from sums the Service receives.

§ 12.38 Destruction.

(a) Wildlife and plants not otherwise disposed of must be destroyed.

(b) When destroyed, the fact, manner, and date of destruction and the type and quantity destroyed must be certified by the official actually destroying the items.

§ 12.39 Information on property available for disposal.

Persons interested in obtaining information on property which is available for disposal should contact the appropriate Special Agent in Charge listed in § 10.22 of this title.

PART 22—EAGLE PERMITS

5. The authority citation for Part 22 is revised to read as follows:

Authority: Eagle Protection Act, sec. 2, 54 Stat. 251, as amended by 76 Stat. 1246, 86 Stat. 1065, and 92 Stat. 3114 (16 U.S.C. 668a).

§ 22.13 [Reserved]

6. Remove and reserve § 22.13.

Dated: March 24, 1982.

P. Craig Potter,

Deputy Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 82-11167 Filed 4-22-82; 8:45 am]

BILLING CODE 4310-55-M

Proposed Rules

Federal Register
Vol. 47, No. 79
Friday, April 23, 1982

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

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 351

Reduction in Force

AGENCY: Office of Personnel Management.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Office of Personnel Management is initiating a study of the reduction-in-force (RIF) procedures and their effects with a view toward making regulatory changes where needed. This advance notice invites written comments from all interested parties.

DATE: Written comments must be received on or before May 21, 1982.

ADDRESS: Send or deliver written comments to Richard B. Post, Associate Director, Staffing Group, Office of Personnel Management, Room 6F08, 1900 E Street, NW., Washington, D.C. 20415.

FOR FURTHER INFORMATION CONTACT: Morton I. Horvitz, (202) 632–6817.

SUPPLEMENTARY INFORMATION: Recent agency experience with RIF has raised concerns over RIF procedures and results. These concerns have been voiced by agency management, employees, unions, Congress, and other interested groups.

This notice is to invite recommendations for change from all interested parties. Among areas to be reviewed are competitive levels, tenure groups, bump and retreat, and weight of performance appraisals. However, comments are invited on all aspects of Part 351 and related regulations and Federal Personnel Manual instructions. Information gained during this study will be used to develop proposals for regulatory changes. Such proposals will be issued for public comment in the **Federal Register.**

List of Subjects in 5 CFR Part 351

Administrative practice and procedure, Government employees.

Office of Personnel Management.

Donald J. Devine,

Director.

[FR Doc. 82–11174 Filed 4–22–82; 8:45 am]

BILLING CODE 6325–01–M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 953

Irish Potatoes Grown in the Southeastern States; Proposed Handling Regulation

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed continuing rule.

SUMMARY: This proposed continuing rule would require fresh market shipments of potatoes grown in designated counties of Virginia and North Carolina to be inspected and meet minimum grade and size requirements. The regulation should promote orderly marketing of such potatoes and keep less desirable qualities and sizes from being shipped to consumers.

DATES: Comments due May 10, 1982.

ADDRESSES: Comments should be sent to: Hearing Clerk, Room 1077–S, U.S. Department of Agriculture, Washington, D.C. 20250. Two copies of all written comments shall be submitted, and they will be made available for public inspection at the office of the Hearing Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Charles W. Porter, Chief, Vegetable Branch, F&V, AMS, USDA, Washington, D.C. 20250; (202) 477–2615. The Draft Impact Analysis relating to this proposed rule is available upon request from Mr. Porter.

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

Information collection requirements contained in this regulation (7 CFR Part 953) 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 #0581–0084.

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

Marketing Agreement No. 104 and Order No. 953, both as amended, regulate the handling of potatoes grown in designated counties of Virginia and North Carolina. This program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The Southeastern Potato Committee, established under the order, is responsible for its local administration.

This proposed continuing regulation is based upon recommendations made by the committee at its public meeting in Norfolk, Virginia, on April 1, 1982.

The proposed grade and size requirements are the same as those which have been issued during past seasons. They are necessary to prevent potatoes of poor quality or undesirable sizes from being distributed to fresh market outlets. The proposal would benefit consumers and producers by standardizing and improving the qualtiy of the potatoes shipped from the production area.

Again the minimum quantity exemption is proposed to be five hundred-weight. This should relieve the burden on handling noncommercial quantities of potatoes and allow direct marketing outlets to operate in greater freedom.

Exceptions are proposed to certain of these requirements to recognize special situations in which such requirements would be inappropriate or unreasonable.

Shipments would be allowed to certain special purpose outlets without regard to the grade, size, and inspection requirements, provided that safeguards were met to prevent such potatoes from reaching unauthorized outlets. Shipments for use as livestock feed would be so exempt because requirements for this outlet differ greatly from those for fresh market. Since no purpose would be served by regulating potatoes used for charity purposes, such shipments also would be exempt. Also, potatoes for most processing used are exempt under the legislative authority for this part.

These standardization and marketing efficiency types of regulation would have no measurable effect on the quantity of potatoes shipped from Virginia and North Carolina, nor will there be discernable effect on U.S. retail potato prices. This regulation should enable the Southeastern potato industry to better compete with other potato producing areas in the U.S., by ensuring the use of grades and sizes acceptable to buyers.

It is proposed that requirements contained in this proposed handling regulation, effective June 5, 1982, would continue in effect from marketing season to marketing season indefinitely unless modified, suspended, or terminated by the Secretary upon recommendation and information submitted by the committee or other information available to the Secretary. Interested persons are invited to comment through May 10, 1982, with regard to the proposed handling regulation. Heretofore, regulations issued under the marketing order were made effective for a single marketing season. However, the same requirements have been imposed each season since 1969. The proposed change to issue regulations which would continue in effect from marketing season to marketing season reflects the fact that regulations would probably continue to change infrequently from season to season and it is believed unnecessary to issue them for only a single season. In addition, the proposed change could result in a reduction in operational costs to the committee and the government. Although the final regulation would be effective for an indefinite period, the committee would continue to meet prior to or during each season to consider recommendations for modification, suspension, or termination of the regulation. Prior to making any such recommendations, the committee would submit to the Secretary a marketing policy for the season in accordance with § 953.40 of the order, including an analysis of supply and demand factors having a bearing on the marketing of the crop. Committee meetings are open to the public and interested persons may express their views at these meetings or may file comments with the Hearing Clerk until May 20 each year. The Department will evaluate committee recommendations and information submitted by the committee, comments filed, and other available information, and determine whether modification, suspension, or termination of the regulations on shipments of Southeastern potatoes would tend to effectuate the declared policy of the act.

List of Subjects in 7 CFR Part 953

Marketing agreements and orders, potatoes, Virginia, North Carolina.

PART 953—IRISH POTATOES GROWN IN SOUTHEASTERN STATES

§ 953.321 [Removed]

It is proposed that § 953.321 (46 FR 29453, June 2, 1981, and 46 FR 30487, June 9, 1981) be removed and a new § 953.322 be added as follows:

§ 953.322 Handling regulation.

During the period beginning June 5 and ending July 31 each season no person shall ship any lot of potatoes produced in the production area unless such potatoes meet the requirements of paragraphs (a) and (b) of this section or unless such potatoes are handled in accordance with paragraphs (c) and (d) or (e) of this section.

(a) *Minimum grade and size requirements.* All varieties U.S. No. 2, or better grade, 1½ inches (38.1 mm) mimimum diameter.

(b) *Inspection.* Except as provided in paragraphs (c) and (e), no handler shall ship any potatoes unless an appropriate inspection certificate covering them has been issued by the Federal-State Inspection Service and the certificate is valid at the time of shipment.

(c) *Special purpose shipments.* The grade, size, and inspection requirements set forth in paragraphs (a) and (b) of this section shall not apply to potatoes shipped for canning, freezing, "other processing" as hereinafter defined, livestock feed or charity, except that the handler of them shall comply with the safeguard requirements of paragraph (d) of this section.

(d) *Safeguards.* Each handler making shipments of potatoes for canning, freezing, "other processing," livestock feed, or charity in accordance with paragraph (c) of this section shall:

(1) Notify the committee of the handler's intent to ship potatoes pursuant to paragraph (c) of this section by applying on forms furnished by the committee for a Certificate of Privilege applicable to such special purpose shipments;

(2) Obtain an approved Certificate of Privilege;

(3) Prepare on forms furnished by the committee a special purpose shipment report for each such individual shipment; and

(4) Forward copies of such special purpose shipment report to the committee office and to the receiver with instructions to sign and return a copy to the committee's office. Failure of the handler or receiver to report such shipments by promptly signing and returning the applicable special purpose shipment report to the committee office shall be cause for suspension of such handler's Certificate of Privilege applicable to such special purpose shipments.

(e) *Minimum quantity exemption.* Each handler may ship up to, but not to exceed, five hundredweight of potatoes any day without regard to the inspection and assessment requirements of this part, but this exception shall not apply to any portion of a shipment that exceeds five hundredweight of potatoes.

(f) *Definitions.* The term "U.S. No. 2" shall have the same meaning as when used in the U.S. Standards for Grades of Potatoes as amended (7 CFR 2851.1540–2851.1566), including the tolerances set forth in it. The term "other processing" has the same meaning as the term appearing in the act and includes, but is not restricted to, potatoes for dehydration, chips, shoestrings, starch, and flour. It includes only that preparation of potatoes for market which involves the application of heat or cold to such an extent that the natural form or stability of the commodity undergoes a substantial change. The act of peeling, cooling, slicing, dicing, or applying material to prevent oxidation does not constitute "other processing." All other terms used in this section shall have the same meaning as when used in Marketing Agreement No. 104 and this part, both as amended.

(g) *Applicability to imports.* Pursuant to section 8e of the act and § 980.1 "Import regulations" (7 CFR 980.1), Irish potatoes of the round white type imported during the effective period of this section shall meet the grade, size, quality, and maturity requirements specified in paragraph (a) of this section.

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

Dated: April 19, 1982.

D. S. Kuryloski,

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

[FR Doc. 82-11166 Filed 4-22-82; 8:45 am]

BILLING CODE 3410-02-M

7 CFR Parts 1004, 1006, 1007, 1011, 1012, and 1046

[Docket Nos. AO–366–A19 et al.]

Milk in the Georgia and Certain Other Marketing Areas; Emergency Decision on Proposed Amendments to Marketing Agreements and Orders

	Marketing area	AO Nos.
7 CFR Part:		
1007	Georgia	AO–366–A19
1004	Middle Atlantic	AO–160–A58
1006	Upper Florida	AO–356–A19
1011	Tennessee Valley	AO–251–A24
1012	Tampa bay	AO–347–A22
1046	Louisville-Lexington-Evansville.	AO–123–A49
1094	New Orleans-Mississippi	AO–103–A42
1096	Greater Louisiana	AO–257–A30
1098	Nashville, Tenn	AO–184–A44

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This decision adopts on an emergency basis proposed amendments to the Georiga, Middle Atlantic, Upper Flordia, Tennessee Valley, Tampa Bay, and Louisville-Lexington-Evansville orders. The order changes would provide handlers with limited transportation credits from the marketwide pool for certain Class II and Class III milk transferred or diverted to unusually distant outlets for surplus disposal. The changes, which would apply only through June 30, 1982, were considered at a public hearing held on March 16–17, 1982, in East Point, Georgia. The order changes were requested by cooperative associations that represent dairy farmers who supply milk to the nine markets.

The adopted order changes are necessary to reflect current marketing conditions and to insure that all producers in the affected markets share more equitably in the costs of disposing of unusually large supplies of surplus milk that are expected this spring. Marketing conditions are such that prompt amendatory action is required. For this reason, a recommended decision and the opportunity to file exceptions thereto have been omitted. The adopted amendments for each order must be approved by at least two-thirds of the producers in the respective markets before they can become effective.

Proposals to provide similar credits in the New Orleans-Mississippi, Greater Louisiana and Nashville, Tennessee, orders are denied. The marketing problems that warrant order changes in the other six markets under consideration were found not to exist in these three areas.

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

SUPPLEMENTARY INFORMATION: This administrative action is governed by the provisions of sections 556 and 557 of Title 5 of the United States Code and, therefore, is excluded from the requirements of Executive Order 12291.

This action will not have a significant economic impact on a substantial number of small entities. The amendments will promote orderly marketing of milk by producers and regulated handlers.

Prior document in this proceeding:

Notice of Hearing: Issued March 4, 1982; published March 10, 1982 (47 FR 10230).

Preliminary Statement

A public hearing was held upon proposed amendments to the marketing agreements and the orders regulating the handling of milk in the aforesaid marketing areas. The hearing was held, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice (7 CFR Part 900), at East Point, Georgia, on March 16–17, 1982. Notice of such hearing was issued on March 4, 1982, and published on March 10, 1982 (47 FR 10230).

Interested parties were given until March 24, 1982, to file post-hearing briefs on the proposals as published in the notice of hearing and on whether these proposals should be considered on an expedited basis.

The material issues on the record of the hearing relate to:

1. Whether nine orders should be amended to provide handlers with a transportation credit from the marketwide pool on certain shipments of surplus milk during April, May, and June 1982.

2. Whether emergency marketing conditions in the nine regulated areas warrant the omission of a recommended decision and the opportunity to file written exceptions thereto.

Findings and Conclusions

The following findings and conclusions on the material issues are based on evidence presented at the hearing and the record thereof:

1. *Transportation credits on surplus milk shipments.* The Middle Atlantic, Tampa Bay, Upper Florida, Georgia, Tennessee Valley, and Louisville-Lexington-Evansville orders should be amended to provide handlers with limited transportation credits from the pool on movements of milk to distant manufacturing plants. The credits should be made available as soon as possible and should continue through June 1982. The New Orleans-Mississippi, Greater Louisiana, and Nashville, Tennessee, orders should not be amended. Such credits are not now provided in any of the orders.

Dairymen, Inc. (DI), a dairy farmer cooperative association, proposed amendments to the Middle Atlantic, Georgia, Tennessee Valley, Louisville-Lexington-Evansville, New Orleans-Mississippi, Greater Louisiana, and Nashville orders. The cooperative represents producers whose milk is pooled under each of these orders.

The proposals would provide a transportation credit of 3.6 cents per hundredweight per 10 miles to handlers for Class II and Class III milk moved to nonpool plants outside a specified surplus disposition area for each market. The credit would be deducted from the value of milk in the monthly marketwide pool, which would result in a reduction in the returns to be distributed to those producers whose milk participates in the pool. The proposed credits would be applicable only for the months of April, May and June 1982.

The proposals would specify for each order an area within which movements of milk to nonpool plants for Class II or Class III uses would not be eligible for a transportation credit. Thus, the credit would apply only to that portion of the hauling that is involved in moving milk from the border of the no-credit area to the nonpool plant. These limitations on credits would vary from order to order.

As proposed for the Middle Atlantic order, transportation credits would apply only on surplus milk moved to nonpool plants located more than 180 miles from Philadelphia, and also more than 200 miles from the nearer of Washington, D.C., or Baltimore, Maryland.

For each of the other orders included in the proposal, credits would apply only on surplus dispositions to nonpool plants located outside a specified area and more than a specified distance from the pool plant from which the milk was transferred. For diverted milk, the distance limitation would apply from the location of the pool plant where the diverted milk was last received. The area-distance combinations proposed for each order are as follows:

Georgia—Outside the States of Alabama, Georgia, Tennessee and South Carolina and more than 225 miles.

Tennessee Valley—Outside the State of Tennessee and more than 125 miles.

Louisville-Lexington-Evansville—Outside the State of Kentucky and the Indiana counties included in the

marketing area of the order and more than 100 miles.

New Orleans-Mississippi—Outside the marketing area and more than 150 miles.

Greater Louisiana—Outside the States of Louisiana and Mississippi and more than 150 miles.

Nashville—Outside the State of Tennessee and more than 100 miles.

At the hearing, DI modified its proposals contained in the hearing notice to specify that the distance limitation for diverted milk be measured from the pool plant where the milk was last received, or from the county courthouse in the county where the largest portion of the diverted load of milk was produced, whichever was nearer to the nonpool plant where the milk was received for surplus use. Also, DI requested in its post-hearing brief that milk eligible for the proposed transportation credit in a particular market be limited to the milk of dairy farmers who were "producers" on that market during at least one of the preceding months of September through December 1981.

Two dairy farmer cooperatives in Florida—Upper Florida Milk Producers Association and Tampa Independent Dairy Farmers Association, Inc.—proposed similar amendments for the Upper Florida and Tampa Bay orders. Under their proposals, the transportation credits would apply only to shipments to nonpool plants located outside the States of Florida, Louisiana, Mississippi, North Carolina, South Carolina, Alabama, Georgia, Tennessee, and Kentucky. No credit would be applicable for the first 225 miles the milk was shipped.

A spokesman for DI testified that its proposed credits would help ensure that all producers supplying a market would share in the cost of handling unusually large surplus milk supplies this spring. According to the witness, increasing milk production and declining sales of Class I milk in the Southeast will result in more milk having to be moved to distant manufacturing outlets during April, May and June of this year. He stated that the hauling problem is also due in part to the closing of several manufacturing plants over the last several years, which has reduced the capacity to handle surplus milk in the Southeast. DI also held that increased production and reduced fluid milk sales also have produced a serious surplus milk handling problem in the Middle Atlantic market.

In DI's view, the increase in production is due to a general increase in milk output as dairy farmers attempt to maintain their cash flow during a time of economic difficulties. The cooperative's spokesman said he believed that production is up because suitable alternatives to dairy farming are not available under current economic conditions, and that dairy farmers are doing well relative to those engaged in other agricultural enterprises. Thus, he maintained, increased production results not because any particular group of farmers has decided to produce more milk, but rather because almost all dairy farmers are producing more milk.

DI's spokesman introduced an exhibit showing annual milk production for selected states in 1980 and 1981, as well as monthly production data for January 1981 and 1982, and showing the percentage change from the same period a year earlier. The states included are Alabama, Florida, Georgia, Kentucky, Louisiana, Maryland, Mississippi, Pennsylvania, Tennessee, and Virginia. He noted that for the 10-state area total milk production in 1981 was up 3.2 percent from 1980, although output was lower in 1981 in Alabama and Louisiana. In January 1982, combined milk output was up 2.1 percent from a year earlier. Although data for February were not included in the exhibit, the witness stated that February 1982 production in the 10-state area was 2.5 percent above a year earlier. He explained that these 10 states make up the primary supply area for the orders under consideration in this proceeding. He also noted that milk production is up in North Carolina and South Carolina, which also supply some milk for these regulated areas.

DI's spokesman also introduced an exhibit showing total producer milk receipts and producer milk allocated to Class I and Class III (Class II in the Middle Atlantic order) in December 1980 and 1981 for the seven orders that DI proposed to amend. He noted that these data show that producer milk receipts were up 3.2 percent in December 1981 over a year earlier. He indicated that although producer milk assigned to Class I in the seven markets was up 2.1 percent, Class III producer milk was up 4.2 percent from December 1980. He pointed out that this increase in Class I sales was attributable solely to the Georgia order, which he believed was due to the recent pooling of a large, new plant at Murfreesboro, Tennessee, under the Georgia order. Producer milk assigned to Class I uses was below December 1980 in the other six markets. He also introduced similar data for April 1980 and 1981 for the same purpose, i.e., to demonstrate that production was up and sales were down.

The DI witness stated that in the spring months of 1981 the cooperative had moved some milk to unusually distant outlets for surplus disposal. He indicated that the cooperative did not believe at that time that the problem would recur in 1982 because of expectations that the general trend of production increases would peak during the 1981 fall months and then flatten out somewhat at about year earlier levels, and that a reversal of the decline in Class I sales would occur. The witness claimed that although these expectations did not materialize, it was not until after data reflecting the disposition of surplus milk during the 1981 Christmas holidays had been collected that the cooperative concluded there would be an unusually large volume of surplus milk to dispose of during April, May and June 1982. He stated that the cooperative then decided that it should propose changes in the seven orders.

DI contended that absent the proposed changes some handlers (primarily DI) would carry the full burden of disposing of the larger than normal milk supplies in the seven markets this spring. The cooperative's witness stated that DI is a major supplier of milk to fluid milk plants in six of the seven markets (all but Middle Atlantic) and is responsible for handling more than its share of these markets' surplus milk dispositions. He noted that DI balances the daily, weekly, and seasonal fluid milk needs of many plants that receive a portion of their supplies from independent producers. He stated that such plants generally rely on the cooperative to dispose of any surplus milk associated with their operations. He also indicated that some plants call on the cooperative only for "spot" loads of milk when they need it in addition to their regular supplies.

DI maintained that a substantial amount of the extra milk supplies that will need to be handled this year will have to move to outlets that are much more distant from the markets than those that usually can accommodate the markets' surplus dispositions. These would include outlets in Ohio, Indiana, Illinois, Iowa, New York, Minnesota, and Wisconsin. The cooperative's witness noted that during the week ending January 1, 1982, DI had moved milk to several of these states because there was not adequate manufacturing capacity in the Southeast to handle the additional milk. He estimated that DI would have to handle 11 million pounds more surplus milk in April 1982 than in April 1981 and 35.7 million pounds more in May, based on his estimate of the extent to which April production

normally increases from the previous December.

The cooperative proposed the transportation credits to help offset some of the costs DI expects to incur in moving these excess supplies to distant outlets to clear the markets. The cooperative's spokesman presented data showing that during December 1981 DI paid an average of 3.73 cents per hundredweight per 10 loaded miles to contract haulers to move 426 loads of milk. He further stated that DI's cost to haul comparable loads of milk similar distances in the cooperative's own equipment currently is 3.58 cents per hundredweight per 10 loaded miles. Based on these data, the spokesman claimed that 3.6 cents per hundredweight per 10 loaded miles is a reasonable reflection of the actual costs incurred to haul milk to distant plants and thus would be an appropriate rate for the proposed credit.

The DI spokesman identified the manufacturing plants and their locations that normally are used as outlets for surplus milk by fully regulated handlers in each of the seven markets. He also presented estimates of the capacities of each such plant available for manufacturing surplus Grade A milk, noting that some of the plants have regular supplies of non-Grade A milk. The locations of these plants provided the basis for the proposed provisions that would allow handlers a pool credit for transportation of milk to manufacturing plants more distant than those indicated as the normal outlets.

To summarize, DI contends that because of a widespread imbalance between the supply and demand for milk, the orders should be amended so that all producers in each market will share equitably in the costs of disposing of the unusually large surplus milk supplies that will be associated with these markets this April, May and June. The credits would be available to any handler that incurred such costs. The cooperative also contends that, because of the unusual supply-demand situation, the current marketwide pooling arrangement is unable to provide such equity during this 3-month period. DI also held that the problem is regional and that the proposals must be adopted for each of the seven orders. DI claimed that otherwise inequities will occur which could lead to disorderly marketing conditions. It is the cooperative's view that the proposed credits will provide an orderly process for handling the surplus milk, thus providing orderly marketing conditions that would benefit all producers. DI urged the Secretary to adopt the proposals on an emergency basis in order that they could be made applicable to surplus milk handled during the three months.

A representative of Upper Florida Milk Producers Association testified on behalf of the two cooperatives proposing amendments to the Upper Florida and Tampa Bay orders. He indicated that he also was speaking for Independent Dairy Farmers Association, which supports adoption of the proposed amendments, but was not one of the proponents. The witness stated that the three cooperatives furnish a majority of the producer milk for both orders.

In support of the proposals to amend the two Florida orders, the proponents' witness indicated that Florida had recently experienced large production increases. He pointed out that for the two orders combined (to eliminate the effects of plants shifting from one order to the other) producer milk receipts in January 1982 were up 11 percent from a year earlier, and for February 1982 were up 10 percent. Further, the witness indicated that Class I sales had remained essentially flat, and, thus, the problem of surplus milk was due mainly to increased production. We also pointed out that Florida does not have any manufacturing plants, although some plants there do produce cottage cheese and ice cream, a relatively limited outlet for surplus milk.

The cooperatives' spokesman introduced data showing transfers and/or diversions of Class II milk (the Florida orders provide for only two classes) by the state of destination for milk moved off the two Florida markets by the cooperatives. He noted that ordinarily the cooperatives would move milk first to outlets in Florida, then to outlets elsewhere in the Southeast, and finally, as a last resort, to plants outside the Southeast. The witness pointed out, for example, that in January 1982 milk was moved from the Tampa Bay market to plants in Minnesota and Wisconsin for surplus disposal. He further stated that the cooperatives expect to move a considerable amount of milk outside the Southeast during April, May and June of this year.

The cooperatives' witness supported the credit rate of 3.6 cents per hundredweight per 10 miles proposed by DI. He noted that on milk imported into Florida from Wisconsin in the fall months of 1981, the average cost was about $1.65 per loaded mile, which he indicated was comparable to DI's proposed rate. He urged the Secretary to adopt the cooperatives' proposals on an expedited basis so that the cooperatives he represented could receive the transportation credit on long-distance hauls to dispose of surplus milk during April, May and June.

A representative of Pennmarva Dairymen's Federation, Inc., presented two statements with respect to the proposed amendment of the Middle Atlantic order. The Federation's membership is comprised of five producer cooperatives, including the Middle Atlantic Division of Dairymen, Inc.

The first statement was presented on behalf of the entire Federation and also the Valley of Virginia Cooperative Milk Producers Association, which together market over 85 percent of the milk pooled under the Middle Atlantic order. The spokesman indicated that these cooperatives agree that the marketing conditions throughout the Southeast as described by DI are quite similar to the problems being experienced by the various cooperatives in the Middle Atlantic market. Because of this, the group proposed at the hearing that the Middle Atlantic order be amended on an emergency basis and that the changes apply for the months of April, May and June 1982. The spokesman stated, however, that the other cooperatives in the group differed with DI on the changes that should be made and were proposing that the Middle Atlantic order be amended by eliminating the location differentials applicable to base milk diverted for Class II use to nonpool plants more than 180 miles from Philadelphia, Pennsylvania, or more than 200 miles from Washington, D.C., or Baltimore, Maryland.

The spokesman for the cooperatives testified that milk now being moved to plants more distant than the 180 or 200 miles proposed is first delivered to pool plants, reloaded, and then moved to the nonpool plants by transfer. He indicated that while the milk could be diverted, with less hauling involved, this practice is not followed by Interstate Milk Producers' Cooperative or the Middle Atlantic Division of Dairymen, Inc., in order to avoid the reduction in the base price to members that results from application of location adjustments to diverted milk. He stated that this process has resulted in uneconomic movements of milk that could more efficiently be diverted directly from farms to the nonpool plants.

The spokesman further indicated that a temporary elimination of location adjustments on base milk would allow cooperatives to recoup the expense of disposing of surplus milk this spring without reducing the price of base milk to other producers on the market who will not have to haul their milk

unusually long distances for surplus disposal. He also maintained that adoption of Pennmarva's proposal would reduce the number of tank trucks to be reloaded at pool plants, which would allow more efficient receiving operations for milk that would be processed at such pool plants.

The second statement was presented on behalf of the same group of cooperatives except the Middle Atlantic Division of DI, which together market about 70 percent of the market's milk. In this statement, the witness for these cooperatives noted that certain evidence contained in the record indicated that DI's proposal would have reduced the base milk prices from 3 cents to 6 cents per hundredweight if it had been in effect during April, May and June 1981. He went on to say that several of the cooperatives have made substantial investments to expend their individual facilities or have made arrangements to handle additional volumes of milk this year compared with previous years. These associations, he stated, therefore believe that the additional burden of handling excess milk should not be shared by all of the market's producers by the system that would be provided if DI's proposal is adopted.

During cross-examination, Pennmarva's witness expressed his opinion that it would be necessary this spring to move some milk for surplus disposal to outlets more distant than the normal surplus outlets for the Middle Atlantic market. He estimated that compared to last year about 20 million additional pounds of milk per month would have to be handled on the Middle Atlantic market this year. Also, he acknowledged that the location adjustment rate of 1.5 cents per hundrdweight per 10 miles (which would apply under Pennmarva's proposal) would not equal the cost of hauling milk to distant outlets. Moreover, he expressed the view that it would be preferable that any credit adopted as a result of this hearing be applicable just to "excess" milk as defined in the order's base and excess plan for paying producers. Further questioning of the Pennmarva witness revealed that he believed the distances specified in DI's proposal reasonably defines the area where milk normally moves to nonpool plants for surplus disposition from the Middle Atlantic market.

A witness for Gulf Dairy Association, a cooperative that represents producers supplying milk to the New Orleans-Mississippi and Greater Louisiana markets, testified concerning the DI proposal to amend the New Orleans-Mississippi order. He stated that Gulf Dairy Association, which represents about 30 percent of the milk pooled under the New Orleans-Mississippi order, supports the concept that all producers should share in the movement or excess milk that is an uncommon burden to the market. The witness expressed concern, however, that local producers could possibly find their milk being displaced at local manufacturing plants by surplus milk associated with other Federal order markets.

The cooperative's spokesman also claimed that an emergency situation does not exist with respect to the handling of surplus milk associated with the New Orleans-Mississippi market. He indicated that although Class I sales in the market were down and that his association's Class I sales to pool plants had declined, production in January had been about the same as a year earlier for member producers. In his view, the production pattern of the cooperative's members was representative of the general production pattern for the entire market. Moreover, he indicated that Gulf Dairy Association did not expect to move any milk unusual distances this spring since the association operates a manufacturing plant of sufficient capacity to handle members' milk that will not be needed for fluid uses at pool plants.

One cooperative association not already mentioned and three proprietary handlers opposed the adoption of DI's proposals to amend the orders. A spokesman for Mayfield Dairy Farms, Inc., which operates a plant fully regulated under the Tennessee Valley order, stated that the handler was opposed to granting any transportation credits as long as the plant is paying service charges and/or premiums for milk. The witness indicated that the plant receives about 50 percent of its milk from independent producers and the balance is supplied by DI. He indicated that an over-order charge of 97 cents per hundredweight was paid on all milk in February 1982, and that this included a charge of about 53 cents per hundredweight on Class II milk. He pointed out that the handler had discontinued operating facilities to condense milk for use in ice cream, partly because it could not get milk for that operation from DI at order prices. The witness contended that if the plant could get milk over the long run at minimum order prices, it could operate a condensing unit and thus handle more of the market's surplus milk.

Kinnett Dairies, which operates a plant pooled under the Georgia order, opposed any change to that order. The handler's spokesman listed several reasons for their opposition: (1) The notice for the hearing was inadequate in that at least 15 days' notice was not provided; (2) the proposed changes are discriminatory and unfair because they would benefit DI but would not help small, independent processors; (3) the proposed changes would penalize small, independent dairy farmers, particularly those that supply milk to Kinnett Dairies; and (4) the over-order premiums that DI charges independent processors are sufficient to cover the hauling costs that DI wants to recover through the proposed transportation credit.

The witness for the handler indicated that about 60 percent of its milk is obtained from independent producers and the remainder is supplied by two cooperative associations. He further stated that the two cooperatives dispose of the surplus milk when production exceeds the handler's needs. In his view, the over-order charges paid to the cooperatives on a year-round basis adequately compensates them for the balancing services they provide.

Kraft, Inc., which operates plants in the Tennesee Valley, Louisville, Nashville, and Georgia markets, opposed the adoption of DI's proposals. Kraft's witness related several major concerns that in Kraft's opinion could create inequities between handlers and producers if DI's regional approach is adopted. One concern was the difference between DI's proposed rate for the transportation credit and the differential rate of 1.5 cents per ten miles, which is applicable in establishing order prices to attract Class I milk to pool plants. Kraft claimed that this would establish a preference for moving milk to distant manufacturing plants rather than to Class I outlets because suppliers could recover all or nearly all of the costs of moving the milk to distant manufacturing plants. Another concern voiced by Kraft was that handlers would be indifferent to the length of the haul and could move surplus milk to a more distant outlet at the expense of the pool if they were able to gain a slightly higher price for the milk, since any price gain would be retained by the handler.

Kraft's witness also alleged that the proposals would result in non-uniform prices to handlers because the effect of the credits would be to establish varying surplus milk prices at a given location. This would occur, in Kraft's view, because the applicable credits would depend on which market the milk originated from and how far it was moved. Kraft also contended that the proposed credits would place handlers in Ohio, Indiana, and elsewhere at a

competitive disadvantage in competing for outlets for surplus milk because handlers in the Southeast who obtain a transportation credit presumably then could afford to accept a lower price for their distressed milk. According to Kraft, this would result in the local milk supplies of distant markets being displaced by milk from the Southeast if DI's proposals are adopted.

Kraft expressed concern also that while DI views the problem as a regional problem there is nothing in the proposals to prevent the surplus milk that needs to be moved to distant outlets from being pooled on only one or two markets. The handler claimed that the result would be a significant drop in the pay prices to producers in these markets.

The Kraft spokesman stated that its Grade A producer patrons in Kentucky, Tennessee, and Georgia had reduced milk output per farm in January 1982 compared to a year earlier. He reported that their production was down by 0.7 percent. He questioned why those producers who have moderated their production should bear the transportation burden for others who have not. Moreover, the witness contended that adoption of the proposals could provide an incentive to pool surplus milk from unregulated areas in Alabama, Virginia, and the Carolinas, which would result in pool producers subsidizing the handling of surplus milk that is not regularly associated with a Federal order market.

The National Farmers' Organization (NFO), a cooperative that markets milk for its members in the Middle Atlantic, Louisville-Lexington-Evansville, and Nashville markets, opposed the adoption of the DI proposals. The NFO spokesman noted that members' milk is also marketed on the Ohio Valley, Eastern Ohio-Western Pennsylvania and New York-New Jersey Federal order markets, which are adjacent to certain of the markets that would be amended if DI's proposals are adopted.

The NFO spokesman stated several reasons for opposing adoption of the proposals. One was that NFO members would have their pool returns lowered if the proposed credits are provided, even though some milk of NFO members would have to be moved to outlets where transportation credits would be applicable. Also, it was NFO's view that subsidizing Class II and Class III shipments would have unsettling and adverse impacts on some markets adjacent to those included in this proceeding. The concern was that surplus milk from the Southeast would be made available to manufacturing plants in Ohio at prices below those normally prevailing in Ohio. NFO held that such milk would displace local milk at Ohio manufacturing plants and that the Ohio milk then would have to seek distant outlets without the benefit of a transportation credit. The witness contended that such a situation could domino into other markets, thus creating disorderly marketing conditions. NFO's witness also indicated that the proposed amendments depart from traditional Federal order pricing methods and may not be in accord with the Agricultural Marketing Agreement Act. He also stated that such provisions should not be adopted in an expedited proceeding because, in his view, there had not been sufficient time to fully analyze the impact of the proposals to identify all possible abuses that could occur if the proposals were to be adopted.

Most of the parties in this proceeding, whether they supported order amendments or opposed them, generally agreed that surplus milk supplies will be much larger this spring than a year ago. They also recognized that milk production is generally up throughout the Southeast and the Middle Atlantic area, and that Class I sales generally have been declining. This common perception is supported by data presented at the hearing.

Milk production in the United States has been increasing steadily since 1979, when production was 1.6 percent larger than in 1978. Compared to a year earlier, production in 1980 was up 4.1 percent, and was up another 3.2 percent in 1981. Total U.S. milk production in January 1982 was up 2.4 percent from January 1981.

In the 12 states (Alabama, Florida, Georgia, Kentucky, Louisiana, Maryland, Mississippi, North Carolina, Pennsylvania, South Carolina, Tennessee, and Virginia) that supply most of the milk pooled under the nine orders involved in this proceeding, total production in 1981 also was up about 3 percent from 1980. For individual states within that group, production in 1981 compared to 1980 varied from a 5 percent decline in Alabama to a 6 percent increase in Pennsylvania. Production in 1981 was up from a year earlier in 10 of the 12 States.

Similarly, total producer milk pooled under the nine orders in 1981 was up 4.2 percent over a year earlier. Thus, the general increase in production that is being experienced in the Nation and in the Southeast and the Middle Atlantic area also is reflected in producer milk receipts in the regulated areas, as would be expected.

At the same time, sales of Class I milk (fluid milk products) in Federal order areas have been declining. For all Federal orders combined, such sales have declined steadily each year since 1977, with the years 1978 and 1979 each recording declines of .1 percent from a year earlier. In 1980, the decline from 1979 was .2 percent, and for January through November 1981, such sales were down from the same period in 1980 by .5 percent.[1]

With respect to the nine orders in this proceeding, the record contains sales data only for 1980 and 1981. These data show that total Class I sales in the nine marketing areas declined by .7 percent from 1980 to 1981. Thus, the decline over the last year appears to be slightly greater in the nine-market area than the decline experienced in all Federal order areas combined.

It is clear that in the Southeast and the Middle Atlantic area milk production is increasing while at the same time Class I milk sales are declining. As a result, it is concluded that there will be greater quantities of milk not needed for fluid use than a year ago that will need to be disposed of to manufacturing outlets during the spring months of 1982, which is the time of seasonally high production. In view of this, it is necessary to determine whether the over-supply situation will cause marketing problems that should be dealt with through changes in one or more of the Federal orders involved, as proposed by certain cooperatives.

Based on the evidence presented at the hearing, the most likely marketing problem will be the disposition in the next few weeks of the additional surplus milk to manufacturing outlets. If local manufacturing capacities are adequate to handle the milk, no unusual problems would be expected. However, the record indicates that there is not likely to be adequate manufacturing capacity in the normal surplus disposal area for some of these markets.

Exhibits were introducted at the hearing listing the major manufacturing plants that process surplus Grade A milk supplies associated with the nine orders under normal supply and demand conditions. One exhibit lists such plants in the Southeast, with an estimate of the volume of Grade A milk that each plant can handle. The total Grade A capacity

[1] These data were obtained from the Department's publication titled Federal Milk Order Market Statistics, of which official notice was taken at the hearing. It should be noted that the total in-area sales data shown in this publication include not only fluid milk items, but also fluid cream, eggnog, and yogurt, items which in many orders are not Class I products. However, on an annual basis, fluid milk items represent over 97 percent of the total products shown in the in-area sales data. Thus, these in-area sales data are a reasonable reflection of Class I sales.

of these plants was estimated at about 255 million pounds per month. Such data cannot be used alone, however, for determining whether this manufacturing capacity is inadequate to handle all the milk. For example, in December 1981 total Class II and Class III producer milk for the eight southeastern markets amounted to about 210 million pounds, which obviously is less than the total manufacturing capacity shown in the exhibit. Moreover, while the details are not available, it is presumed that not all of that milk would have needed to move to such outlets, such as milk in Class II uses.

There are several reasons why such a comparison is inconclusive. One is that many of these same manufacturing plants also serve as outlets for surplus milk from unregulated areas in North Carolina, South Carolina, Virginia, and Alabama, as well as for other nearby and adjacent Federal order markets. Also, excess milk supplies are not evenly distributed throughout the month. Instead, such supplies may be particularly heavy during peak weeks and on weekends, with the surges of surplus milk being far more than can be handled by local manufacturing plants during the short time periods. For the same reasons, similar information presented for the Middle Atlantic market also is inconclusive to demonstrate an adequacy of manufacturing capacity.

It also should be noted that some of the manufacturing plants in the Southeast also receive and process non-Grade A milk, with such milk being their regular supply of milk. To the extent that production of non-Grade A dairy farms also may be increasing, as would be expected, more of the manufacturing capacity would be utilized for such milk, which would decrease the capacity available for surplus Grade A milk.

The best available approach to establishing whether or not surplus milk must be moved unusually long distances to manufacturing plants from the markets involved is to look at what has happened in the past. Data were provided at the hearing for 1-week periods during the recent December holiday season and during April 1981, times when surplus milk supplies were much longer than usual. During the week ending January 1, 1982, DI shipped more than 9 million pounds of milk from six southeastern markets to plants that ordinarily do not handle surplus milk for these markets. The distant outlets included plants in Ohio, Indiana, Wisconsin, Iowa, New York, Illinois, and Missouri. During the same week two years earlier, DI moved less than 2 million pounds in this manner, of which only 192,000 pounds went to a location in Ohio, the most distant outlet utilized for the six markets. During the same week ending January 1, 1982, DI also shipped about 2 million pounds of milk from the Middle Atlantic Market to manufacturing plants that the record identifies as being more distant than other plants regularly handling the surplus milk supplies of that market. Such data are not available for the same week two years earlier.

During the week ending April 17, 1981, DI moved about 5.2 million pounds of pooled surplus milk to manufacturing plants outside the range of regular outlets for the six southeastern markets, including some milk that moved to Ohio, Wisconsin and Iowa. During the same week in 1980, DI did not move any pooled surplus milk to manufacturing plants outside the Southeast. Similar data were not provided for the Middle Atlantic market.

With respect to the two Florida markets involved in this proceeding, the record indicates that at times surplus milk must be moved considerable distances. Normally, the Florda cooperatives can dispose of their excess milk supplies to manufacturing plants located in the Southeast. The record shows, however, that cooperatives there moved surplus milk to Wisconsin, Iowa, and Illinois during 1981 and to Minnesota and Wisconsin in January 1982.

For the markets in this proceeding, it is well established that surplus milk disposal is handled primarily by cooperative associations. This stems in part merely from the fact that cooperatives are the major suppliers of milk for fluid distribution. For example, almost all of the milk marketed under the Florida orders is supplied by cooperatives. In the Middle Atlantic market, the cooperatives that comprise the Pennmarva Federation supply about 85 percent of the market, with DI supplying an estimated 14 percent. In a number of the markets involved, DI itself is the major supplier in the market. Its share of the market in December 1981, in terms of milk pooled, was as follows: Georgia, 65 percent; Tennessee Valley, 80 percent; Louisiville-Lexington-Evansville, 61 percent; New Orleans-Mississippi, 51 percent; and Nashville, 60 percent. Its share of the Greater Louisiana market was limited to 20 percent.

The evidence supports DI's claims that it is not only the major balancer of milk supplies in much of the Southeast but that indirectly it is balancing the surplus milk of nonmember producers. This was acknowledged in specific cases by the representatives of two proprietary handlers who testified. The record discloses that in five of these markets there are pool distributing plants that receive only part of their supplies from DI. In the Georgia market, DI indicated that it regularly supplies milk to 18 pool distributing plants, six of which receive from one-third to about four-fifths of their supplies from DI. Four of these plants also receive milk from independent producers and one has own-farm production. Another two plants receive milk from DI on a "spot," or irregular shipment, basis. In the Tennessee Valley market, DI supplies nine pool distributing plants. Three of these are only partially supplied by DI, and each of these receives milk from independent producers. In the Louisville market, two of the eight plants that regularly receive milk from DI also are supplied by independent producers. In the New Orleans-Mississippi and Greater Louisiana markets, DI also supplies only part of the milk requirements for some plants, but the record does not disclose whether or not those plants also receive milk from independent producers or other cooperatives. DI also supplies a few plants in these markets with spot milk shipments.

The handling of a market's surplus milk can fall unevenly on different groups of producers. As just indicated, DI supplies a number of distributing plants only on a partial basis. A handler may have a group of independent producers, or perhaps a particular group of producers who are members of a cooperative, from whom he receives milk on a regular basis throughout the year. As the milk production of these producers declines during the seasonal short-production months, the handler may need supplemental supplies and will buy milk from a cooperative such as DI. Then, during the spring, when milk production increases, the milk from the handler's regular producers may be sufficient, or nearly so, to cover his needs and he cuts back his supplemental purchases from DI. In this situation, the producers who are the handler's regular suppliers do not share in the costs of balancing the handler's fluid needs. Instead, these costs fall, in this example, solely on DI. If the surplus milk must be hauled unusually long distances, the cost burden can be particularly heavy on the cooperative.

Other factors may contribute to the uneven distribution of the surplus burden. Either by virtue of operating their own manufacturing facilities or through special or continuing milk

handling arrangements, both proprietary and cooperative association handlers may have access to local manufacturing outlets that can fully accommodate the surplus milk that they must dispose of. Other handlers may not have the same access to local plants and thus have little alternative but to ship the milk long distances for surplus disposal, with the attendant high hauling costs. To avoid such costs, these handlers could attempt to make price concessions at local plants on the sale of their surplus milk and thereby displace the surplus milk of other handlers. This, of course, could lead to disruptive marketing conditions.

Although the cost impact of handling surplus milk normally falls largely on members of cooperatives, nonmember producers are not necessarily immune to adverse impacts of the heavy supply situation. Proprietary handlers who do their own balancing may experience difficulties in disposing of the excess milk supplies of their independent producers. Any long-distance milk shipments must be borne by the handlers since they are required to pay producers the minimum Class III (or Class II) price for the milk. Their alternative is to refuse to accept all the milk produced by these dairy farmers. If the latter situation occurred, the impact would fall entirely on those dairy farmers. Any widespread occurrence of this situation could lead to disorderly marketing conditions.

Under normal conditions of supply and demand for fluid milk, the Federal order marketwide pools serve to assure that all producers supplying each market share in both the Class I and surplus values of the milk that is pooled in their market. Such pooling is normally adequate to achieve reasonable equity among all the market's producers. However, in the unusual circumstances that currently exist in much of the Southeast and the Middle Atlantic area, the orders do not provide a mechanism for ensuring that unusually high costs incurred in handling a market's surplus milk are shared equitably by all producers on that market. In those markets where the record indicates that such movements of milk most likely will occur in substantial quantities, the orders should be amended along the lines proposed to maintain the degree of producer equity that otherwise is obtained through the operation of marketwide pools.

Although the record indicates a general problem of handling surplus milk throughout much of the area under consideration, the pool credits should not be adopted for all the orders for which they were proposed. Such credits are not warranted in the New Orleans-Mississippi, Greater Louisiana, and Nashville orders.

For the Greater Louisiana market, the record does not indicate that market conditions will result in greatly increased quantities of surplus milk to be disposed of this spring. Production was below year earlier levels during the last 10 months of 1981, while total in-area Class I sales generally where higher than a year earlier. For this reason, transportation credits are not shown to be necessary.

In the case of the New Orleans-Mississippi market, it is clear that 1981 sales were down from the levels of a year earlier, but the production situation is more difficult to assess. For the entire year, production was up 0.9 percent. However, during the last 6 months of 1981, producer milk receipts were down by 7 percent, due in part to the shifting of one plant to regulated status under another order. In this case, the testimony by Gulf Dairy Association's witness concerning production must be recognized, along with his view that there is no substantial problem of surplus milk in that order.

A similar situation exists with the Nashville order. Production and plant shifts that occurred in that market during the last half of 1981 result in a mixed picture. For the entire year of 1981, producer milk receipts were up 8.1 percent from 1980. However, during the last three months of 1981, producer milk receipts were substantially below a year earlier. This occurred mainly because milk previously associated with the Nashville order is now pooled on the Georgia order. There is no question that Class I in-area sales are below year earlier levels.

The production and sales patterns are only two of the factors involved in deciding whether transportation credits are warranted for a particular order, however. Another factor for the New Orleans and Nashville markets, is that, in each case, a large manufacturing plant that is a pool plant is located in the heart of the production area for the market. These plants are the largest such plants in the Southeast, and they both serve as outlets not only for local milk but for large quantities of surplus milk associated with other markets. Thus, it would be possible for the local surplus milk in these two markets to be displaced by milk from other markets. In such situations, a credit from the pool to move the local milk to other distant outlets would result in producers in the New Orleans and Nashville markets bearing the burden of surplus disposal for producers in other markets, which is contrary to the basic purpose of the credits.

Still another consideration is the extent to which surplus milk had to be moved to distant outlets during recent periods when excessive supplies existed throughout much of the Southeast. During the weeks ending January 1, 1982, and April 17, 1981, no milk was moved from these three markets to distant outlets.

For these reasons, the proposals to amend these three orders should not be adopted.

A number of proprietary handlers and cooperative associations objected to the adoption of pool credits on surplus milk movements. The points discussed below were raised at the hearing and/or in their post-hearing briefs.

Kraft maintained that DI's proposals would not allocate the burden of credits equitably between markets and that producers in some markets would be burdened with the transportation of surplus milk associated with another market. Kraft indicated that DI handles not only its own surplus milk but also the surplus of cooperatives in Florida and Alabama. Kraft alleged that through "stair-stepping" the milk of its own producers, and that of others, surplus milk in Tennessee and Kentucky would be displaced with the more southern milk and the local milk would be forced to move north and west for surplus disposition with substantial pool subsidies. Kraft also noted that surplus milk associated with unregulated plants in Alabama is pooled under the Tennessee and Kentucky orders and that blend prices in those markets already are reduced as a result. Kraft further claimed that transportation credits from these pools would exaggerate an existing inequity by further lowering blend prices.

NFO raised a similar point in noting that only about two-thirds of the production of Grade A milk by DI's members is pooled under the seven orders that DI proposes to amend. NFO claimed that adoption of the proposals would give DI an economic incentive to pool additional milk of its members under these orders.

The record does disclose that DI works with other cooperatives in Florida, and elsewhere in the Southeast, to coordinate the disposition of surplus milk to manufacturing outlets. Also, it is recognized that DI operates throughout the Southeast, and therefore has the potential opportunity to move milk in the manner described by Kraft and NFO. These concerns were considered in reaching a decision to adopt the amendments to certain orders. Although

it is possible that abuses could occur, the need for a more equitable sharing of the surplus disposal costs outweighs not taking any action because of possible abuses. It should be noted that the pool credits could be suspended promptly if it is found that the provisions are being misused.

Kraft also contended that the record does not support an assumption that all producers are contributing to the overproduction of milk and that all producers therefore should bear the burden of surplus disposal costs. Kraft stated at the hearing that production by its patrons was down 0.7 percent in January 1982 compared to January 1981. However, it should be noted that Kraft also stated that its total producer milk receipts were up due to the fact that it was receiving milk from additional producers who had converted from non-Grade A to Grade A status since January 1981. In terms of a market's total supply of milk available for fluid use and the amount of surplus milk that mut be handled, there is little difference between excess supplies generated because output per producer is up and excess supplies on the market that stem from having more producers on the market.

In opposing the pool credits, NFO contended that the credits would create inequity between the compensation granted from the pool in hauling milk to the market for Class I purposes versus hauling milk from the market for surplus uses. The concern was that there would be more incentive for distant milk to move off the market for surplus uses, given the 3.6 cents per 10 miles per hundredweight credit, rather than to the market for fluid use since the location adjustment rate generally used to attract milk to a market for Class I purposes is only 1.5 cents.

In view of the very limited time that the pool credits would be effective, and because of the surplus problem that has prompted their need, this concern has little relevance. There presumably will be little need to move milk long distances for Class I use in the Southeast or Middle Atlantic area. These areas will not face a shortage of supplies for Class I use while the transportation credits are in effect.

In other arguments against amending the orders, NFO contended "that producer equity cannot fairly be viewed by the Secretary simply with respect to one set of costs for a three-month period in one geographic area." Instead, NFO maintained, the matter should be analyzed over a longer period of time and take into account impacts between markets and production areas. In support of these views, NFO noted that other cooperatives in the Middle Atlantic area opposed DI's proposal on the basis that their producers should not share the additional burdens of handling excess milk. NFO also pointed out that DI divested itself of manufacturing capacity in the Middle Atlantic market, implying that consideration of DI's proposal thus was not warranted.

With regard to a broader analysis of the surplus problem over a longer period of time, such an approach obviously would preclude any action by the Secretary in time to deal with the problem at hand. Timeliness is an issue here because the proposed remedies would be applicable for only a limited period this spring.

With respect to the views concerning DI's divestiture of manufacturing capacity, the record indicates that the manufacturing capacity remains available to DI for surplus disposal. DI has an agreement whereby substantial quantities of its milk, up to 22 million pounds per month, will have access to that capacity this year.

NFO also argued that the hauling cost for milk where a backhaul is involved would be less than 3.6 cents per 10 miles per hundredweight and that the rate of credit proposed by DI was too high. There is no basis in the record for concluding that any substantial volumes of milk that might move to distant outlets this spring would be moved at rates based on backhauls. It is noted that the data DI offered to support the 3.6-cent rate show that 128 of the 426 loads hauled by contract haulers moved at rates less than 3.6 cents per hundredweight per 10 miles. On the other hand, at least 242 of the 426 loads moved at rates above 3.6 cents. The lowest rate indicated was 1.44 cents per hundredweight per 10 miles, while the highest rate shown was 9.23 cents. The average rate for the 426 loads was 3.73 cents per hundredweight per 10 miles, yet DI's proposed rate was 3.6 cents, which is lower than the average. The evidence in this case supports 3.6 cents per hundredweight per 10 miles as a reasonable rate to reflect the cost of hauling milk in large tank trucks.

Kraft, NFO and Dean Foods expressed concern that the pool credits proposed by the cooperatives could disrupt the marketing of milk in such areas as Minnesota, Wisconsin, Illinois, Indiana, Ohio, and New York. They indicated that the distressed milk supplies in the Southeast would be moved to manufacturing plants in these areas, and they contended that the pool credits would, in effect, subsidize the disposal of surplus milk in the northern areas. They claimed that this would make it possible for the milk to be offered to the northern plants at prices below those prevailing locally for surplus milk. These parties argued that the "subsidized" surplus milk from the southeastern markets could displace local milk at the northern plants, with the local milk then having to be moved to other distant outlets at considerable expense to producers in the northern areas.

It is recognized that with the pool credits on long-distance milk shipments there could possibly be a limited displacement of local milk at manufacturing plants in the northern areas. At least two factors, however, would tend to cause this not to happen. The pool credits adopted herein would not cover all of the cost of hauling the milk. As discussed later, no-credit zones would extend anywhere from 250 miles to 700 miles from basing points in the local markets. Milk would have to be moved beyond the no-credit zone before a credit would start to apply. Thus, handlers moving the milk would have a strong incentive to find the highest possible price for their surplus milk.

Additionally, once milk is moved beyond the no-credit zone, the incentive to move the milk to the nearest manufacturing plant would tend to be minimal since the 3.6-cent credit rate would cover most of the hauling to any point beyond the no-credit zone. This would tend to lessen the likelihood of southeastern handlers offering surplus milk at distress prices for the purpose of finding a closer outlet.

In this regard, it might be argued that the pool credit arrangement should provide some kind of incentive to move milk to the closest plant. However, in view of the concerns expressed about the possibility of "displaced" milk, it is concluded that this should not be done so that handlers will have more flexibility in seeking surplus milk outlets in the northern areas.

Kraft and NFO contended that the pool credits proposed by the cooperatives are not authorized by the Agricultural Marketing Agreement Act. They noted that the pool credits presumably were proposed on the basis that they were authorized by § 608c(5)(A) of the Act, which requires class prices under an order to be uniform among all handlers except for certain adjustments, including an adjustment for the location of the plant at which the milk is received. These parties argued, however, that the pool credits would be inconsistent with this provision of the Act. They claimed that the pool credits would be, in effect, an adjustment to the Class III (or Class II) price. In this regard, they pointed out that the credits could vary from handler

to handler, by virtue of different points of origin, even though all the handlers may have delivered the surplus milk to the same distant plant. It was argued that under this circumstance the credits would result in Class III prices that are not uniform among all handlers.

In a related but somewhat different vein, NFO also claimed that the pool credits appeared to result, in effect, in the establishment of a sub-classification of Class III milk based on the distance that the surplus milk is transported. It was argued that this would contravene the principles of *Inter-state Milk Producers' Cooperative* v. *Butz*, 372 F.Supp. 1010 (E.D. Pa. 1974), a case that dealt with the classification of milk on the basis of distance. Also, NFO argued that within this sub-classification different handlers would be charged different class prices.

The pool credits adopted herein do not represent the establishment of a sub-Class III classification for milk, nor do they represent adjustments to the Class III (or Class II) price for the location of the receiving plant. Instead, such credits represent an additional mechanism in the order for maintaining a reasonable degree of equity among all producers whose milk is pooled and priced under the order. The authority for such a provision is section 608c (7)(D) of the Act, which provides that an order may contain terms and conditions incidental to, and not inconsistent with, other provisions of the Act if such terms and conditions are necessary to effectuate the other provisions of the order.

One of the underlying purposes of the Act is to establish orderly marketing conditions for dairy farmers. The Act authorizes a number of specific means for achieving this, including the pooling of milk on a marketwide basis. Through this pooling procedure, all producers in the market share equitably in both the market's higher-valued fluid sales and ther reserve milk supplies that necessarily must be available in the fluid market but which return only the lower manufacturing value. History has demonstrated that in the absence of marketwide pooling the burden of the lower-valued reserved supplies falls unevenly on various groups of producers. This tends to result in various disorderly conditions in the market that are harmful not only to producers but to handlers and consumers as well. Producers have found it in their long-run interest to share uniformly in the burden of the reserve milk supplies.

The pool credits adopted herein are an extension of this marketwide sharing concept. As already described, unusual supply-demand conditions are resulting in certain producers bearing an inequitable share of the costs of handling excess milk supplies associated with the fluid markets. The pool credits represent a reasonable means of maintaining orderly marketing conditions for producers.

Kraft also claimed that the pool credits are similar in substance to order provisions found unlawful by the Supreme Court in *Brannan* v. *Stark*, 342 U.S. 451 (1952). It was pointed out that under the provisions in question in that case cooperatives received a payment from the pool for certain prescribed activities, including the handling of surplus milk. Kraft argued that because the pool credits proposed by Dairymen, Inc., would accrue predominately, if not entirely, to the cooperative, they are unlawful on the basis of the Court's ruling in *Brannan*.

The record of the current proceeding and the manner in which the pool credits adopted herein would apply provide a sufficient basis for distinguishing these credits from those found unlawful in *Brannan*. The record strongly demonstrates that several of the markets under consideration will be faced this spring with a severe and abnormal problem of disposing of surplus milk. It also indicates that the burden of moving much of this milk unusually long distances will fall unevenly on various producers in the market even thought the surplus problem can be attributed essentially to all producers. Moreover, all handlers in the market, whether proprietary handlers or cooperative associations, would be eligible for a pool credit on the surplus milk shipments. In addition, the credits would apply only when the distant milk shipment actually occurs. In *Brannan*, the pool credits in question accrued routinely to cooperatives irrespective of the extent to which marketwide services may have been performed.

Kraft and others also argued that the pool credits proposed by Dairymen, Inc., should not be adopted in view of the over-order charges that the cooperative is charging handlers for milk which they purchase. These handlers claimed that such charges supposedly provide the cooperative adequate compensation for balancing the fluid milk needs of the handlers that it supplies. Moreover, Kraft argued that a credit from the pool on the surplus milk movements without a corresponding reduction in over-order charges would provide the cooperative an "unconscionable" windfall. This party contends that if the pool credits are adopted the Secretary must determine that the over-order charges are necessary to insure an adequate supply of milk for the fluid market, that the current over-order charges are inadequate to cover the cost of handling the abnormal milk movements, and that such charges are not contributing to the existing surplus milk problem by encouraging over-production milk.

There is insufficient information in this record to make any determination concerning the over-order charges that prevail in these markets. Such charges are basically outside the scope of the order program since Federal orders establish only the minimum prices that regulated handlers must pay to producers. It is recognized that the existence of over-order charges, their amount, their purpose, and whether they result in over-order blend prices to producers are all factors that have relevance in the market. Nevertheless, over-order charges are outside the order program's authority. For this reason, information on over-order charges is seldom sought or made available at public hearings.

The lack of such information is not critical to deciding the appropriateness of the pool credits adopted herein. It is evident that several of the markets are faced with the problem of inadequate manufacturing capacity in the normal surplus disposal area. Substantial quantities of milk will have to be moved to distant plants at considerable cost. Such costs were not contemplated in establishing the Class III (Class II) price level for these markets. Thus, it is evident that the current order provisions are not in line with the present marketing conditions. This determination is not contingent upon the existence or level of over-order charges in these markets.

In opposing the proposed transportation credit on surplus milk shipments, certain parties argued that the hearings was called on unusually short notice. They claimed that this deprived them of the opportunity to prepare adequately for the hearing. It was argued that the proponent cooperatives presumably were aware well in advance of the deteriorating marketing conditions that prompted the hearing and that any petition for a hearing should have been submitted in time to permit normal amendatory procedures. It was argued also that notification of the hearing was inadequate in that the hearing notice was not sent to industry members in markets not specifically listed in the notice but which, nevertheless, could be affected by order changes in the listed markets.

The procedures followed in issuing the notice of hearing for this proceeding

were in accordance with the Agricultural Marketing Agreement Act, the Administrative Procedure Act, and the Department's rules for formulating milk orders. In all cases, a hearing may not be held less than three days after the date of publication of the notice in the Federal Register. Under normal circumstances, at least 15 days' notice must be provided. The rules provide, however, that a shorter notice may be given when the Department determines that an emergency exists. The Department concluded after receiving the request for a hearing that there was a reasonable indication of an emergency situation and that less than 15 days' notice was warranted. As noted earlier, the hearing notice was published in the Federal Register on March 10 and the hearing was convened six days later.

It is recognized that the amount of notice provided the industry was relatively short. The record of this hearing, however, substantiates the Department's pre-hearing determination that emergency conditions appeared to exist in the area under consideration. It is clearly evident that the order changes sought by proponents could not be made in time to be helpful if the proceeding is not handled on an expedited basis. In this circumstance, the short notice regarding the hearing was consistent with the marketing conditions at hand.

In keeping with the Department's rules, copies of the hearing notice were mailed to interested parties by the market administrators for the nine orders that cooperatives wanted to amend. As is the customary practice, the hearing notice was not sent to parties in other markets except as they may have been on the interested party list of these market administrators by previous arrangement. Legal notification requirements were met, however, through the publication of the hearing notice in the Federal Register. Accordingly, the allegations that the notification procedures for this proceeding were inadequate are unfounded.

The order changes adopted herein for the Middle Atlantic, Upper Florida, Tampa Bay, Georgia, Tennessee Valley and Louisville-Lexington-Evansville orders carry out the basic concept of the proposals submitted by the proponent cooperatives. They differ somewhat from the proposals in terms of defining the milk shipments that would be eligible for a pool credit. While the approach would be uniform among the orders, the actual provisions would vary from order to order to reflect specific conditions in each affected market.

As noted earlier, the proposed credit rate of 3.6 cents per hundredweight per 10 miles should be adopted for each of the orders amended.

Each order should specify an initial distance for which hauling credits would not apply on surplus milk movements, and then the distance where a credit would be applicable to the balance of the haul. In this regard, the evidence supports a procedure whereby the distance to each nonpool manufacturing plant would be measured from the nearer of the basing points now specified in the order for the purpose of determining location adjustments to handlers and producers, the location of the pool plant from which the milk was transferred, or, if the milk is diverted, the location of the pool plant where the milk was last received or the location of the county courthouse in the production area where the diverted milk was produced. Since the milk of those producers who are associated with a particular load of diverted milk may have been delivered to more than one pool plant just prior to being diverted, the pool plant that received the largest portion of such milk should serve as the point from which the mileage to the nonpool plant is measured. Similarly, since a load of diverted milk may include the milk of several producers, the courthouse of the county where the largest portion of the load was produced should be the basing point for that load when the production area is the closest measuring point on the surplus milk movement.

Under the proposals submitted by cooperatives, each of the orders except the Middle Atlantic order would specify an area within which surplus milk would move without a credit, plus a distance beyond that area that the milk would have to move before a credit would apply. A credit would apply only to the remainder of the distance to the nonpool plant where the milk was being delivered for surplus disposition. If the surplus milk was being tranferred, the distance to the nonpool plant would be measured from the transferor plant. If the surplus milk was being diverted to such nonpool plant, the distance would be measured from the pool plant where the milk was last received.

It is noted that under the cooperatives' proposals milk could be diverted from a production area located much nearer to the nonpool plant than the plant from which the milk was diverted, but the distance for purposes of computing the credit would be based on the location of the pool plant where the milk was last received. Thus, the credit would have been based on a distance far exceeding the actual distance the milk was hauled to reach the nonpool plant.

A similar problem, applicable to both transferred milk and diverted milk, is inherent in the procedure for determining transportation credits under the DI proposal for the Middle Atlantic order. In that case, the distance to the nonpool plant would be based solely on the basing points specified in the location adjustment provisions of the order, with the credit being based on that total distance less approximately 200 miles. Under this approach, a transportation credit would be available to cover virtually all of the haul to the nonpool plant in the case of milk transferred or diverted from locations approximately 200 miles from the basing points. For milk moved to nonpool plants from locations beyond the 200-mile area, the credit would be based on a mileage determination that would exceed the distance the milk actually moved.

Unless a different approach is taken to avoid these problems, credits could be applied to an unwarranted extent in certain cases. The result would be, in essence, a windfall gain to the transferring handler, which clearly is not the basic intent of the proposals. DI's suggested modification regarding the distance determination for establishing credits on diverted milk will take care of some of the problems. Other differences from the proposals are incorporated into the provisions adopted herein to provide additional safeguards against granting credits in other possible situations that would not be in keeping with the basic intent of the proposals.

Another difference between the cooperative's proposals and the provisions adopted herein is the approach taken to identify the area where no credit would apply to surplus milk movements. For all orders except the Middle Atlantic order, a geographic area was specified as a no-credit area (such as one or more states or the marketing area), plus a certain distance beyond the geographic area. Thus, milk would have to move outside the geographic area to a nonpool plant that also was more than a specified distance from the pool plant from which the milk was transferred or diverted. The purpose of defining such "no-credit" areas was to exclude the application of credits to movements of milk to nonpool plants that regularly handle each market's surplus under usual supply-demand conditions.

A problem exists with this approach, however, because the principal criterion used to define the no-credit areas is the location of the manufacturing plants that serve as a market's regular outlets for surplus milk, which tends to de-

emphasize the distance that milk may regularly move to reach those outlets. Thus, it could be more advantageous to DI, for example, to transfer milk from its pool plant at Bristol, VA/TN, to a nonpool plant outside Tennessee and more than 125 miles from Bristol, which was the no-credit area under the DI proposal. In this example, a hauling credit would be available for the distance the milk actually moved in excess of 125 miles. On the other hand, if DI transferred the milk from Bristol to its manufacturing plant at Lewisburg, Tennessee, no credit would be available, even though the distance of the haul would be over 300 miles. Nevertheless, the evidence indicates that the Lewisburg plant is a regular outlet for the Tennessee Valley market's surplus milk.

A more consistent approach, therefore, is to look at each market situation and base the "no-credit" area entirely on the distance that milk normally moves for surplus disposition. The provisions adopted herein for each order being amended are established on this basis.

Also, it is appropriate to try to preclude a handler from choosing to transfer or divert surplus milk from a location purely to obtain a larger credit than if the milk were moved from some other location in the same market. A reasonable approach to achieve this is to have the basing points now specified in the order for determining location adjustments included among the locations that would be used in establishing that portion of any haul that will be covered by the transportation credit from the pool.

In addition, the orders should not provide for a credit on any of a handler's milk transferred or diverted to a nonpool plant during the month if any portion of the milk is assigned to Class I. Such a safeguard is necessary to ensure that the pool credits will be available only to cover transportation costs incurred to move milk to outlets for surplus uses. For movements to nonpool plants that are other order plants, the order language adopted restricts the credits to milk for which Class II or Class III uses are requested by both the shipping and receiving plants. However, for such movements to nonpool plants that are not other order plants, credits should be applicable only if all of the milk is assigned to Class II and/or Class III. This is intended to preclude the granting of credits on movements of milk to nonpool plants that are primarily fluid milk bottling plants.

It is recognized that under the adopted provisions transportation credits would be available on a much smaller portion of the surplus milk that is moved unusually long distances than would have been available under the cooperatives' proposals. The provisions adopted, however, will provide some recovery of hauling costs to the handlers that move the milk while at the same time ensure that producers not involved in such movements will share in the burden of handling the unusually large supplies of surplus milk that will move to distant manufacturing outlets through June 1982. The provisions adopted also should encourage handlers to move such milk to the surplus outlets in the most efficient manner, thus minimizing possible abuses that various parties to this proceeding expressed concern about.

The specific provisions adopted for the six orders are described in the paragraphs that follow.

Middle Atlantic order. In the Middle Atlantic market, transportation credits from the pool should be available to the extent that the distance to the nonpool plant from the nearest of the several locations specified exceeds 200 miles. The 200-mile no-credit area appears to be appropriate based on the location of the plants that normally handle the usual supplies of surplus milk associated with that market and the location of pool plants that serve the market. Thus, no credit would be received for any milk that moved 200 miles or less.

As noted earlier in this decison, an alternative to DI's proposal for the Middle Atlantic market was introduced at the hearing by the members of Pennmarva Dairymen's Federation, Inc., (excluding DI) and Valley of Virginia Cooperative Milk Producers Association. The alternative proposal would eliminate the 1.5 cents per hundredweight per 10 miles location adjustment that is now applicable to the uniform price for base milk diverted as Class II milk to nonpool plants located more than 180 miles from the city hall in Philadelphia or more than 200 miles from the zero milestone in Washington, D.C., or the courthouse in Baltimore, Maryland. In their brief, the cooperatives requested that the location adjustment on base milk not be eliminated for milk diverted to a nonpool plant for Class II use from a pool plant located more than the distances specified from the basing points. The alternative proposal would apply during the same period covered by DI's proposal.

The alernative proposal should not be adopted. One reason is that relief from the costs of disposing of surplus milk to unusually distant outlets would not be available to handlers who moved the milk by way of interplant transfers. The alternative proposal would apply only to milk that is diverted to surplus outlets. Thus, the proposal would not provide handlers with the flexibility needed in the handling of surplus milk. The record indicates, for example, that in the past DI has handled surplus milk through interplant transfers.

A second reason is that all the producers on the market would not share in the burden of such dispositions. These cooperatives expressed the view that cooperatives that had made substantial investments to expand their manufacturing facilities to handle additional surplus milk should not have to share the burden of other handlers or cooperatives that do not have adequate manufacturing capacity and therefore must move their milk to other distant outlets for surplus disposition. This view, however, is not consistent with other testimony presented by the same cooperatives, that is, that the current situation constitutes an emergency and that the over-supply situation does not result from the production patterns of any particular group of producers. There is little question that the market, as a whole, is oversupplied with milk. While some handlers may have adequate local manufacturing capacity to handle their own milk, and maybe some milk of others, someone's milk will have to be moved to distant outlets. If DI, for example, could make arrangements with manufacturers for handling all of its milk locally, then other surplus milk presumably would have to be moved to distant outlets.

The Georgia order. The provisons adopted for the Georgia order would not provide a transportation differential for any movements of surplus milk that moved less than 350 miles. The basis for such distance is that the normal outlets for surplus milk associated with pool plants located in the Georgia marketing area generally lie within about 300 miles from Atlanta. The normal range of surplus outlets handling milk from the Murfreesboro area, which is outside the Georgia marketing area and where a distributing plant pooled under the Georgia order is located, is somewhat less. Thus, a distance of 350 miles from the nearer of the locations specified should serve to effectively preclude the application of transportation credits on movements of surplus milk associated with the Georgia order that moves within the normal distance of regular surplus dispositions for that market.

The Tennessee Valley order. Surplus milk regularly associated with the Tennessee Valley market is commonly moved to DI's plant at Lewisburg, Tennessee. During December 1981, for

example, milk was hauled from Bristol, Virginia, to Lewisburg, Tennessee, which is in excess of 300 miles. DI's proposal specified that transportation credits not be applicable for shipments to any location in Tennessee. Thus, it is appropriate to disallow credits on any shipment of surplus milk that moves to a nonpool plant that is less than 350 miles from the nearer of the locations specified. The distance also is adequate to cover regular outlets for surplus milk associated with DI's plant at London, Kentucky, which is outside the Tennessee Valley marketing area and which at times is regulated under that order.

The Louisville-Lexington-Evansville order. The order for the Louisville market should specify that surplus milk must move more than 250 miles before a transportation credit would be allowed. This distance is sufficint to cover regular surplus milk dispositions from this market to outlets in southern Indiana, and would include such movements from DI's plant at London, Kentucky, which is normally pooled either on the Louisville order or on the Tennessee Valley order.

The Upper Florida and Tampa Bay orders. The same criteria applied in determining the distances for the other orders should be followed for these two orders. The evidence in the record does not provide a list of nonpool manufacturing plants that regularly handle the surplus milk for the two Florida orders. However, the cooperatives' proposals would have excluded from credits any movements of milk to nonpool plants located in nine states, as described earlier. For shipments to plants outside the nine states, credits would apply to all but 225 miles of the total distance the milk moved. The cooperatives' spokesman indicated that the primary outlets for surplus milk associated with the Florida markets are DI's large manufacturing plants in Franklinton, Louisiana, and in Lewisburg, Tennessee. Moreover, exhibits introduced by the cooperatives indicated that from 1977 through 1981 virtually all of the surplus milk that the proponent cooperatives shipped to nonpool manufacturing plants within the nine-state area went to such plants in Alabama, Louisiana, Mississippi, and Tennessee.

Accordingly, the distances involved in moving surplus milk from a pool plant in the Tampa area under the Tampa Bay order, or from Jacksonville or Tallahassee under the Upper Florida order, to the nonpool plants at Franklinton or Lewisburg should be used to establish the minimum distance such milk should move without the handler being given a transportation credit. These distances are 700 miles for the Tampa Bay order and 550 miles for the Upper Florida order.

The distances specified for each of the orders, as discussed in the preceding paragraphs, appropriately defines the range over which milk associated with these markets ordinarily moves to nonpool plants for surplus disposition under normal supply and demand conditions. Under current market conditions, where milk will have to move to more distant outlets, such movements over greater distances than those specified for the no-credit area would qualify a handler to receive the transportation credit from the pool.

To assure the proper application of the amendments adopted herein, it is desirable to set forth some examples of how the pool credits on long distance surplus milk shipments would be determined. Using hypothetical distances, assume that surplus milk under the Georgia order is transferred from a pool plant in southern Georgia to a nonpool plant in Wisconsin. Assume also that the distance between the two plants is 1,000 miles, and that the nonpool plant is 850 miles from Atlanta and 975 miles from Augusta, which are the two basing points to be used for measurement purposes. Under the amendments, the mileage to be used in the computation is the mileage from the nonpool plant to the nearest of the basing points and the pool plant from which the milk was transferred. In this case, the nearest measuring point is Atlanta, with an applicable distance of 850 miles. Since no pool credit would apply for the first 350 miles of whatever distance is used, the credit would be applicable to only 500 miles. At 3.6 cents per hundredweight per 10 miles, the credit to the transferring handler would be $1.80 for each 100 pounds of milk transferred.

Another example will illustrate the pool credit computation for diverted milk. The same mileages described above may be assumed. Additionally, it should be assumed that milk is diverted from the southern Georgia pool plant to the nonpool plant in Wisconsin and that the milk was produced in a county just south of Atlanta. Also, assume that the distance from the courthouse of this county to the nonpool plant is 900 miles. Under the amendments, the mileage to be used in the computation is the mileage from the nonpool plant to the nearest of Atlanta (850 miles), Augusta (975 miles), the county courthouse (900 miles), and the pool plant from which the milk was diverted (1,000 miles). The nearest measuring point in this case is Atlanta. Again, no pool credit would apply for the first 350 miles of the 850-mile distance, and the pool credit would be $1.80 for each 100 pounds of milk diverted.

In its brief, DI proposed that transportation credits for each order be allowed only on milk from producers who were producers under that order during any of the months of September through December 1981. Although the brief did not indicate why this particular modification would be appropriate, it presumably was directed towards the concern of some parties that milk not regularly associated with a market could be pooled under an order solely for the purpose of having it become eligible for a pool credit. Such a modification for this reason would appear to have merit. However, the modification is somewhat unworkable since the restriction could be applicable only to diverted milk, not to transfers as well. Once milk is received at a plant and commingled with other milk, the identity of producers whose milk might be included in loads of milk transferred from that plant could not be established.

A spokesman for Dean Foods Company, which operates a pool plant on the Louisville order, proposed that the no-credit area for all of the orders under consideration, except the Middle Atlantic order, include the same nine-state area specified in the proposals for the Florida orders, plus the Indiana counties that are within the marketing area of the Louisville order. The stated purpose of this proposed modification was to prevent the hauling of milk from north to south and vice versa within the Southeast in order to obtain hauling credits. The practical effect would be to exclude any application of credits on movements of surplus milk to any manufacturing outlets in the Southeast.

Adoption of this proposal would unnecessarily restrict the flexibility of DI and others to utilize manufacturing outlets that might be available at a given time. For example, if capacity were available in the manufacturing plant at Franklinton, Louisiana, and that plant represented a better alternative for surplus milk associated with the Louisville order, there is no reason why a credit should not be allowed on the milk moved to the Franklinton plant rather than to a plant in Iowa, for example. Thus, the modification is not appropriate.

Another modification advanced by the Dean Foods spokesman would limit the application of credits essentially to Class III milk. This was to avoid the displacement of local milk in other areas

that is going into Class II uses with surplus milk from the markets involved in this proceeding. This restriction should not be adopted. Handlers usually make long-term arrangements for milk supplies for both their Class I and Class II needs. It would seem very unlikely that handlers would substitute distress milk for their local supplies to gain a limited benefit for a very short-run period.

In its brief, NFO contended that under DI's proposals it would be possible for a handler to haul milk back and forth between locations where credits would be applicable and make a profit on the transportation credits from the pool because of lower backhaul rates. In this regard, the adopted transportation credit would allow less recovery of hauling costs from the pool than would have been recovered under DI's proposal, which should lessen the concern regarding this point. Moreover, though, the profits alleged by NFO are unlikely to materialize even if backhaul rates could be obtained. An example will illustrate this.

Assume that surplus milk is moved from a plant at Mt. Holly Springs, Pennsylvania, to a plant in Louisville, Kentucky, a distance of 565 miles. The hauling cost (at 3.6 cents per hundredweight per 10 miles) would be $2.13 per hundredweight each way. Under the adopted amendments, the pool credit would be $1.31 for the Mt. Holly to Louisville haul, and $.61 per hundredweight for the haul from Louisville to Mt. Holly. The pool credit for the return trip would be based on the 520-mile distance from Lexington, Kentucky (a basing point), to Mt. Holly. Thus, the net round-trip hauling cost to the handler would be $2.34 per hundredweight ($4.26 per hundredweight hauling cost less $1.92 per hundredweight pool credit). Such movements of milk would not be profitable even if there was no hauling cost in one direction. Even then, the handler would still have a net cost of $.21 per hundredweight.

2. *Omission of a recommended decision and the opportunity to file exceptions thereto.*

The evidence in the record of this proceeding strongly indicates that surplus milk supplies in the affected markets will be substantially larger than usual during April, May, and June of this year. The amendments adopted herein are in response to these marketing conditions and are for the purpose of accommodating the handling of surplus milk under unusual circumstances. Unless amendatory action is taken on an emergency basis, the opportunity to assure producer equity in these markets will be lost. The normal procedure of issuing a recommended decision and providing time to file exceptions thereto will not permit the implementation of the amendments in time for them to serve their intended purpose.

Rulings on Proposed Findings and Conclusions

Briefs and proposed findings and conclusions were filed on behalf of certain interested parties. These briefs, proposed findings and conclusions and the evidence in the record were considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions filed by interested parties are inconsistent with the findings and conclusions set forth herein, the requests to make such findings or reach such conclusions are denied for the reasons previously stated in this decision.

Determination

The findings and conclusions of this decision do not require any change in the regulatory provisions of the orders regulating the handling of milk in the New Orleans-Mississippi, Greater Louisiana and Nashville, Tennessee, marketing areas. It is hereby determined that this proceeding shall have no further applicability to these three orders.

General Findings

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the Georgia, Middle Atlantic, Upper Florida, Tennessee Valley, Tampa Bay and Louisville-Lexington-Evansville orders and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

The following findings are hereby made with respect to each of the aforesaid tentative marketing agreements and orders:

(a) The tentative marketing agreement and the order, as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(b) The parity prices of milk as determined pursuant to section 2 of the Act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the marketing area, and the minimum prices specified in the tentative marketing agreement and the order, as hereby proposed to be amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(c) The tentative marketing agreement and the order, as hereby proposed to be amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in, a marketing agreement upon which a hearing has been held.

Marketing Agreement and Order

Annexed hereto and made a part hereof are two documents, a marketing agreement regulating the handling of milk, and an order amending the orders regulating the handling of milk in the aforesaid specified marketing areas, which have been decided upon as the detailed and appropriate means of effectuating the foregoing conclusions.

It is hereby ordered, That this entire decision, except the attached marketing agreement, be published in the **Federal Register.** The regulatory provisions of the marketing agreement are identical with those contained in the orders as hereby proposed to be amended by the attached order which is published with this decision.

Determination of Producer Approval and Representative Period

January 1982 is hereby determined to be the representative period for the purpose of ascertaining whether the issuance of the orders, as amended and as hereby proposed to be amended, regulating the handling of milk in the aforesaid specified marketing areas, is approved or favored by producers, as defined under the terms of each of the orders (as amended and as hereby proposed to be amended), who during such representative period were engaged in the production of milk for sale within the respective marketing areas.

List of Subjects in 7 CFR Parts 1007, 1004, 1006, 1011, 1012, and 1046

Milk marketing orders, Milk, Dairy Products.

Signed at Washington, D.C., on: April 19, 1982.

C. W. McMillan,

Assistant Secretary, Marketing and Inspection Services.

Order[1] amending the orders, regulating the handling of milk in certain specified marketing areas:

7 CFR Part and Marketing Area

1007 Georgia
1004 Middle Atlantic
1006 Upper Florida
1011 Tennessee Valley
1012 Tampa Bay
1046 Lousiville-Lexington-Evansville

Findings and Determinations

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of each of the aforesaid orders and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

The following findings findings are hereby made with respect to each of the aforesaid orders:

(a) *Findings.* A public hearing was held upon certain proposed amendments to the tentative marketing agreements and to the orders regulating the handling of milk in each of the aforesaid specified marketing areas. The hearing was held pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice and procedure (7 CFR Part 900).

Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing area, and the minimum prices specified in the order as hereby amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(3) The said order as hereby amended regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held.

Order relative to handling. It is therefore ordered that on and after the effective date hereof the handling of milk in each of the specified marketing areas shall be in conformity to and in compliance with the terms and conditions of each of the orders, as amended, and as hereby amended, as follows:

PART 1007—MILK IN THE GEORGIA MARKETING AREA

1. In § 1007.60, paragraph (g) is added to read as follows:

§ 1007.60 Handler's value of milk for computing uniform price.

* * * * *

(g) With respect to milk marketed on and after the effective date hereof through June 1982, subtract the amount obtained by multiplying the pounds of bulk fluid milk products that were transferred or diverted from a pool plant to a nonpool plant and classified as Class II or Class III milk pursuant to § 1007.42(b) (3) or § 1007.42(d) (2) by a rate for each truckload of milk so moved that is equal to 3.6 cents per hundredweight for each 10 miles or fraction thereof that the nonpool plant is located more than 350 miles (as determined by the market administrator) from the nearest of the following locations: the city hall in Atlanta, Georgia; the city hall in Augusta, Georgia; the transferor plant; or, for diversions, the pool plant of last receipt for the major portion of the milk on the load or the courthouse of the county where the major portion of the milk so diverted was produced. No credit shall apply to the total quantity of milk so moved to a given nonpool plant by a handler during the month if any portion of the milk is assigned to Class I.

PART 1004—MILK IN THE MIDDLE ATLANTIC MARKETING AREA

1. In § 1004.60, paragraph (f) is added to read as follows:

§ 1004.60 Pool obligation of each pool handler.

* * * * *

(f) With respect to milk marketed on and after the effective date hereof through June 1982, subtract the amount obtained by mutiplying the pounds of bulk fluid milk products that were transferred or diverted from a pool plant to a nonpool plant and classified as Class II milk pursuant to § 1004.42(d) or § 1004.42(e) (3) by a rate for each truckload of milk so moved that is equal to 3.6 cents per hundredweight for each 10 miles or fraction thereof that the nonpool plant is located more than 200 miles (as determined by the market administrator) from the nearest of the following locations: the city hall in Philadelphia, Pennsylvania; the zero milestone in Washington, D.C.; the city hall in Baltimore, Maryland; the transferor plant; or, for diversions, the pool plant of last receipt for the major portion of the milk on the load or the courthouse of the county where the major portion of the milk so diverted was produced. No credit shall apply to the total quantity of milk so moved to a given nonpool plant by a handler during the month if any portion of the milk is assigned to Class I.

PART 1006—MILK IN THE UPPER FLORIDA MARKETING AREA

1. In § 1006.60, paragraph (h) is added to read as follows:

§ 1006.60 Handler's value of milk for computing uniform price.

* * * * *

(h) With respect to milk marketed on and after the effective date hereof through June 1982, subtract the amount obtained by multiplying the pounds of bulk fluid milk products that were transferred or diverted from a pool plant to a nonpool plant and classified as Class II milk pursuant to § 1006.42(b) or § 1006.42(c) (3) by a rate for each truckload of milk so moved that is equal to 3.6 cents per hundredweight for each 10 miles or fraction thereof that the nonpool plant is located more than 550 miles (as determined by the market administrator) from the nearest of the following locations: the city hall in Jacksonville, Florida; the city hall in Tallahassee, Florida; the transferor plant; or, for diversions, the pool plant of last receipt for the major portion of the milk on the load or the couthouse of the county where the major protion of the milk so diverted was produced. No credit shall apply to the total quantity of milk so moved to a given nonpool plant by a handler during the month if any portion of the milk is assigned to Class I.

PART 1011—MILK IN THE TENNESSEE VALLEY MARKETING AREA

1. In § 1011.60, paragraph (g) is added to read as follows:

§ 1011.60 Handler's value of milk for computing uniform price.

* * * * *

[1] This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.

(g) With respect to milk marketed on and after the effective date hereof through June 1982, subtract the amount obtained by multiplying the pounds of bulk fluid milk products that were transferred or diverted from a pool plant to a nonpool plant and classified as Class II of Class III milk pursuant to § 1011.42(b)(3) or § 1011.42(d)(2) by a rate for each truckload of milk so moved that is equal to 3.6 cents per hundredweight for each 10 miles or fraction thereof that the nonpool plant is located more than 350 miles (as determined by the market administrator) from the nearest of the following locations: the city hall in Bristol, Tennessee; the city hall in Knoxville, Tennessee; the city hall in Chattanooga, Tennessee; the transferor plant; or, for diversions, the pool plant of last receipt for the major portion of the milk on the load or the courthouse of the county where the major portion of the milk so diverted was produced. No credit shall apply to the total quantity of milk so moved to a given nonpool plant by a handler during the month if any portion of the milk is assigned to Class I.

PART 1012—MILK IN THE TAMPA BAY MARKETING AREA

1. In § 1012.60, paragraph (h) is added to read as follows:

§ 1012.60 Handler's value of milk for computing uniform price.

* * * * *

(h) With respect to milk marketed on and after the effective date hereof through June 1982, subtract the amount obtained by multiplying the pounds of bulk fluid milk products that were transferred or diverted from a pool plant to a nonpool plant and classified as Class II milk pursuant to § 1012.42(b) or § 1012.42(c)(3) by a rate for each truckload of milk so moved that is equal to 3.6 cents per hundredweight for each 10 miles or fraction thereof that the nonpool plant is located more than 700 miles (as determined by the market administrator) from the nearest of the following locations: the city hall in Tampa, Florida; the transferor plant; or, for diversions, the pool plant of last receipt for the major portion of the milk on the load or the courthouse of the county where the major portion of the milk so diverted was produced. No credit shall apply to the total quantity of milk so moved to a given nonpool plant by a handler during the month if any portion of the milk is assigned to Class I.

PART 1046—MILK IN THE LOUISVILLE-LEXINGTON-EVANSVILLE MARKETING AREA

1. In § 1046.60, paragraph (g) is added to read as follows:

§ 1046.60 Handler's value of milk for computing uniform price.

* * * * *

(g) With respect to milk marketed on and after the effective date hereof through June 1982, subtract the amount obtained by multiplying the pounds of bulk fluid milk products that were transferred or diverted from a pool plant to a nonpool plant and classified as Class II or Class III milk pursuant to § 1046.42(b)(3) or § 1046.42(d)(2) by a rate for each truckload of milk so moved that is equal to 3.6 cents per hundredweight for each 10 miles or fraction thereof that the nonpool plant is located more than 250 miles (as determined by the market administrator) from the nearest of the following locations: the city hall in Louisville, Kentucky; the city hall in Lexington, Kentucky; the city hall in Evansville, Indiana; the transferor plant; or, for diversions, the pool plant of last receipt for the major portion of the milk on the load or the courthouse of the county where the major portion of the milk so diverted was produced. No credit shall apply to the total quantity of milk so moved to a given nonpool plant by a handler during the month if any portion of the milk is assisgned to Class I.

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Farmers Home Administration

7 CFR Part 1930

Management and Supervision of Multiple Family Housing Borrowers and Grant Recipients

AGENCY: Farmers Home Administration, USDA.

ACTION: Proposed rule.

SUMMARY: The Farmers Home Administration proposes to amend its management and supervision regulations pertaining to multiple family housing borrowers and grant recipients. These amendments would revise provisions governing rent overburden, energy audits, ineligible tenants, management agreements and certain other management requirements. Owners, tenants, management organizations and an FmHA taskforce have commented that portions of this regulation are unclear or place an undue burden on owners and tenants. Farmers Home Administration recognizes the validity of these comments. The intended effect of this action is to clarify management responsibilities and remove from the regulation certain occupancy requirements which cause under burden to owners and tenants.

DATE: Comments must be received on or before June 22, 1982.

ADDRESS: Submit written comments in duplicate to the Office of the Chief, Directives Management Branch, Farmers Home Administration, Room 6346, South Agriculture Building, Washington, DC 20250. All written comments made pursuant to this notice will be available for public inspection during regular work hours at the above address.

FOR FURTHER INFORMATION CONTACT: Mr. William F. Daniel, Multiple Housing Servicing Officer, Farmers Home Administration, USDA, Room 5321, South Agriculture Building, Washington, DC, telephone (202)382-1611.

SUPPLEMENTARY INFORMATION: The proposed rule has been reviewed under USDA procedures established in Secretary's Memorandum 1512-1 which implements Executive Order 12291 and has been determined to be non-major. The proposed rule contains revisions to the present rule that will have an insignificant effect on the economy. Costs or prices to consumers, individual businesses and industries, Federal, State or local government agencies, or to geographic regions of the country are not expected to increase. The proposed rule is expected to have little or no adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprise to compete with foreign-based enterprise in domestic or export markets.

The Farmers Home Administration has chosen to totally revise its present regulation. The alternatives to issuance of the proposed regulations which were considered, included not changing existing regulations, partial revision of selected portions of the current regulations, and allowing each FmHA State Office to establish procedures consistent with local practices. These alternatives were rejected because they did not promote efficiency in Agency operations, nor assure long term compliance with the objectives for which the FmHA assistance was provided. Moreover, they could lead to a proliferation of regulations and requirements more stringent than necessary and confusing to the public, especially to borrowers with operations in more than one jurisdiction. On this basis the Agency has determined that

the chosen alternative maximizes the net benefit to society at the lowest net cost.

This document has been reviewed in accordance with 7 CFR Part 1901, Subpart G, "Environmental Impact Statements". It is the determination of FmHA that the proposed action does not constitute a major Federal action significantly affecting the quality of the human environment, and in accordance with the National Environmental Policy Act of 1969, Pub. L. 91–190, an Environmental Impact Statement is not required.

Revision of the present regulation addresses items of confusion, ambiguity, or contradiction identified by members of the public and Agency personnel. The revision is designed to make the regulations more workable and understandable for the public and the Agency, and hence less costly in the long term for both.

The proposed rule describes accounting, reporting, and financial analysis requirements that would pertain to all multiple housing borrowers and grant recipients. These requirements include the maintenance of prescribed FmHA forms to record, and to periodically transmit to FmHA for analysis, information about the economic and compliance activity of projects. FmHA is particularly interested in public comment on an alternative idea that projects of 25 or more living units be permitted to use the FmHA forms as guidelines and to substitute reports prepared by a Certified Public Accountant. The substituted reports would certify as to the adequacy and accuracy of the economic information and its substantial conformity to the FmHA guidelines and compliance with Title V of the Housing Act of 1949 as amended.

The FmHA programs and projects which are affected by this Instruction are subject to state and local clearinghouse review in the manner delineated in FmHA Instruction 1901–H.

Request is being made for clearance of the recordkeeping and reporting requirements according to OMB Circular A–40.

(Catalog of Federal Domestic Assistance Number for the Rural Rental Housing Loans program affected by this document is 10.415; for the Farm Labor Housing loan and grant program, it is 10.405; and for the Rural Housing Site Loan program, it is 10.411)

FmHA proposes to revise Subpart C of Part 1930 in Chapter XVIII, Title 7, Code of Federal Regulations. The following is a list of the major changes proposed by this action:

Section 1930.122(b)(1) Provision is made for recordkeeping systems on a cash, modified cash, or accrual basis.

Exhibit B—Multiple Housing Management Handbook

II E—A new definition of Management Fee is provided detailing items not included in the fee.

II N—New definitions are included for income from Public Assistance and nonmonetary contributions.

III B 5 and 6—Identifies tenants who may receive rental assistance in exception to the occupancy standard.

IV—Clarifies which projects must have a Management Plan.

IV D 3—A new paragraph is added to clarify when a rent-up fee may be paid.

V B 1—Adds an eligibility requirement that tenants "do not occupy any other Government subsidized housing."

V B 5—Adds authority for owner to issue a 1–year lease to an ineligible tenant to protect the financial interest of the Government.

V B 5 a (7)—Clarifies that tenants ineligible for reasons other than income are eligible to receive rental assistance and/or interest credit.

V B 5 c—Gives the State Director authority to make an exception to the occupancy standards in certain cases of older Senior Citizen projects with few or no one-bedroom apartments. This removes a hardship created by the occupancy standards when the housing is predominantly 2–bedroom and the primary need for the housing is by single-person households.

VII B 2—Provides provision for lease termination if rental assistance is no longer available to the tenant. This relieves a hardship on the tenant if the tenant's rent increases because rental assistance expires and renewal rental assistance units are not available from FmHA.

VII B 6—Adds a required lease clause for tenants to certify that this is their permanent residence. This is necessary to prevent tenants from maintaining two subsidized residences, each occupied only a portion of the year.

VII C—Clauses 5b, 5d, 8, 12, 13, 14, 17 and 18 are added as Guides for the State Director to prepare a sample lease for the State.

XI A 1—Requires a separate ledger column in the General Operating Account to track the initial 2 percent operating capital. This is necessary to determine the remaining balance to be released to the borrower in accordance with § 1944.211(a)(5)(iii) of Subpart E of Part 1944.

XI A 1 c—Revised to clarify the sequence of disbursement of authorized project expenditure, and the retention of unused portions of project income or revenue.

XIII A 4—"Rent overburden" is defined.

XIII B, C, D—The procedure for termination of tenancy is changed. Eviction will now be handled according to the terms of the lease, this subpart, and State law. Eviction for cause covered by State law is no longer covered by FmHA Instruction 1944–L "Tenant Grievance and Appeals Procedure." Requirements to comply with both FmHA Instructon 1944–L and State law was creating undue monetary burden on owners because of the 65-day appeal time required before eviction could be started.

Exhibit B–10, 10 A—Revises guide to assist management in determining the ability of tenants to sustain relative independence. The guide is made less technical for people not familiar with individual geriatric assessments.

Exhibit B–10B, 10 C Removed.

Exhibit C—Rent Increases

II—Borrowers are required to apply for rental assistance if a requested rent increase will cause more than 20 percent of the low-income tenants to pay in excess of 25 percent of adjusted monthly income for costs of rent and utilities. The present requirement for the owner to apply for rental assistance if any tenant would pay in excess of 25 percent of adjusted income creates undue burden on an owner for only one tenant in a project. The shortage of rental assistance units has also made it impossible to fill all the rental assistance requests generated as a result of this requirement. The 20 percent requirement is consistent with Exhibit C to FmHA Instruction 1944–L.

III and IV—The processing time for a rent increase has been reduced from a minimum of 90 days to a minimum of 60 days. Tenant comment period has been reduced from 30 to 20 days. The borrower will be notified of the State Director's decision within 45 days of posting of the "Notice to Tenants of Proposed Rent Increase."

Exhibit C–1—Notice to Tenants of Proposed Rent Increase

Tenants are given 60 days prior notice of the rent increase, subject to Farmers Home Administration approval. An additional 30 day notice will no longer be required after FmHA approval.

Exhibit D—Energy Audit

This exhibit is added to help borrower's comply with the requirements of 10 CFR Part 456 (RCS). Each project will have an energy audit every 5-years. The borrower's annual report to FmHA will include a copy of the energy audit and the borrower's plan for implementing the recommended improvements if they are cost effective or defer the improvements to be reviewed at the next annual report period.

The energy audit is no longer required for a rent increase. The time required to get the energy audit before a rent increase can be requested delays the rent increase process unnecessarily.

Comments received in response to this proposed rule will be thoroughly evaluated and considered in the development of the final rule.

List of Subjects in 7 CFR Part 1930

Accounting, Administrative practice and procedure, Grant programs—housing and community development, Loan programs—housing and community development, Low and moderate income housing—rental, Reporting and recordkeeping requirements.

Accordingly, FmHA proposes to revise Subpart C of Part 1930 in Chapter XVIII, Title 7, Code of Federal Regulations to read as follows:

PART 1930—GENERAL

Subpart C—Management and Supervision of Multiple Family Housing Borrowers and Grant Recipients

Sec.
1930.101 General.
1930.102 Definitions.
1930.103–1930.104 [Reserved]
1930.105 Objective of management and supervision.
1930.106–1930.107 [Reserved]
1930.108 Extent of management.
1930.109 Extent of supervision.
1930.110 Methods of supervision
1930.111–1930.112 [Reserved]
1930.113 Borrower responsibilities.
1930.114–1930.116 [Reserved]
1930.117 Effective supervision.
1930.118 [Reserved]
1930.119 Supervisory visits.
1930.120–1930.121 [Reserved]
1930.122 Accounts and records.
1930.123 [Reserved]
1930.124 Borrower budgets, reports, audits, and analysis.
1930.125–1930.127 [Reserved]
1930.128 Labor housing grants.
1930.129 Rural housing site loans.
1930.130–1930.133 [Reserved]
1930.134 State Office records.
1930.135–1930.136 [Reserved]
1930.137 State supplements, guides, forms and other issuances.
1930.138–1930.140 [Reserved]
1930.141 Materials to be provided borrower/applicant.
1930.142 Complaints regarding discrimination in use and occupancy of RRH housing.
1930.143 Exception authority.
1930.144–1930.150 [Reserved]
Exhibit A—Steps for FmHA Personnel in Conducting Annual Analysis of Rental Operations.
Exhibit A–1—Review of Audit Reports.
Exhibit B—Multiple Housing Management Handbook.
Exhibit B–1–Management Plan Requirements for FmHA Multiple Family Housing Projects.
Exhibit B–2—Requirement for Management Agreements.
Exhibit B–3—Suggested Housing Management Agreement for FmHA Multiple Family Housing Projects.
Exhibit B–4—Questionnaire for Prospective Management Agent of FmHA Multiple Family Housing Projects.
Exhibit B–5—Questionnaire for Owner who Proposes Owner-Management of a FmHA Multiple Family Housing Project.
Exhibit B–6—Monthly Reports (Chart).
Exhibit B–7—Annual Reports (Chart).
Exhibit B–8—Miscellaneous Reports or Submittals (Chart).
Exhibit B–9—Employment Inquiry.
Exhibit B–10—Objective Guides to Assist Management in Determining the Ability of Tenants to Sustain Relative Independence.
Exhibit B–10A—Type of Living Environment Needed in Relation to Nature and Degree of Disability.
Exhibit C—Rent Increases.
Exhibit C–1—Notice to Tenants of Proposed Rent Increase.
Exhibit D—Energy Audit

Subpart C—Management and Supervision of Multiple Family Housing Borrowers and Grant Recipients

Authority: 42 U.S.C. 1480, 7 CFR 2.23, 7 CFR 2.70.

§ 1930.101 General.

This subpart prescribes the polices, authorizations, and procedures for management and supervision of the following Farmers Home Administration (FmHA) loan and grant recipients (existing and future).

(a) Farm Labor Housing (LH).

(b) Rural Rental Housing (RRH) including congregate housing.

(c) Rural Housing Site Loans (RHS).

(d) This subpart, with the exception of Exhibit C "Rent Increases," does not apply to individual type borrowers who did not sign a loan agreement. However, the provisions of Part 1944, Subpart E must be followed. In the case of individual type borrowers who are delinquent on their loan payments or are not otherwise carrying out the objectives of their loans, the State Director may require compliance with any sections of this subpart to assure that the objectives of the loan are carried out. For RHS borrowers, the following sections of this subpart do not apply: Section 1930.108, § 1930.124, § 1930.128, and § 1930.141.

§ 1930.102 Definitions.

(a) *FmHA.* "FmHA" means the United States of America acting through the Farmers Home Administration; it includes FmHA's predecessor agencies.

(b) *OGC.* "OGC" means the Regional Attorney or the Attorney in Charge in the field office of the Office of the General Counsel of the United States Department of Agriculture.

(c) *Supervision.* "Supervision" includes the broad scope of guidance available through the FmHA to assist borrowers in carrying out the objectives of the loan and in complying with FmHA regulations.

(d) *Management.* "Management" is the overall direction given by the owner or the owner's agent in meeting the needs of the tenants, maintaining the project, and providing sound and economical operation of the project.

(e) *Borrowers.* "Borrowers" means all individuals, partnerships, cooperatives, trusts, public agencies, private or public corporations and other organizations which have received a loan or grant from FmHA for LH, RRH, or RHS purposes.

(f) *Governing Body.* "Governing Body" means those elected or appointed officials of an organization or public agency type borrower responsible for the operations of the project.

(g) *District Director.* For the purpose of this subpart, the term also includes the Assistant District Director, and other qualified District Staff who may be delegated responsibilities under this subpart in accordance with the provisions of Subpart F of Part 2006 which is available in any FmHA Office.

§§ 1930.103—1930.104 [Reserved]

§ 1930.105 Objective of management and supervision.

(a) Each loan or grant made by FmHA is designed to attain the primary objective of providing decent, safe and sanitary housing for low- and moderate-income persons. Therefore, each borrower and grant recipient will be provided supervision to help in accomplishing the objectives of the loan or grant.

(b) To accomplish this objective primary emphasis will be given to the following:

(1) Proper and efficient management policies as prescribed in Exhibit B of this subpart.

(2) Complying with agreements.

(3) Repaying loans on schedule.

(4) Maintaining security property.

(5) Protecting the interests of FmHA.

(6) Operating facilities in accordance with State and local laws and regulations.

(7) Maintaining accounts and records.

(8) Submitting reports and audits.

(9) Processing rent increases in accordance with Exhibit C of this subpart.

§§ 1930.106—1930.107 [Reserved]

§ 1930.108 Extent of management.

In accordance with Exhibit B of this subpart, the borrower or the borrower's agent will develop a management plan for each project that describes the level of management needed to maintain program objectives. It may be necessary to obtain management from other than the owner. If so, a management agreement is to be used to define the responsibilities of the management agent. This agreement must be accepted by the FmHA loan approval official. A suggested management agreement is provided in Exhibit B–3 of this subpart.

§ 1930.109 Extent of supervision.

All borrowers will be given guidance and advice to help assure successful completion and operation of facilities, compliance with their agreements and obligations, and protection of the FmHA's financial interest. Supervision does not relieve borrowers of their own responsibilities and obligations. Supervision starts with the first contact with the applicant and continues through the life of the loan or, through any restrictive time period where prepayment is authorized. In the case of a grant, supervision continues until the requirements of the grant agreement have been fulfilled. Supervision of Multiple Family Housing borrowers is a primary responsibility of the District Director; however, additional supervision and guidance will be given by the Multiple Family Housing Coordinator, and/or other members of the State Office staff, as appropriate.

§ 1930.110 Methods of supervision.

Supervisory methods used by FmHA employees include organizational and development planning; management planning; affirmative marketing; construction conferences; long-term, annual, and other periodic planning and evaluation; accounts and records inspections and guidance; project inspections; attendance at membership and governing body meetings; analysis of accounting and audit reports; guidance by memorandums; and similar activities.

(a) *Applicants.* Prior to loan or grant closing, supervision will largely be conducted during conferences and meetings with prospective borrowers, members, organizing committees; governing bodies, officers, applicant's attorney, architects, project manager, bookkeeper, other authorized representatives of the applicant, and involved government agencies. Examples are:

(1) Organizational meetings to discuss needs, services available, owner obligations, and to establish steering or organizational committees.

(2) Preapplication and application conferences.

(3) Preconstruction conferences to reach an understanding regarding responsibilities and the manner in which development will be performed. The applicant at this point should be made fully aware of the responsibilities entailed in assuring Fair Housing and/or Equal Opportunity requirements provided by Title VI and Title VIII of the Civil Rights Acts of 1964 and 1968.

(4) Preloan and/or grant closing conferences to review requirements of the loan resolution or agreement, closing requirements, and management plan to establish responsibilities for the operation of the project. The applicant at this point should be made fully aware of the responsibilities entailed in assuring Fair Housing and/or Equal Opportunity requirements provided by title VI and title VIII of the Civil Rights Acts of 1964 and 1968.

(b) *Borrowers who have yet to demonstrate their ability and borrowers with problems.* When the borrower is establishing its operations, or for borrowers that are delinquent, or have other difficulties, supervisory guidance will include:

(1) Implementation and/or review for compliance with the management plan.

(2) Establishment and maintenance of a recordkeeping and reporting system.

(3) Compliance with the requirements of the loan agreement or loan resolution.

(4) Review of annual audit and budget requirements.

(5) Any other supervision as may be necessary to assure effective and successful operation of the project.

(6) A requirement that the borrower contract with an acceptable management firm with proven background and/or experience.

(c) *Borrowers who have demonstrated ability.* When the borrower has successfully completed its first full fiscal year of operation, is current with its payments, is in compliance with other loan or grant requirements, is maintaining the security in a satisfactory manner, and otherwise is progressing satisfactorily, supervision will consist of at least an annual review of budgets and reports in accordance with § 1930.124, and at least a biennial security inspection. HUD Form 9822, "Report of Physical Condition and Estimate of Repair Costs," may be used for the inspection. Steps for conducting a review are outlined in Exhibit A of this subpart. Supervision of grant-only recipients will consist of at least the reviews and inspections outlined in § 1930.119 of this subpart.

§§ 1930.111–1930.112 [Reserved]

§ 1930.113 Borrower responsibilities.

Borrowers should understand the difference between FmHA supervised credit and credit from other Federal, State, and conventional sources. Borrowers are expected to have the ability to analyze and plan their activities, initiate and carry out adjustments and improvements, maintain suitable records, meet their obligations, make required reports, and maintain and properly account for project income and security property. Borrower members should understand their organization and the responsibilities of its governing body. That understanding includes the prohibitions against discrimination because of race, color, religion, sex, national origin, marital status, age, physical or mental handicap (applicant must have capacity to execute a legal contract) which accompany all such assistance from FmHA and the need to maintain adequate records by which the borrowers compliance can be measured.

(a) *Borrowers with governing bodies.* Those elected or appointed officials comprising the governing body are responsible for:

(1) Knowing their responsibilities and obligations and conducting the affairs of the borrower so that the terms of its agreement(s) with FmHA will be fulfilled.

(2) Maintaining records of all current members and maintaining membership at the required level.

(3) Establishing and maintaining rules, regulations, rent schedules, fees, and other policies necessary for orderly operation of the project, payment of debts, and maintenance of required reserves.

(4) Preparing reports, audits, and other material required by FmHA for sound financial practices.

(5) Holding meetings as required by the organizational documents, and as otherwise necessary, to provide proper control and management of its operations, and to keep the membership informed.

(b) *Membership.* Members are responsible for full support of the project and operation by:

(1) Paying any dues, fees, and other required charges promptly.

(2) Electing responsible officials.

(3) Complying with organization rules and regulations.

(4) Attending annual and special meetings.

§§ 1930.114–1930.116 [Reserved]

§ 1930.117 Effective supervision.

For effective supervision, FmHA employees who are responsible for making and servicing Multiple Family Housing loans must be familiar with the complexities of the various types of borrowers; communicate effectively with the borrowers, and, if applicable, borrower's management agent; and provide guidance in the operation and management of projects.

(a) *District Director.* District Directors supervise a wide range of borrowers, from the individual to public agencies. To provide successful supervision, District Directors will use supervisory

methods which will be the most effective. This includes but is not limited to the following:

(1) Organize their work and the work of their staffs in order that time is used effectively in providing supervision.

(2) Emphasize to the borrower and/or the borrower's management agent that they, not FmHA, are responsible for managing the project, collecting rents, repayment of the loan on schedule, project maintenance and for compliance with any loan or grant agreement or resolution, State laws and other FmHA requirements.

(3) Monitor all provisions or conditions of the FmHA approval documents that pertain to site development standards and any use restrictions to ensure that they are fully complied with throughout the life of the project.

(4) Monitor the borrowers' compliance with real property tax, insurance, bonding, security, and reporting requirements of FmHA regulations.

(5) See that each borrower designates a representative to serve as it contact source.

(6) Become familiar with the borrower's bylaws or other rules and regulations when necessary to assure compliance with FmHA requirements.

(7) Provide governing bodies with suggestions for disseminating information that may be helpful in keeping the membership in touch with activities of the governing body to increase and maintain membership interest.

(8) Provide adequate advice and guidance to governing bodies as needed.

(9) Avoid doing any of the following:

(i) Try to run the borrower's business.

(ii) Take charge of the borrower's meetings.

(iii) Attempt to supervise the borrower through its attorney or architect.

(iv) Assume that in the absence of adverse complaints, the borrower is proceeding successfully.

(b) *State Director.* State Directors will:

(1) Coordinate and direct supervisory activities related to borrowers and perform other functions as prescribed by this subpart.

(2) Provide guidance and leadership to assure that the State staff and District Directors thoroughly understand and carry out their responsibilities.

(3) Develop training programs necessary to assure that FmHA personnel are kept up-to-date regarding the most effective supervisory methods, that the proper time is allotted to supervision, and that borrowers receive supervision to the extent necessary.

(4) Maintain necessary liaison with the OGC.

(5) Maintain necessary liaison with State and local authorities and agencies. For example, in the case of projects benefitting the elderly, it is essential that liaison be maintained with State and Area Agencies on Aging.

(6) See that State Office records are maintained to assure effective supervision.

(c) *State Staff.* State staff members including Rural Housing loan officers, management specialists, architects, and others responsible for supervision of borrowers covered by this subpart will:

(1) Continuously monitor supervisory activities to assure that each borrower is receiving timely and effective supervision.

(2) Keep currently informed of the supervision being given and frequently check the status of borrowers.

(3) Train District Directors and other District staff to effectively peform the required supervisory activities, and to provide guidance in sound operation and management policies. The assistance of State Agencies on Aging should be sought in connection with training which pertains to the management of services to their elderly.

(4) Post review closing of loans and grants to determine that they have been properly closed.

(5) Visit a sufficient number of projects to assure that proper supervision is being provided.

§1930.118 [Reserved]

§1930.119 Supervisory visits.

(a) *Purpose.* District Directors and other FmHA officials will visit the project site, including the management office, as necessary to enhance accomplishment of the objectives of the loan or grant. Following are the major purposes for which visits may be made:

(1) To assist with satisfactory development of the project.

(2) To evaluate the management program of the project pursuant to Exhibit B of this subpart, such as:

(i) Adherence to the management plan.

(ii) Compliance with the management agreement when applicable.

(iii) Compliance with the Affirmative Fair Housing Marketing Plan.

(3) To review borrower records and verify information, such as:

(i) Tenant eligibility.

(ii) Tenant income.

(iii) Tenant selection criteria.

(iv) Waiting lists.

(v) Rental rates.

(vi) Other items as necessary.

(4) To inspect and ascertain proper maintenance and assure protection of the security for the FmHA loan.

(5) To determine that borrower and/or borrower's management agent is fully complying with all provisions and conditions of the approval document regarding site development and use restrictions.

(b) *Frequency.* Visits will be made when necessary to assure compliance with FmHA policies and objectives. The District Director after the first year of operation will make one visit at least every two years to each project. Planned visits will be included in the monthly work calendar. The visit shall be conducted with the borrower or its official representative.

(c) *Preparation.* The District Director will review the most recent monthly or annual reports, the running records, correspondence and other District Office records to determine payment dates of taxes, insurance, and bond premiums. The loan payment status will also be noted.

(d) *Recording and reporting.* The results of each visit will be recorded in the running record or, when appropriate, a letter summarizing the visit and outlining followup action may be directed to the borrower. Any major problems with the project will be reported in writing to the State Director with recommendations for corrective action. Exhibit A to Subpart A of Part 1955 or Form FmHA 465–7, "Report on Real Estate Problem Case", may be used.

(e) *Biennial inspections.* The District Director will conduct at least a biennial inspection of each project with the borrower, manager or designated representative present. This inspection may be made simultaneously with a visit scheduled in accordance with this section. The results of the inspection will be documented in the running record and formally recorded on Form FmHA 1930–8, "Year End Report and Analysis for Fiscal Year Ending ."

§§ 1930.120–1930.121 [Reserved]

§ 1930.122 Accounts and records.

Borrowers and grant recipients are required to maintain accounts and records as necessary to conduct their operation successfully, to meet the requirements of Federal, State and local laws and regulations, and to meet the terms of their agreements with FmHA, including such records on occupancy by race and/or ethnic origin that FmHA will need to be able to measure the Fair Housing compliance posture of the borrower during the conduct of compliance reviews. Borrowers and grant recipients will implement

accounting and recordkeeping systems as may be prescribed by FmHA.

(a) *Types of record and accounts.* The borrower must keep records and accounts sufficient to provide accurate, permanent, and current information. In order to meet this requirement, the type and form of records and accounts must be determined prior to loan or grant approval. The person responsible for maintaining such records and accounts (and if audits will be required, the Auditor) should be selected prior to loan or grant closing. Borrowers who are required to provide audits should have their auditors develop a recordkeeping system or at least review their systems and agree that it is acceptable for auditing purposes before loan closing. The recordkeeping system must conform to FmHA requirements.

(b) *Recordkeeping guides.* The following items will be considered in establishing a recordkeeping system:

(1) Accounting records required by the subpart may be prepared on a cash, modified cash, or accrual basis.

(2) The requirements of Federal, State or local laws.

(3) If outside bookkeeping services are available, they may be used if the cost is reasonable. Management agents may also provide this service. The cost of contracting with an outside service or a management agent must be shown separately and will be included in any management fee.

§ 1930.123 [Reserved]

§ 1930.124 Borrower budgets, reports, audits, and analysis.

In order that borrowers establish and maintain adequate business management practices, it is essential that a system of budgets, reports, and anslysis of such reports, be established at the onset. Timely reports and budgets will furnish necessary information on which to make sound management decisions essential to efficient operations and provide FmHA with periodic reports that will indicate trends and reflect the type and extent of management assistance needed. Timely analysis of such reports and budgets will reveal potential problems and provide an opportunity for corrective action before such problems develop to the extent that they have an adverse effect on fiscal or operational conditions. All reports and budgets will pertain only to the FmHA financed project. Forms necessary in making the required reports may be provided to the borrower. The following reports will be required, and borrowers and grant recipients will be required to implement a uniform reporting system that may be prescribed by FmHA.

(a) *Monthly report.* (1) Each borrower will complete Form FmHA 1930–6, "Monthly Report," the first month after: (i) Completion of a project or occupancy or any units when FmHA provides the construction financing, (ii) FmHA loan closing or occupancy of any of the units where interim financing is used, (iii) reamortization, (iv) transfer, (v) failure to make scheduled payment, or (vi) failure to make or maintain required transfers to reserve. Reports will be completed in accordance with this subpart. The District Director will review the report, take appropriate action and forward one copy of the report to the State Director with comments within 15 days after the end of each month. The State Director will review and when necessary, make any appropriate comments to the District Director.

(2) Monthly Reports are required through the borrower's first full fiscal year of operation and each month thereafter until discontinuance is authorized in writing by the District Director. At the end of the borrower's first fiscal year, the District Director shall inspect the project and review the operation including the annual analysis and audit. Monthly reports will be discontinued after the first full fiscal year of operation when the District Director determines that: (i) The project is being operated and maintained in a satisfactory manner; (ii) an adequate accounting system is being maintained and complete and satisfactory annual reports are being submitted; (iii) payments to FmHA are on schedule; and (iv) the reserve account is on schedule except for authorized expenditures. Authorization to discontinue the monthly reports will made by the District Director in writing to the borrower with a copy to the State Director.

(b) *Annual reports.* Each borrower will submit, within 45 days following the close of its fiscal year, a report consisting of:

(1) An audit report or verification of accounts as required by paragraph (c) of this section.

(2) Form FmHA 1930–7, "Statement of Budget, Income and Expense (Excluding Depreciation)," for the year being planned and the actual income and expenses for the previous year. The form will be completed in accordance with the FMI.

(3) Exhibit A–5, "Housing Allowances for Utilities and other Public Services," of Subpart E to Part 1944 when required for the project.

(4) Form FmHA 1930–8, "Year-End Report and Analysis For Fiscal Year Ending ," completed in accordance with the FMI.

(5) Copies of the minutes of the annual meeting or other related material that the District Director may request.

(6) An energy audit as required by Exhibit D to this subpart.

(c) *Audit reports.* Annual audit reports substantially complying with FmHA's "Instructions to Independent Certified Public Accountants and Licensed Public Accountants Performing Audits of Farmers Home Administration Borrowers and Grantees," which will be provided by FmHA, are required. Audit reports from public bodies must comply with OMB Circular A–102. Audit reports for private nonprofit borrowers must comply with OMB Circular A–110. Audit reports will be provided for each project as follows:

(1) For all projects with 25 or more units, an audit report will be prepared by a (i) Certified Public Accountant (CPA) or (ii) Licensed Public Accountant (LPA) licensed on or before December 31, 1970, except as outlined in paragraph (c)(5) of this section. The CPA or LPA may not be an individual or organization that is closely associated with the borrower in any manner that creates a possible conflict of interest. For example, the CPA or LPA cannot be an employee of the borrower or a member, stockholder, partner, principal, or have any interest in the borrower organization.

(2) For all borrowers with 24 or less units, an audit will not be required except as outlined in paragraph (c)(3) of this section. The borrower will, however, provide for each project a verification of accounts on Form FmHA 1930–8 by a competent individual qualified by education and/or experience who is independent of the borrower or in the case of a nonprofit organization, by a committee of the membership not including any officer, director, or employee of the borrower.

(3) The State Director or District Director may, for good cause, require that the accounts for any project be audited by a CPA or LPA, such as when records are incomplete or inaccurate or it appears that the borrower has not adequately accounted for project income. The State Director or District Director may require that the accounts of RHS borrowers be audited if the loan exceeds the 2-year repayment term.

(4) The State Director or District Director may authorize the initial audit to cover a period up to 18 months for new projects whose first operating year was for a period of 6 months or less.

(5) The State Director may also make an exception to the CPA or LPA audit requirement for not more than one successive year in a specific case providing: (i) The borrower submits a written request and (ii) the FmHA approved budget for the project includes a typical and reasonable fee for the audit but the negotiated cost of the audit will increase the monthly per unit rental rate by more than $2.00; and (iii) the required reports, including a CPA or LPA audit, were properly submitted for the prior year's operations; and (iv) the borrower provides a verification by a competent individual who is independent of the borrower.

(d) *Annual analysis.* The business of each borrower will be scheduled for analysis each year not later than 60 days following the end of the borrower's fiscal year. The purpose of the analysis will be to determine the degree and adequacy of the borrower's compliance with various FmHA loan or grant agreements; and to provide consultation or supervision in meeting program objectives. The analysis will be completed within the 60 day period except for extenuating circumstances such as the borrower's failure to provide the required information on time.

(1) *Preparation for the analysis.* No later than 30 days before the end of the borrower's fiscal year, the District Director will:

(i) Notify the borrower of the required reports, the due dates, and provide the borrower with necessary guides and forms for use in preparing reports.

(ii) When applicable, such as a loan to a new nonprofit organization, see that the borrower properly plans for its annual meeting, see that it will be held on the correct date and plan to attend the annual meeting of nonprofit organizations, unless the borrower has progressed as described in § 1930.110(c) of this subpart.

(iii) Arrange to conduct an inspection of the project with the borrower or the borrower's representative so as to comply with the frequency of visits contained in § 1930.119(b) of this subpart.

(2) *Conducting the analysis.* The analysis will be conducted by the District Director as soon as possible after the required reports are submitted by the borrower. It is not necessary that the borrower be present during the actual analysis provided the information required by Part IV of Form FmHA 1930–8 can be completed from the District Director's knowledge of the operation. The District Director should review each step listed in Exhibit A of this Subpart when conducting the annual analysis and carefully document the results in a memorandum or in the borrower's case file. Exhibit A–1 should be reviewed when analyzing the results of the required audit reports to determine that the reports are in compliance with Agency regulations. Comments and recommendations should also be recorded in the appropriate section of the analysis report.

(e) *Distribution of reports and annual analysis information.* The information required by this subpart will be distributed according to Exhibits B–6 and B–7 of this subpart.

(f) *State Director's review of annual analysis.* Upon receipt of the items listed in paragraph (b) of this section the State Director will:

(1) Review the information submitted, obtain any required modifications, approve Form FmHA 1930–7 and provide comments and recommendations by memorandum to the District Director. The State Director may delegate the authority to approve budgets to State Office staff members and to District Directors. If the authority to approve budgets is delegated to District Directors, a copy of approved budgets and annual reports must be sent to the State Office for review.

(2) Be prepared for a review of reports by the National Office upon request.

§§ 1930.125–1930.127 [Reserved]

§ 1930.128 Labor housing grants.

In addition to the supervision provided in connection with LH loans, recipients of LH grants will receive supervision to assure that the terms of the grant agreement and other objectives of the LH grant are carried out. This supervision will be continued for a period of 50 years from the date of the grant agreement unless supervision is terminated by FmHA regulations at an earlier date. Comments on these points will be included in appropriate reports, including assurance that:

(a) The rents are reasonable.

(b) The project is operated as a community service for the benefit of the tenants.

(c) Domestic farm laborers are given absolute priority in occupancy. (This requirement also applies to borrowers who have LH loans only.)

(d) No organization borrower, other than an association of farmers or family farm corporation or partnership, may require that an occupant work for a particular farm or for a particular owner or interest as a condition of occupancy of the housing.

§ 1930.129 Rural housing site loans.

For RHS loan borrowers the following additional supervisory action will apply to assure that the terms of the loan resolution and loan objectives are carried out:

(a) Review of the site development account records for compliance with authorized loan expenditures.

(b) Work with the borrower on the adjustment of sales price of the developed lots as they are being sold to assure adequate income to repay the loan, pay taxes, accrued interest and any other authorized debt or expenditures.

(c) Determine that lots are sold only to eligible buyers.

(d) Work closely with the borrower to enhance the sale of all lots prior to the due date of the note.

(e) Should the borrower fail to repay the loan as agreed, the District Director should submit a report to the State Director within 30 days containing the following information:

(1) The status of the account, number of lots unsold, and reasons for the problem.

(2) Prospects of selling lots to eligible buyers and a target date as to when this can be accomplished, if feasible.

(3) General comments and recommendations for future servicing of this account. Where necessary, liquidation may be recommended.

(f) State Directors will take the following actions in connection with problem RHS accounts:

(1) Provide additional guidance and assistance as necessary. If the proposal for selling the remaining lots is feasible, is within FmHA authorities, and the account will likely be paid in full within one year, the State Director may continue with the loan until the lots are sold.

(2) Where no satisfactory proposal for selling the remaining lots can be developed, the account will be handled in accordance with Part 1955, Subpart A of this chapter for liquidation.

§§ 1930.130–1930.133 [Reserved]

§ 1930.134 State Office records.

State Directors will maintain records as necessary to assure that the requirements of this subpart are met. Form FmHA 1930–9, "Multiple Housing Activity Card," will be maintained for each loan and/or grant recipient.

§§ 1930.135–1930.136 [Reserved]

§ 1930.137 State supplements, guides, forms, and other issuances.

The State Director may issue State supplements to this subpart as necessary to assure the successful operation of the program. The State Director, with the assistance of the

OGC, may supplement procedures or exhibits as set out in this subpart to the extent necessary to enable borrowers to comply with the applicable provisions of State laws. State supplements to this subpart require prior National Office approval. Under no circumstances will State forms be developed as replacements for the forms referred to in this subpart.

§§ 1930.138–1930.140 [Reserved]

§ 1930.141 Materials to be provided borrower/applicant.

To enable borrowers and applicants to meet the intent of this subpart, they will be supplied with one reproducible copy of the following FmHA exhibits and materials:

(a) Exhibit B and Exhibits B–1 thru B–9 and Exhibits B–10 through B–10A, of this subpart when applicable.

(b) Exhibits C and C–1 of this subpart.

(c) Exhibits B and B–1 of Subpart E of Part 1944 of this chapter.

(d) Exhibit C of Subpart E of Part 1944, of this chapter.

(e) Booklet entitled "Instructions to Independent Certified Public Accountants and Licensed Public Accountants Performing Audits of Farmers Home Administration Borrowers and Grantees."

(f) The following forms:

(1) Form FmHA 1930–7 and attached Exhibit A–5 of Subpart E of Part 1944, if applicable.

(2) Form FmHA 1930–6.

(3) Form FmHA 1930–8.

(4) Form FmHA 444–7, "Interest Credit and Rental Assistance Agreement."

(5) Form FmHA 444–29, "Project Worksheet for Interest Credit and Rental Assistance."

(6) Form FmHA 444–8, "Tenant Certification."

§ 1930.142 Complaints regarding discrimination in use and occupancy of RRH housing.

Any occupant or applicant for occupancy or use of RRH or LH housing or related facilities who believes he or she has been discriminated against because of race, color, religion, sex, national origin, age, marital status, physical or mental handicap (must possess capacity to enter into legal contract) should file a complaint with the Secretary of Agriculture (or with the Office of Equal Opportunity), U.S. Department of Agriculture, Washington, DC 20250. If a complaint is made to an FmHA County, District, or State Office, the complaint should be directed to the Office of Equal Opportunity (USDA–OEO) by the Supervisor of that office. If the complaint is forwarded to USDA–OEO by a County or District Office, the State Director will be made aware of the complaint.

(a) It is preferred that the complaint be in writing and signed by the complainant. The complaint may, however, be telephoned to the FmHA District Office. The complainant should provide the following information:

(1) The name, address, and telephone number of the complainant.

(2) The name and address of the person committing the alleged discrimination.

(3) Date and place of the alleged discrimination.

(4) Any other pertinent information that will assist in the investigation and resolution of the complaint.

(b) If a complaint is received by an FmHA office, the County Supervisor, District Director, or State Director will acknowledge receipt of the complaint and promptly forward it to the USDA Office of Equal Opportunity, Washington, DC 20250.

(c) Accompanying the complaint should be a statement from the District Director or State Director as to whether the security instrument or other document executed by the borrower contains a nondiscrimination agreement. The statement also should include any other information which the State Director or District Director has pertaining to the complaint. The District Director or State Director should delay a comprehensive investigation of any complaint until requested to do so by the National Office.

(d) The USDA Office of Equal Opportunity will determine whether discrimination did in fact occur. Appropriate steps will be taken to ascertain the essential facts. The USDA Office of Equal Opportunity will handle complaints in accordance with Department regulations.

(e) If it is found that the complaint is without substance, the parties concerned will be so notified.

(f) If it is found that the borrower's discrimination agreement in the security instrument or elsewhere was violated, FmHA will informt he parties of such finding and advise the violator to take the action necessary to correct the violation and to give appropriate assurance of future compliance.

(g) If the borrower should fail to take such action and assure future compliance, the Administrator may take further appropriate action.

§ 1930.143 Exception authority.

The Administrator of the Farmers Home Administration may, in individual cases, make an exception to any requirements of this subpart not required by the authorizing statute if the Administrator finds that application of such requirement would adversely affect (a) the interest of the Government, or (b) the immediate health or safety of the tenants or the community. The Administrator will exercise the authority only at the request of the State Director. The State Director will submit the request supported by data: Demonstrating the adverse impact; identifying the particular requirement involved; showing proper alternative courses of action; and, identifying how the adverse impact will be eliminated.

§ 1930.144–1930.150 [Reserved]

Exhibit A—Steps for FmHA Personnel in Conducting Annual Analysis of Rental Operations

I. *Examine the Condition of the Records to Determine that:*

A. Required records are being properly maintained in accordance with loan resolution or agreement.

B. Decisions of officials are being entered in the minutes book, if applicable.

C. Financial transactions are recorded as they occur in a complete and orderly manner in appropriate books.

D. Any membership or stock transfers have been approved by FmHA as required and are recorded.

E. The records of accounts are maintained by qualified persons.

F. The records are reviewed by an auditing committee or qualified accountant as required.

II. *Study the Financial Progress:* Compare current financial condition and owner's equity with previous years to discover any trends, for example:

A. Has cash carryover increased or decreased?

B. Are the debts greater or less?

C. Is the owner's equity greater or less?

D. Are accounts receivable greater or less?

E. Are collection provisions being enforced?

F. Are reserve and other required funds or accounts properly maintained?

III. *Study the Statement of Income and Expenditures for the Past Year:* Compare it with the budget for the past year and the same statement for previous years.

A. Were rents, subsidies, and other monies collected sufficient to produce the required revenues for planned expenditures?

B. Were actual expenditures significantly different from those budgeted?

C. Were the expenditures sufficient to adequately maintain the project?

D. Were expenditures reasonable and typical for similar projects?

E. Were any essential items of maintenance deferred during the past year?

F. Were payments made on debts in the proper amounts and on the dates agreed to?

G. If the borrower is operating on a limited profit basis, did net cash return exceed the amount permitted in the loan agreement or loan resolution?

IV. *Study the Budget for the Next Year:* Compare it with the statement of income and

expenditures for the past year, taking into consideration any known increase or decrease in operating expenses for the planned year.

A. Are proposed expenditures adequate for normal maintenance and operation of the project?

B. Are proposed fees to be paid to firms closely associated with the borrower and their management agents typical, reasonable, and earned for the services to be provided?

C. Does the budget make provisions for financing maintenance deferred from the previous year?

D. Does it provide for the required financial reserves?

E. Is planned revenue adequate to cover planned expenditures?

F. Will the budget and planned operating practices correct any deficiencies in the past year's operations?

V. *Study the Audit Report:* Compare it with the audit from the previous year, noting any significant changes affecting the borrower's operations. Exhibit A–1 may be used as a guide.

VI. *Review the Energy Audit:* Review the energy audit and the borrower's recommendations for implementation.

VII. *Determine whether or not the Borrower has:*

A. Followed the management plan, including occupancy requirements, leasing requirements, Affirmative Fair Housing Marketing Plan, and Tenant Grievance and Appeals Procedure.

B. Renewed fidelity bonds and insurance policies.

C. For borrowers with governing bodies.

1. Held regular board and membership meetings.

2. Conducted the affairs along sound business lines.

D. Made a change in any organizational documents without FmHA consent.

E. Made a change in the plans for management and operation of the project without FmHA consent.

F. Made a change in the membership or interest in ownership without FmHA consent.

VIII. *Summary:* Summarize major observations and decisions reached as the result of the review and record on Form FmHA 1930–8, "Year End Report and Analysis For Fiscal Year Ending ."

Exhibit A–1—Review of Audit Reports

I. *Purpose.* To present a general guide for use of FmHA staffs in the review of independent accountants' audit reports in order to obtain maximum benefit from these audits. The procedures are designed to provide uniformity in the audit review, improve loan program servicing and help to promote better independent audits.

II. *General.* FmHA guidelines for independent audits are detailed in the booklet, "Instructions to Independent Certified Public Accountants and Licensed Public Accountants Performing Audits of Farmers Home Administration Borrowers and Grantees," (hereinafter called Audit Guide and available from FmHA). This Audit Guide, along with other instructions, is designed to protect the security of Government loans. The review of the financial and financially related information in the audits must be performed from a technical standpoint in a prompt manner so that the facts and conclusions are readily available for analysis; only then can results be used effectively for management purposes and help to insure improved audit practices.

III. *Scope.* The review should include:

A. A determination of the adequacy of the audit in relation to FmHA regulations and Audit Guide.

B. Interpretation of information included in the audit.

C. Preparing a letter to the borrower on any missing or adverse audit data.

D. Informing appropriate FmHA offices of review results and recommendations.

IV. *Review Procedures to be Followed.*

A. *General.* The individual professional judgment of the reviewer should be used at all times. Considerations and decisions requiring the exercise of judgment should be used in the following:

1. Circumstances peculair to the borrower.

2. Degree of importance attached to each item questioned.

3. Number of exceptions.

4. Whether the exceptions relate to the auditors work or the borrower's records and operations.

5. If specific action is to be requested of the borrower.

6. Whether or not the report as a whole is acceptable.

B. *Review and Procedure.*

1. *Specific.*

a. Determine if the audit was performed by a Certified Public Accountant or Licensed Public Accountant licensed on or before December 31, 1970.

b. Does the audit cover the most recent 12 months since the previous audit?

c. Was the audit received within 45 days of the borrower's year end?

2. *Evaluation Checklist for Audit Reports.* The "Evaluation Checklist for Audit Reports" which is part of this Exhibit is designed to systematically record and reveal the audit findings. Information tallied on this form is a good indication of whether or not additional contact needs to be made with the borrower.

3. *Previous audits and correspondence.* Reference to the prior audit and any correspondence concerning it can be most helpful in the current review. Determine whether corrections requested in the previous year, if any, have been made, and whether the auditor has complied with previous suggestions for improvement in the audit report, if any.

C. *Preparing the audit review letter.*

General. After completion of the "Evaluation Checklist for Audit Reports" which follows and applying personal judgment, a decision must be made on whether or not to prepare an audit review letter similar to that shown as part of this exhibit.

a. If the audit fully complies with the Audit Guide and instructions, a letter is not necessary.

b. If the audit substantially meets the requirements and is lacking in only a few points, ask the borrower to have the auditor furnish this additional information.

c. Audits which are unacceptable should be returned to the borrower for full compliance, indicating the reasons.

Evaluation Checklist for Audit Reports

State _____
Name of Borrower _____
County _____
Address _____
Case No. _____
Name of Auditor _____
Project Name _____
Date of Audit Report _____
Period Covered _____

1. *Auditor's Opinion* (Section III [1]—Check one)
   (a) Unqualified
   (b) Qualified
   (c) No Opinion
2. *Financial Statements* (Section II C [1])
   (a) Balance Sheet
   (b) Income and Expense
   (c) Changes in Financial Position
   (d) Owner's Equity Reconciliation
   (e) Comparative Statements
3. *Required Supplemental Letter* (Section II D [1]) *or Comments on the Following:*
   (1) A statement that generally accepted auditing procedures were used but if not, which were omitted.
   (2) Evaluation of system of internal control.
   (3) Adequacy of accounting records and outline any recommendations for improvement.
   (4) Adequacy of physical control over assets.
   (5) Financial compliance with loan agreement including maintenance of cash reserves.
   (6) Financial reports in audit are in agreement with accounting records of organization. Indicate any material or unusual adjustments.
   (7) State whether deposit funds are in institutions insured by the Federal Government.
   (8) List kinds and amounts of insurance coverage.
   (9) Indicate if borrower is exempt from Federal income tax.
   (10) For unsatisfactory conditions disclosed by audit, state their nature and, if possible, recommend corrective action.
   (11) List names of members, users or renters delinquent over 60 days and the amount of each delinquency.
   (12) Indicate any other information that the auditor believes necessary for full disclosure.

   Note.—If information is provided by the auditor which answers these items, although not in supplemental letter, it is acceptable.
4. Comments by auditor on previously recommended items which have or have not been implemented by borrower (Section IV [1]).
5. Was report received within 45 days of the end of the borrower's operating year?
6. Was audit performed by a CPA or LPA? If by an LPA verify that the LPA was licensed on or before December 31, 1970.

[1] References to "Sections" indicate the appropriate section in the FmHA Audit Guide booklet entitled "Instructions to Independent Certified Public Accountants and Licensed Public Acountants Performing Audits of Farmers Home Administration Borrowers and Grantees."

Example Audit Review Letter

_____

_____

_____

Dear _____:

We have reviewed your audit report for the period _____ to _____, prepared by _____. This review was made in accordance with current FmHA regulations and the Audit Guide entitled "Instructions to Independent Certified Public Accountants and Licensed Public Accountants Performing Audits of Farmers Home Administration Borrowers and Grantees." Based on this review, your audit:

1. ( ) Is acceptable. However, the auditors recommendations concerning

_____

_____

should be implemented prior to next year's audit.

2. ( ) Is acceptable but did not include comparative-type financial statements as indicated in Section II C of the Audit Guide. Please inform the auditor to prepare such statements next year.

3. ( ) Is acceptable but was not submitted within 45 days after the end of the year. Please insure that next year's audit is forwarded before _____.

4. ( ) Substantially meets all the requirements. However, the following items were omitted as detailed in the Audit Guide, Section II D, "Required Supplemental Letter." Please have your auditor comment on the number(s) circled and forward a copy to us. These numbers correspond to the 12 items listed in Section II D of the Audit Guide.

1 2 3 4 5 6 7 8 9 10 11 12

5. ( ) Is returned as unacceptable for the following reason(s). Please have the auditor prepare your audit in accordance with the Audit Guide.

a. ( ) It was prepared without audit.

b. ( ) The following financial statements were omitted: (Audit Guide, Section II C)

( ) Balance Sheet

( ) Statement of Income and Expense

( ) Statement of Changes in Financial Position

( ) Reconciliation of Owner's Equity

c. ( ) The auditor's opinion. (Audit Guide, Section III)

d. ( ) Other

6. ( ) Other.

_____

District Director.

This letter will be prepared in the District Office. A copy of the audit and the approval memorandum will be sent to the State Office.

Exhibit B—Multiple Housing Management Handbook

Table of Contents

I. Purpose
II. Definitions
III. Rent Subsidy Opportunities
IV. Management Plan
V. Renting Procedure
VI. Verification and Certification of Tenant Income
VII. Leases
VIII. Rent Collection
IX. Rent Increases
X. Maintenance
XI. Accounting and Reporting Requirements And Financial Management Analysis
XII. Management-Tenant Relations
XIII. Termination of Tenancy and Eviction
XIV. Security Servicing

Exhibits

Title and Exhibit

Management Plan Requirements for FmHA Multiple Family Housing Projects—B–1
Requirements for Management Agreements—B–2
Suggested Housing Management Agreement for FmHA Multiple Family Housing Projects—B–3
Questionnaire for Prospective Management Agent of FmHA Multiple Family Housing Projects—B–4
Questionnaire for Owner Who Proposes Owner-Management of a FmHA Multiple Family Housing Project—B–5
Monthly Reports (Chart)—B–6
Annual Reports (Chart)—B–7
Miscellaneous Reports or Submittals (Chart)—B–8
Employment Inquiry—B–9
Objective Guides to Assist Management in Determining the Ability of Tenants to Sustain Relative Independence—B–10
Type of Living Environment Needed in Relation To Nature and Degree of Disability—B–10A

Exhibit B—Multiple Housing Management Handbook

I. *Purpose:* This management handbook prescribing Farmers Home Administration regulations, policies and procedures for management of RRH and LH projects will be used by multiple housing borrowers and applicants and their management agents and resident managers. The subject matter is in chronological stages of management considerations. Several exhibits are also included to provide further clarification and guidance. These regulations are intended to assist in the successful operation of FmHA-financed rental projects.

II. *Definitions:*

A. *Forms Manual Insert (FMI).* A type of directive which includes a sample of the form and complete instructions for its preparation, use and distribution.

B. *Management Plan.* The applicant's written proposal for the overall operation and management of the rental project.

C. *Management Agent.* The firm or individual engaged by the borrower to manage the project in accordance with a written agreement.

D. *Management Agreement.* The written agreement between the borrower and management agent setting forth the management agent's responsibilities and fees for services.

E. *Management Fee.* The compensation for providing overall management services including normal bookkeeping. It does not include operating expenses such as the cost of a resident manager, other project personnel, maintenance cost or the cost of project audits.

F. *Project Manager.* The individual(s) and/or firm(s) responsible for management of the project; could be the owner and/or management agent and/or resident manager.

G. *Resident Assistant.* A person(s) residing in a congregate housing or group home living unit who is essential to the well-being and care of the senior citizen or handicapped person(s) and who is not related by blood, marriage or operation of the law to the senior citizen or handicapped person(s) residing in the unit and receiving supportive services.

H. *Resident Manager.* The individual employed by the borrower or the management agent who lives on the site and is responsible for the day-to-day operations of the project.

I. *Rental Agent.* the individual responsible for the leasing of the units. This individual may be hired by the owner or management agent.

J. *Caretaker.* The individual(s) employed by the borrower or management agent to handle normal maintenance and upkeep for the project.

K. *Senior Citizen.* A person 62 years of age or over and may be either the tenant or co-tenant. A person(s) younger than 62 years of age may reside with a senior citizen provided the person is considered a member of the household of the senior citizen. The term "senior citizen" also includes the elderly as used in this Subpart.

L. *Handicapped Person.* A person, or in the case of a household, either the tenant or co-tenant, who does not need constant supervision or constant medical or nursing care, but meets the qualifications of either of the following Paragraphs according to a doctor's certificate.

1. A person who has an impairment which (a) is expected to be of long-continued and indefinite duration, (b) substantially impedes his or her ability to live independently, and (c) is of such a nature that such ability could be improved by more suitable housing conditions.

2. A person who is developmentally disabled. A developmentally disabled person is handicapped with a severe, chronic disability which: (a) Is attributable to a mental or physical impairment or combination of mental and physical impairments; (b) is manifested before the person attains age 22; (c) is likely to continue indefinitely; (d) results in substantial functional limitations in three or more of the following areas of major life activity: (i) Self-care, (ii) receptive and expressive language, (iii) learning, (iv) mobility, (v) self-direction, (vi) capacity for independent living, and (vii) economic sufficiency; and (e) reflects the person's need for a combination and sequence of special, interdiscipinary, or generic care, treatment, or other services which are of lifelong or extended duration and are individually planned and coordinated.

M. *Household.* One or more persons who maintain or will maintain residency in one rental unit.

N. *Annual Income.* Planned income of the tenant, co-tenant, and spouse of either, and all other adults who live, or propose to live, in the rental unit within the next 12 months.

1. *Income included.* All net business income and gross income anticipated for the following 12 months from wages, salaries, commissions, pensions, social security, public

assistance, GI Bill, fellowships, scholarships, assistantships, unemployment compensation, alimony, and all other sources, except as indicated in Paragraph N 2 below, must be counted. This includes:

a. Social Security, child support payments, and other payments made on behalf of minors.

b. Public assistance. If the Public Assistance payment includes an amount specifically designated for shelter and utilities which is subject to adjustment by the Public Assistance Agency in accordance with the actual cost of shelter and utilities, the amount of Public Assistance income to be included as income shall consist of:

(i) The amount of the allowance or grant exclusive of the amount specifically designated for shelter and utilities, plus,

(ii) The maximum amount which the Public Assistance Agency could in fact allow for the family for shelter and utilities.

c. All expected overtime and bonus income which can reasonably be considered dependable.

d. Interest proceeds from the sale of equipment, mineral rights or real estate sold under a long-term installment contract (usually more than 3 years).

e. The value of support provided by others from outside the household including such items as food, housing, clothing, and personal items. The value of each item should be established by mutual agreement between the owner and the tenant using current market value.

f. Projected business losses will be considered as "0" in determining annual income. Expenditures for capital items and depreciation expenses shall not be deducted in determining net business income.

2. *Exempted income.* The following income is not counted:

a. Earnings from employment or income from GI Bill, fellowships, scholarships, or assistantships for schooling received by a *full-time student* who is not the tenant, co-tenant, or spouse of either.

b. Proceeds from the sale of equipment, mineral rights, or real estate sold under a short-term contract (usually 3 years or less).

c. Cash value of food stamps, real estate tax exemptions, or similar types of assistance.

d. Payments received for the care of foster children or services rendered as a volunteer on a project sponsored by any of the following:

(1) Retired Senior Volunteer Program.

(2) Foster Grandparent and Older American Community Service Programs (as either a foster grandparent, senior health aid, or senior companion).

(3) National Volunteer Programs to Assist Small Business and Promote Volunteer Service by Persons with Business Experience.

(4) Peace Corps, Vista, or any other volunteer program sponsored by ACTION.

e. Income received for services rendered by chore service workers residing with a tenant when such person's occupancy is essential to the well-being of the tenant when such services are compensated by a Federal, State, or local assistance program designed to enable such person to achieve or maintain independent living and/or to avoid inappropriate institutionalization.

f. Allowances paid by the Department of Labor to CETA participants. Wages paid by the employers of CETA workers will be included.

g. The income of a tenant, co-tenant, or spouse of either not living in the rental unit for reasons of broken marriage or separation, and not because of work assignment or military order when:

(1) Legal papers have been filed with the appropriate court to commence divorce or legal separation proceedings provided the tenant or co-tenant agrees that should the spouse begin to live in the rental unit, that spouse's income will then be counted toward annual income and the tenant or co-tenant may be required to vacate the unit if no longer eligible from an income standpoint.

(2) Papers have not been filed to commence divorce or legal separation proceedings provided the spouse has been living apart from the tenant or co-tenant for at least six months, and the tenant or co-tenant is informed and agrees that should the spouse begin to live in the rental unit, that the spouse's income will then be counted toward annual income and the tenant or co-tenant may be required to vacate the unit if no longer eligible from an income standpoint.

3. *Deductions from Income.* In determining the tenant's annual income, the following deductions may be made:

a. A deduction may be made in the same manner as outlined in Internal Revenue Service (IRS) regulations for the exhaustion wear and tear, and obsolescence of depreciable property used in the trade or business of the tenant, co-tenant, or spouse of either. An itemized schedule must be provided showing the depreciation claimed. The schedule should be consistent with the amount of depreciation actually claimed for these items for Federal income tax purpsoes.

b. A deduction may be made in the same manner as outlined in IRS regulations for necessary work-related expenses actually paid by the employee in excess of the amount reimbursed by the employer. The deduction must be reasonable and, in the judgment of the approving officials, should be deducted from an employee's income to reflect annual income on an equal basis with other employed persons. Deductions, however, are not permitted for the following:

(1) Transportation to and from work.

(2) Cost of meals incurred on one-day business trips.

(3) Educational expenses except those incurred to meet the minimum requirements for the employee's present position.

(4) Fines and penalties for violation of laws.

c. A maximum aggregate deduction of $400 per month may be made for child care, disabled dependent care, or care of an incapacitated spouse of a tenant or co-tenant. The deduction will be limited to expenditures *actually paid* to enable the tenant or co-tenant to be gainfully employed. The reason for any deduction must be recorded in detail and attached to Form FmHA 444–8, "Tenant Certification." Payments for these services may not be made to persons whom the tenant is entitled to claim as personal deductions for income tax purposes.

d. For purposes of determining interest credit or rental assistance subsidy a deduction may be made for full-time nursing home or institutional type care which cannot be provided in the home for a member of the household who is a senior citizen or handicapped person. Such care must be expected to be required for six months or more. The deduction will be limited to expenditures actually paid for such services. However, for determining eligibility for occupancy, all household income must be counted and the maximum deduction for institutional care may not exceed $400 per month.

O. *Adjusted Annual Income.* This is the current annual income of the household as defined in Paragraph II of this Exhibit, less 5 percent and less an additional $300 for each minor person, (excluding the tenant, co-tenant and foster children), who is a member of the household and lives in the rental unit.

P. *Adjusted Monthly Income.* This is the amount obtained by dividing the adjusted annual income by 12.

Q. *Low-Income Household.* A household having an adjusted annual income within the maximum low-income limit stated in Exhibit C of Subpart A of Part 1944.

R. *Moderate-Income Household.* A household having an adjusted annual income within the maximum moderate-income limit stated in Exhibit C of Subpart A of Part 1944.

S. *Domestic farm laborers.* Persons who receive a substantial portion of their income as laborers on farms in the United States, Puerto Rico, or the Virgin Islands and either (1) are citizens of the United States, or (2) reside in the United States, Puerto Rico, or the Virgin Islands after being legally admitted for permanent residence, and may include the immediate families of such persons, and as further defined in Section 1944.153(a) of Subpart D of Part 1944.

T. *Migrant.* A domestic farmworker who works in any given local area on a seasonal basis and relocates his or her place of residence as farm work is obtained during the year.

U. *RRH* means Rural Rental Housing loans.

V. *LH* means Labor Housing loans and/or grants.

W. *RHS* means Rural Housing Site Loans.

X. *Congregate housing.* Housing that affords an assisted independent living environment that offers the senior citizen or handicapped person who may be functionally impaired or socially deprived, but in good health (not acutely physically ill), the residential accommodations, central dining facilities, related facilities, and supporting service(s) required to achieve, maintain or return to a semi-independent life style and prevent premature or unnecessary institutionalization as they grow older. Congregate housing is also:

1. Housing which has complete kitchen facilities in each unit. However, some or all of the units may have limited kitchen facilities such as a cooktop with a small oven and a refrigerator. In the case of group living arrangements each single family dwelling is considered a unit.

2. *Housing involving a group living arrangement* where one or more senior citizens or handicapped persons may share *living space within a rental unit* in which a

resident assistant is normally required. The housing may consist of one or more single family dwellings or a multi-unit structure.

III. *Rent Subsidy Opportunities:* Because of high housing costs, it is often extremely difficult to house persons with low and moderate incomes without some type of rental subsidy. The subsidy programs available should be considered at the time of developing a project proposal. In some cases, they should be used in an existing FmHA financed project where persons are required to pay more than 25 percent of their adjusted income, a threshold specified in Section 521 of Title V of the Housing Act of 1949, as amended, for the cost of rent and utilities. These subsidy programs are as follows:

A. *FmHA Interest Credit—Section 515 Loans.* Regulations are contained in Exhibit B to Subpart E of Part 1944.

1. Plan I—Available only to broadly-based nonprofit corporations and consumer cooperatives.

a. Occupancy is limited to low-income nonsenior citizens, low- and moderate-income senior citizens, and low- and moderate-income handicapped persons.

b. Budgets and rental rates are based on a 3 percent loan. The difference between the note rate of interest and the 3 percent interest is made up in the form of an interest credit to the borrower's account.

c. Normally this plan would only be considered during the development of a new project proposal when greater benefits cannot be achieved for the prospective tenants under interest credit Plan II.

2. Plan II—Available to broadly based nonprofit corporations, consumers cooperatives, State or local public agencies, or to profit organizations and individuals operating on a limited profit basis.

a. Occupancy is limited to low and moderate-income persons except as noted in paragraph V B 1 h of this exhibit.

b. Budgets for the housing are prepared for two rental rates—basic and market. Minimum (basic) rental rate is based on a 1 percent loan. The maximum (market) rental rate is based on the interest rate shown in the promissory note.

c. Tenants pay 25 percent of their adjusted income, less a utility allowance if applicable, or the basic rental rate, whichever is the greater. In no case will the tenant pay more than the market rental rate.

d. Existing rural rental housing borrowers whose loans were approved subsequent to August 1, 1968, may convert from Plan I to Plan II, or if presently profit motivated, convert to Plan II by executing a new or amended loan resolution or loan agreement and an interest credit and rental assistance agreement in accordance with Exhibit B of Subpart E of Part 1944 of this chapter.

B. *Rental Assistance Program—FmHA.* This is a subsidy program available to RRH and LH borrowers to assist low-income tenants in paying their rent. Rental assistance is not authorized for tenants whose adjusted income is above the low-income level. LH borrowers who are individual farmowners, partnerships, family corporations, or association of farmers cannot obtain rental assistance. RRH borrowers with loans approved after August 1, 1968, must be, or change to, operating under Interest Credit Plan II. Full Profit borrowers may utilize rental asistance by converting to Limited Profit as required in Exhibit C to Subpart E of Part 1944 of this chapter.

1. Occupancy requirements are the same for Plan II and/or RA borrowers.

2. Tenants occupying a unit and eligible to receive rental assistance, pay 25 percent of their adjusted income, less an approved utility allowance when applicable. The difference between the amount of rent paid by the tenant and the basic rent (for labor housing the established FmHA approved rental rate) is paid to the borrower as a rental assistance payment.

3. Existing multiple housing borrowers including eligible labor housing borrowers may request to participate in the program by contacting the appropriate FmHA District Office. Multiple housing loan applicants wanting to participate should make the request a part of their loan application.

4. Regulations for this program are contained in Exhibit C to Subpart E of Part 1944 of this chapter.

5. Tenants who began occupancy prior to November 14, 1977, do not have to meet the occupancy standard in Paragraph VB 1 of this Exhibit. As long as such tenants maintain occupancy and are otherwise eligible, they may receive rental asistance.

6. Tenants who began occupancy between November 14, 1977, and October 26, 1980, may receive rental assistance provided they meet the occupancy standard in Paragraph VB 1 of this Exhibit or agree in writing to move to the first available unit of appropriate size. However, if there is not a unit of appropriate size in the project to which a tenant can move, a tenant who is otherwise eligible, may remain and receive rental assistance.

C. *Department of Housing and Urban Development (HUD)—Section 8 Housing Assistance Payments Program.* This program is similar to the FmHA subsidy rental assistance program but is administered by HUD. There are two programs, one for new construction and rehabilitation and another for existing housing. The FmHA and HUD have entered into a Memorandum of Understanding (Exhibit H to Subpart E of Part 1944 of this chapter) wherein HUD sets aside units for use by FmHA for new construction financed with rural rental housing loans. Additional information on the HUD Section 8 program is contained in Exhibits G and H to Subpart E of Part 1944. HUD Section 8 rules and regulations will be followed for those tenants receiving subsidy under the HUD Section 8 programs except that tenants must have adjusted income not in excess of the FmHA moderate income level to be eligible for occupancy.

IV. *Management Plan:*

A. *General.* A comprehensive management program commensurate to project size and complexity is essential to the successful operation of a project. A written plan is the primary ingredient which should describe the detailed policies and procedures in managing the project. *A management plan is required for all proposed multiple housing projects, existing projects in which the loan was approved after October 27, 1980, and existing multiple hoousing projects where the State Director determines a management plan is needed to achieve program objectives.* The plan, in detail commensurate to project size and complexity, must be submitted to FmHA with the loan application, (Form AD 625, "Application for Federal Assistance (Short Form)"). Exhibit B–1 of this subpart outlines the requirements of the plan. The following items should be addressed in the plan, some of which are discussed later in more detail:

1. *The relationship between owner and management agent (if applicable).*
2. *Personnel policy and staffing arrangements.*
3. *Publicizing and achieving early occupancy and affirmative marketing.*
4. *Tenant certification and verification of income.*
5. *Tenant admissions policies and leasing policies.*
6. *Rent collection.*
7. *Rent increases.*
8. *Maintenance.*
9. *Records maintenance and reports.*
10. *Energy conservation measures.*
11. *Management-tenant relations.*
12. *Termination of leases and evictions.*
13. *Management of Services to the Elderly (if congregrate housing project).*
14. *Management Background and/or Experience.*
15. *Management agreement (if applicable).*
16. *Management compensation.*

B. *Management agreement.* The management agreement is a primary management ingredient and bears a close relationship to the management plan. Requirements of a management agreement are listed in Exhibit B–2 of this subpart. A management agreement is required except in cases where the borrower (owner) fills the role of manager. The management agreement is the primary document by which the management agent is guided and evaluated. Exhibit B–3 of this subpart is a suggested management agreement. There are two types of agreements acceptable to FmHA, described as follows:

1. The owner hires a professional management agent to operate the project. The management agent may provide a resident manager for onsite management and/or caretaker when justified by the size of the project. a qualifications statement by the management agent is required in accordance with Exhibit B–4 of this subpart.

2. The owner maintains all or a part of the management role. A qualifications statement by the owner in accordance with Exhibit B–5 of this Subpart is also required. The owner may use the services of a resident manager in providing onsite management and/or services of a caretaker when justified by the size of the project.

C. *Responsibility.* Regardless of the management system used, the management plan and management agreement or contract must be based on applicable provisions of local, State, and Federal statutes and the regulatory requirements of the loan used to finance the project. Regardless of the authority delegated by the owner to the management agent, the owner remains totally responsible to FmHA for the project.

D. *Compensation.*

1. *Projects with management agent.* The amount of compensation is to be negotiated between the owner and the management agent. The amount of compensation should be based on the agent's management cost plus a reasonable profit converted to a percentage of gross rents collected for each occupied unit. Gross rent includes any rental assistance and/or interest credit paid by the Government. The percentage may vary from project to project depending upon size, complexity, services to be provided, type of project, and other pertinent factors, such as comparable fees for the area in which the project is located.

The management agreement must be specific as to services to be provided that are paid directly from the Owner's Operating and Maintenance Account by the management agent, such as:

a. Cost of services of management agent's resident manager.

b. Legal fees.

c. Auditing fees.

d. Repair and maintenance costs.

e. Fidelity bond premiums for resident manager and other on-site staff.

2. *Owner managed projects.* Only when FmHA determines that the owner (either as an individual or as a part of an organization) has the necessary management capabilities, will the owner be authorized to manage the project. a typical management fee may be charged as an expense to the project. The compensation must be reasonable, earned, and not exceed the normal cost of similar management services for the project, had such services been provided by an independent management agent. This compensation will never include costs normally included in the project budget for other allowable operation and maintenance expenses such as: caretaker, resident manager, recordkeeping, etc.

3. *Initial Rent-Up Fees.* Rent-up fees are allowed as an incentive to achieve full project occupancy of newly completed units soon after initial occupancy is permitted. These fees are allowed only to the extent that each rental unit is occupied by an initial tenant household. Payment may be made from the 2 percent initial operation and maintenance deposit as follows:

a. If there is an identity of interest as defined in § 1924.4(h) of Subpart A to Part 1924 between the management agent and the borrower, such as the owner or the owner's principal's owning an interest in the management firm (or vice versa), rent-up fees may be allowed but only up to reasonable actual cash expenditures.

b. In cases where there is not an identity of interest, a person or firm, preferably the management agency, may be compensated at a rate negotiated with the borrower. The rate should be representative of actual cost plus a normal business profit.

E. *Resident Manager and/or Caretaker Services.* Whether a project is managed by a management agent or by the owner, the onsite services of a resident manager and/or caretaker may be used when justified by the size of the project. In such cases, there should be a written agreement with the resident manager to define the role and duties of the resident manager as distinct from the owner and which can be used as a basis for evaluating the resident manager. A project must generally have more than twelve rental units in order to justify the services of a resident manager. For larger projects, FmHA may require an onsite resident manager and/or caretaker. It is desirable but not mandatory that the resident manager and/or caretaker meet the tenant eligibility requirements for occupancy in the project. If a full-time resident manager and/or caretaker is not needed, these functions should, if at all possible, be performed by an eligible tenant.

1. *Calculation of rental rate.* For the purposes of calculating an appropriate rental rate for a resident manager and/or caretaker and for determining the borrower's appropriate payment on Form FmHA 444–29, "Project Worksheet for Interest Credit and Rental Assistance," the following policies will apply:

a. Compensation paid to the resident manager and/or caretaker for services rendered will be reflected in the operation and maintenance expenses of the project and be included in the annual income of the resident manager and/or caretaker. This will include the value of any in-kind compensation received. When a living unit is provided at no cost or at a reduced cost to the resident manager and/or caretaker, the rental value of that rental unit for all projects except those operating under interest credit Plan I will be calculated at the FmHA approved market rental rate for the size of unit occupied. For interest credit Plan I projects, the value of the rental unit will be calculated at the FmHA approved market rental rate for the size of unit occupied, plus 25 percent.

b. For resident manager and/or caretaker not provided a living unit at no cost, the rental rate will be calculated as follows:

(1) If the resident manager and/or caretaker meets the tenant eligibility requirements for the type of project being occupied, the appropriate rental rate will be the rate established for an eligible tenant in accordance with Paragraph V B of this Exhibit.

(2) If the resident manager and/or caretaker does not meet the tenat eligibility requirements for the type of project being occupied because the resident manager's and/or caretaker's adjusted annual income exceeds the maximum income limits, the resident manager's and/or caretaker's appropriate rental rate for all projects except those operating under interest credit Plan I will be the FmHA approved market rental rate for the size of unit occupied. For interest credit Plan I projects, the appropriate rental rate will be the FmHA approved market rental rate for the size of unit occupied, plus 25 percent.

2. *Owner Occupancy.* Since homeownership is not an objective of the FmHA Multiple Housing loan programs, owners will not be permitted occupancy in a project unless the owner will manage the project (rather than hiring a management agent), the size of the project (usually more than 12 units) justifies the services of a resident manager and/or caretaker, and the owner is determined capable and will perform these services. The rental rate for the owner-manager shall be calculated in the manner described in Paragraph IV E 1 of this Exhibit.

F. *Projects Without a Resident Manager and/or Caretaker.* Projects without a resident manager and/or caretaker must have, at a minimum, a tenant who is agreeable to serve as a contact person or a person who is easily accessible to the project who is able to speak on behalf of project management or owner.

V. *Renting Procedure:* Planning for initial rent-up occupancy and maintenance should begin months ahead of the projected completion of the project. Decisions must be made concerning advertisement of the availability of units, how affirmative marketing practices will be used, tenant eligibility, and tenant selection criteria.

A. *Affirmative Fair Housing Marketing Plan:* All borrowers with *five* or more rental units must meet the requirements of § 1901.203(c) of Subpart E of Part 1901 of this chapter by preparing and submitting an Affirmative Fair Housing Marketing Plan on HUD Form 935.2. Records must be maintained by the borrower reflecting efforts to fulfill the plan and will be subject to review by FmHA during compliance reviews for Title VI. *The approved plan will be made available by the borrower for public inspection upon request at the borrower's place of business or rental office which must be in the same local area as the housing.* In developing the plan, the following items should be considered:

1. Direction of Marketing Activity. The plan should be designed to attract applications for occupancy from all potentially eligible groups of people in the housing marketing area regardless of race, color, religion, sex, age, marital status, or national origin, or physical or mental handicap (must possess capacity to enter into legal contract). The plan must show efforts will be made to reach those low-income and minority persons who traditionally would not be expected to apply for such housing without special outreach efforts.

2. Marketing Program. The applicant or borrower should determine which methods of marketing such as radio, newspaper, TV, signs, etc. are best suited to reach those low-income and minority persons who otherwise might not apply for occupancy in the project. The Agency on Aging serving the particular community should be contacted to assist in reaching senior citizens.

a. Signs, Brochures, Etc. Any signs, pamphlets, or brochures use must contain appropriate equal opportunity statements. A copy of this proposed material should be submitted along with the HUD Form 935.2 for approval. The nondiscrimination poster entitled, "And Justice For All" and/or the "Fair Housing" poster must be displayed in the rental office.

b. Community Contact. In small communities where there may not be formal communications media aimed at minorities, contacts with special interest groups such as places of worship and social organizations should be made in affirmative marketing. Community contacts may also be used in reaching specific elements of the community

such as the elderly or particular ethnic groups.

c. Rental Staff. All persons responsible for rental of the units will be instructed in the procedures and requirements of the Affirmative Fair Housing Marketing Plan and in those actions necessary to carry out the plan in promoting equal housing opportunity.

3. The borrower will be required to provide data in accordance with Subpart E of Part 1901 of this Chapter, pertaining to compliance reviews to indicate to what extent minority groups are being benefited.

B. *Tenant Eligibility:* It is important that the rental agent of the project be knowledgeable about the FmHA eligibility requirements as they relate to a particular project. FmHA loans are made on housing projects contingent upon the units being occupied by eligible tenants.

1. Eligible Tenants. Eligibilie tenants may be either (1) senior citizens, handcapped, or low- and moderate income persons or any combination thereof in a Rural Rental Housing projects or (2) domestic farm laborers in a Labor Housing project; as planned for the project and shown on the borrower's loan resolution or loan agreement who do not occupy any other Government subsidized housing and who comply with the following number of authorized occupants in the units:

No. bedrooms	Occupants	
	Minimum	Maximum
0	1	2
1	1	2
2	2	4
3	4	6
4	6	8
5	8	10

The above occupancy requirements for eligibility of migrants may not be applicable. Density levels will be determined in those cases based on project design.

In other cases, when a unit cannot be rented because a family of the size needed to rent the unit is not available or the project was built for the elderly prior to October 27, 1980, the State Director may authorize an exception to this requirement in accordance with Paragraph V B 5 of this Exhibit. Also in case of unusual household situations such as a single parent with older children of opposite gender the State Director may make an exception to the above requirements on a case by case basis and determine the household eligible.

a. Tenants must generally be capable of caring for themselves. However, in the case of congregate housing with supportive services, eligible tenants may include elderly or handicapped persons who require some supervision and central services, but are otherwise able to care for themselves. In congregate housing projects, the tenant or co-tenant's level of function and degree of competence in performing daily living activities must be assessed by the borrower and the tenants may be permitted occupancy if found to possess the ability to sustain relative independence, given the supportive services in the project. See Exhibit B–10, "Objective Guides to Assist Management in Determining the Ability of Tenants to Sustain Relative Independence." All tenants must meet the following criteria:

(1) Not be totally dependent on others to be able to vacate the unit for their own safety in emergency situations.

(2) Be able to provide for their own sustenance in projects that provide less than full food service.

(3) Possess the legal capacity to enter into a lease agreement, exept in the case of tenants residing in a congregate housing project who have a legal guardian.

(4) Be of legal age.

b. For projects under Plan I:

(1) Be a low- or moderate-income senior citizen or a low- or moderate-income handicapped person.

(2) Be a low-income non-senior citizen or a low-income, non-handicapped person.

c. For loans developed under Plan II and all other RRH loans, be a low- or moderate-income person or senior citizen or handicapped person of any income.

d. For LH projects and for those RRH projects designed for independent living and designated to provide housing specifically for senior citizens and/or handicapped persons as defined in Paragraph II of this Exhibit, occupancy is limited solely to those meeting the eligibility requirements for the persons for whom the housing is designed and designated (i.e., domestic farm laborers, senior citizens, and/or handicapped persons), except that occupancy may be permitted by a person or persons, usually a member of the household of the domestic farm laborer, senior citizen, or handicapped person. However, the total income of all adult members in the household and the number of persons to occupy the unit cannot exceed eligibility requirements.

e. In a congregate housing or group home dependent living project, a Resident Assistant may occupy living space without regard to income.

f. Although the purpose of the program is to provide adequate housing for the eligible permanent residents of the community, a student or other seemingly temporary resident of the community who is otherwise eligible and seeks occupancy in a project, other than farm workers in the case of Labor Housing projects, may be considered an eligible tenant if all of the following conditions are met:

(1) Is either of legal age in accordance with applicable State law or is otherwise legally able to enter into a binding contract under State law.

(2) The person seeking occupancy has established a household separate and distinct from the person's parents or legal guardians.

(3) The person seeking occupancy is no longer claimed as a dependent by the person's parents or legal guardians pursuant to Internal Revenue Service regulations, and evidence is provided to this effect.

(4) The person seeking occupancy signs a written statement indicating whether or not the person's parents, legal guardians, or others provide any financial assistance and such financial assistance is considered as part of current annual income and is verified in writing by the borrower.

g. A former domestic farm laborer may continue occupancy of a LH project after retirement or after becoming disabled if they were an eligible tenant living in the project prior to the event.

h. A tenant who was determined eligible prior to October 27, 1980, but who does not meet eligibility requirements regarding income or number of occupants in the size unit as prescribed in these regulations may be permitted continued occupancy based on regulations then extant, except in occupancy situations noted in paragraph III B 6 of this Exhibit when rental assistance is involved.

2. Other Items the Rental Agent Should Consider in Determining Eligibility of Applicants for Admission to the Project.

a. Credit reports to determine the applicant's past record of meeting obligations.

b. Prior landlord references to determine if the tenant was responsive in meeting rent payment obligations, care, and maintenance of the unit.

c. Income must be verified according to Paragraph VI of this Exhibit.

d. The applicant's financial capability to meet other basic living expenses and the rental charge, taking into consideration any subsidy assistance that could be made available to the tenant. Where rental assistance is not available, any low-income household that would be required but unable to pay more than 25 percent of adjusted income for rent including utilities may be eligible for Section 8 subsidy if it is being administered in the area.

e. Priority to displaced tenants in accordance with § 1944.250 of Subpart E of Part 1944.

3. Surviving Members of Eligible Tenant Household.

a. Surviving members of a senior citizen and/or handicapped tenant's household may continue occupancy of the project even though they may not meet the definition of a senior citizen or handicapped person stated in Paragraph II of this Exhibit, provided:

(1) They are eligible occupants in all other respects,

(2) They occupied the unit at the time that the original tenant ceased to occupy the unit, and

(3) The State Director determines on a yearly review basis that their continued occupancy will not be detrimental to preserving the integrity of the project.

b. Surviving members of a domestic farm laborer household must meet the definition of a domestic farm laborer as defined in Paragraph II of this Exhibit or vacate the unit within 30 days if an eligible tenant is available for occupancy unless the State Director provides an extension of time because of an extreme hardship placed on the household.

4. Formerly Eligible Tenants.

a. Formerly eligible tenants who no longer meet eligibility requirements because of income or in the case of an LH project, because of occupation, except as authorized in Paragraph V B 1 h, may not be permitted continued occupancy of the project as an eligible tenant and must vacate the unit within 30 days or the end of term of lease whichever is longer if an eligible tenant is available for occupancy. The District Director

must monitor the borrower's efforts to locate eligible tenants.

b. Formerly eligible tenants who no longer meet tenant eligibility requirements regarding number of occupants in the size unit, except as outlined in Paragraph VB 1h, must move to a unit of appropriate size in the project when it becomes available. The District Director must monitor the borrower's efforts to find a unit of appropriate size for the household.

5. State Director Authority to Permit an RRH or LH Borrower to Rent to Ineligible Tenants.

a. If it becomes necessary to prevent vacancies in the servicing of a loan the State Director may authorize the borrower in writing, upon receiving the borrower's written request with the necessary documentation, to rent units to ineligible persons for temporary periods to protect the financial interests of the Government. This authority will be for periods not to exceed one year and shall apply to the vacant units in the project. The State Director may redelegate this authority to selected District Directors. The following determinations must be made:

(1) There are no eligible persons on a waiting list.

(2) The borrower provided evidence that he/she has made a diligent but unsuccessful effort to rent a unit to an eligible tenant household. Such evidence must consist of advertisements in appropriate publications, posting notices in several public places, holding open houses, appropriate contacts with public housing agencies and authorities (where they exist), State and local agencies and organizations, Chamber of Commerce, real estate agencies, and other places where persons seeking rental housing would likely contact.

(3) The borrower will continue with aggressive efforts to locate eligible tenants and submit to the District Office, along with Form FmHA 444–29, a report of efforts made. The required followup should be posted in the District Office on Form FmHA 1905–6, "Management System Card—Multifamily Housing."

(4) In order to protect the security interest of the Government the units may be rented for no more than a year after which the lease must convert to a monthly basis. The monthly lease must require that the unit be vacated when an eligible prospective tenant is available. The ineligible tenant will then be given 30 days to vacate.

(5) In those cases where the tenant household does not consist of the appropriate number of occupants for the size unit, the lease will require the tenant, after receiving reasonable notice, to make reasonable adjustment in household composition or vacate and move into the next available unit of appropriate size.

(6) Tenants who are ineligible, because their household income exceeds the maximum for the project, will be charged the FmHA approved market rental rate for the size of unit occupied. In projects operated under Interest Credit Plan I, however, ineligible tenants will also be charged an additional rental surcharge of 25 percent of the approved market rental rate.

(7) Tenants who are ineligible for reasons other than income may benefit from rental assistance and/or interest credit if otherwise eligible in the same manner as an eligible tenant.

b. Examples of situations where the State Director may consider authorizing a borrower to rent units to ineligible persons when units cannot be rented to eligibles are:

(1) A project designed for, designated as, and limited to occupancy by eligible senior citizens and/or handicapped persons.

(2) A household that does not consist of the appropriate number of occupants for the size unit.

(3) A household that does not meet eligibility requirements regarding income, i.e., an above moderate-income household.

c. An exception may be made by the State Director to the provisions of Paragraph V B 1 on the number of occupants for a senior citizen project built before October 27, 1980, with only a few or no one-bedroom units, with the following priority for occupancy:

(1) First opportunity for occupancy must be given to senior citizens or handicapped persons on the waiting list who meet the occupancy standard.

(2) If there are no senior citizens or handicapped applicants on the waiting list who meet the occupancy standard, a senior citizen or handicapped household that does not meet the occupancy standard may be authorized occupancy as an eligible tenant. This determination of eligible status will be included in the tenant's lease.

(3) Non-senior citizens and non-handicapped applicants will still be subject to ineligible tenant requirements.

C. Notification of Eligibility or Rejection.

1. *Application Status for Determining Eligibility.* All persons desiring to apply for units will be provided a written listing of all documentation required. Applications are considered received when the tenant has submitted all forms and information to the borrower or rental agency. If additional information is required, the borrower or rental agent must notify the applicant within 10 days of receipt of the initial application of specific additional information needed to complete a review of eligibility. The application file will be documented as to the action taken. If an existing project has little or no vacancies, and there are sufficient active applications from households determined eligible to fill expected vacancies in a project for at least 12 months, the borrower may postpone a verification of eligibility for new inquirers. In such cases, the borrower should place any apparently eligible inquirer's name on a list and keep a record of the address and telephone numbers where the person can be reached at such time as it appears an application could be processed.

2. *Notification to Applicant.* When a decision regarding an application has been made, the borrower will notify the applicant in writing that he or she has been selected, rejected, or placed on a waiting list.

3. *Applicants Determined Ineligible.* If the applicant is determined ineligible, the reason for rejection must be provided in writing in sufficient detail so that the applicant will have the opportunity to effectively evaluate the reason.

a. The letter of rejection must also outline the applicant's rights under the FmHA Tenant Grievance and Appeals Procedures in Part 1944, Subpart L of this chapter.

b. If the rejection is based on information from a Credit Bureau, the source of the report must be revealed to the applicant in accordance with the Fair Credit Reporting Act.

c. Applicants may be rejected due to:

(1) A history of unjustified and chronic nonpayment of rent.

(2) A history of violence and harassment of neighbors and management.

(3) A history of disturbing the quiet enjoyment of neighbors.

(4) A history of violations of the terms of previous rental agreements such as the destruction of a unit or failure to maintain a unit in a sanitary condition.

d. Rejection of applicants on the basis of arbitrary classifications is prohibited. Examples of such classifications are:

(1) Race, color, religion, sex, age, maritial status, national origin, physical or mental handicap (except in those facilities designated for senior citizens and/or handicapped, where occupancy by non-senior citizens or non-handicapped can be prohibited).

(2) Receiving income from public assistance.

(3) Families with children of undetermined parentage.

(4) Participation in tenant organizations.

e. In the case of Labor Housing projects, no organization borrower other than an association of farmers or family farm corporation or partnership will be permitted to require that an occupant work on any particular farm or for any particular owner or interest as a condition of occupancy of the housing.

f. Rejected applications must be kept on file until such time as a compliance review has been conducted in accordance with Subpart E of Part 1901 of this chapter.

D. Maintenance of Waiting List.

1. If an eligible applicant is not assigned a unit upon determination of eligibility, the applicant will be placed on a waiting list in the chronological order in which the applications were received.

2. A separate waiting list or a master waiting list with separate categories or priorities indicated on it will be maintained as long as each list is in chronological order. If there are separate lists, they must be cross-referenced for applicants who fit more than one category or priority. Separate lists may be maintained for:

a. Various size units;

b. Units for senior citizens;

c. Persons who require the special design features of the handicapped units in the project such as persons confined to a wheel chair.

d. Displacees from a prepaid FmHA financed project who possess a Letter of Priority Entitlement issued by a FmHA District Director.

e. Displacees, such as victims of natural disasters and eminent domain, to whom priority consideration may be given.

f. In congregate housing projects, frail or impaired applicants. Priority will be given to the frail or impaired by date order of

application, to sustain an occupancy level not to exceed 35 percent of the project units. After this occupancy level is attained, priority will be given to non-frail or non-impaired applicants by date order of application.

g. Prospective tenant households living in substandard housing, or households experiencing overburden of rent, by date order of application.

3. A Letter of Priority Entitlement entitles an applicant to move to the top of any waiting list for that size unit for which the applicant qualifies.

4. Each list by category will be available for inspection by applicants on the waiting list. When the application is first submitted, the applicant will be notified of the category(s) assigned to that application.

5. Applicants will be responsible for keeping the borrower or rental agent informed of their availability to occupy a rental unit. This may be done at reasonable intervals established by the rental agent. Applicants who fail to respond to reasonable and documented attempts by the rental agent to provide notification of occupancy availability may be deleted from the waiting list without right of appeal.

E. Tenant Record File: A separate file must be maintained for each tenant. This file will include items such as application, income verification, credit report, tenant certification forms, recertification and verification forms, lease, inspection reports for moving in and moving out, correspondence and notices to the tenant, and any other information as may be necessary. The information as to income verification, tenant eligibility certification and recertification must be retained for at least 2 years while the tenant is living in the unit and for two years after the tenant has moved out.

VI. *Verification and Certification of Tenant Income:* The incomes reported by the tenants selected for occupancy must be verified by the borrower.

A. *Verification of Income from Employment.* Tenant/applicant authorized verification of income from employment must be obtained from the employer in writing and filed in the "Tenant Record File." A suggested Employment Inquiry form is attached as Exhibit B–9.

B. *Verification of Income from Other Sources.* If income is from other than employment (e.g. social security, Veterans Administration, public assistance) it must be verified in writing by the income source. If it is not immediately possible to obtain the written verification from the income source, the income may be verified in the interim by actually examining the income checks, check stubs, or other reliable data the tenant possesses which indicates the tenant's gross income. Verification may also be obtained through contacts with individuals who may be knowledgeable of the tenant's income. If no other verifiable source is available, a notarized affidavit from the tenant attesting to his/her gross annual income may be accepted. Verification of income must be documented and filed in the "Tenant Record File." In the case of domestic farm laborers, including migrants, who so not have easily verifiable income, the borrower may project monthly income expected to be received by the tenant during occupancy for determining eligibility and subsidy assistance.

C. *Random Sample of Tenant Income Verification.* District Directors are required to make a random sample of tenant income verifications. The random sample can be devised from information on the tenant certification forms that will be submitted to the District Office in accordance with Paragraph VI E of this Exhibit. The random sample should be representative of both low- and moderate-income persons in the project, including those receiving subsidy assistance, those paying in excess of 25 percent of their income for the costs of rent and utilities, and those paying the market rent. District Directors will conduct the random sample in the borrower's office during their supervisory visits and at any time he/she may be knowledgeable of discrepancies in income verifications. If the random sample discloses discrepancies, the District Directors will be required to investigate further or report to the State Director to obtain the assistance of the Office of Audit or the Office of Investigations.

D. *Use of HUD Certification Form for Section 8 Recipients.* For projects where the tenants are receiving Section 8 assistance, HUD Form 50059, Certification and Recertification of Tenant Eligibility may be used in lieu of Form FmHA 444–8 for the tenants receiving Section 8 assistance.

E. *Certification of Tenant Income.* The Borrower must initially submit to the District Office Form FmHA 444–8 or the acceptable HUD Form for each tenant. The initial signed tenant certification will be submitted to the FmHA District Office with the next monthly payment following the date that the tenant occupies the unit. In those cases where income verification must be delayed and occupancy has occurred, a copy of the original tenant certification will be submitted with the next monthly payment. The original tenant certification with the borrower or management agent certification that income has been verified will be submitted to the District Office within 60 days. The borrower or management agent will establish an adequate recordkeeping system of tenant certifications to assure the completion of the income verification responsibility. Subsequently signed tenant certifications of verified income must be obtained by all borrowers no later than the twelfth month after the previous certification and submitted to the FmHA District Office, except that subsequent certifications for senior citizens receiving Section 8 Assistance may be obtained biennially.

VII. *Leases:* A lease is written contract between the tenant and the landlord assuring the tenant quiet, peaceful enjoyment and exclusive possession of a specific dwelling unit in return for payment of rent and reasonable protection of the property.

A. *Form of Lease.* Each State Director is encouraged to prepare a sample lease form complying with individual State laws and FmHA requirements. The State Director may incorporate clauses which meet a specific need. Any sample lease must be reviewed and approved by the OGC before adoption. The approved sample lease may be provided to borrowers as a guide for preparing an acceptable project lease.

1. All leases will be in writing and must cover a period of at least 30 days but not more than 1 year, except that leases for labor housing may be weekly where occupancy is typically seasonal. In areas where there is a concentration of non-English speaking individuals, leases and the established rules and regulations for the project written in both plain English and the non-English concentration language must be available to the tenants. The tenant should have the opportunity to execute either lease form.

2. Annual leases must contain an appropriate escalation clause permitting rental increases in basic and market rents prior to the expiration of the lease. Such increases would normally be necessary due to higher utility and other operating costs. Such increase must be approved by FmHA in accordance with Exhibit C of this subpart.

3. The form of lease to be used by the borrower and any modifications of the lease must be approved by the FmHA District Director. When submitting a lease form for FmHA approval, it must be accompanied by a letter from the borrower's attorney regarding its legal sufficiency and compliance with Federal and State Law and FmHA regulations.

4. A copy of completed Exhibit A–5 "Housing Allowances for Utilities and Other Public Services," of Subpart E of Part 1944 and a copy of the established rules and regulations for the project will be provided to the tenant as attachments to the lease.

B. *Required Lease Clauses.* The following clauses will be required in leases used in connection with FmHA financed housing projects.

1. For all leases used in connection with FmHA financed RRH projects, the following clause will be included except for senior citizens and handicapped persons: "I understand that I will no longer be eligible for occupancy in this project if my income exceeds the maximum allowable adjusted income as defined by the Farmers Home Administration for the (State/Territory).

2. For leases in connection with borrowers participating in the FmHA rental assistance program according to Exhibit C of Subpart E of Part 1944 of this chapter, the following clauses will be used. These clauses should be made an addendum to the lease and should be signed by the lessor and lessee.

"I understand and agree that as long as I receive rental assistance, my total monthly payment for rent and utilities will be $——, (25 percent of my adjusted monthly income). If I pay any or all utilities directly (not including telephone or cable T.V.), a utility allowance of $—— will be deducted from my monthly payment for rental and utilities. If the utility allowance is in excess of 25 percent of my adjusted monthly income, the lessor will pay me this excess.

I further agree to notify the lessor of any permanent increase in adjusted monthly income or change in the number of family members living in the household. I understand that should I receive rental assistance benefits to which I am not entitled, I may be required to make restitution and I

agree to pay any amount of benefits received to which I was not entitled.

I also understand and agree that monthly payment for rent under this lease may be raised or lowered, based on changes in household income and changes in the number and age of members living in my household and based on the escalation clause in the lease. Should I no longer receive rental assistance as a result of these changes, or the rental assistance agreement executed by the owner and FmHA expires, I understand and agree that my monthly payment for rent may be adjusted to no less than $—— (Basic Rental) nor more than $—— (Market Rental) during the remaining term of this lease, except that based on the escalation clause in this lease these rental payments may be raised by a Farmers Home Administration approved rent increase."

[Eligible borrowers with LH loans and grants, direct RRH loans, or insured RRH loans approved before August 1, 1968, may omit the words "no less than $—— (Basic Rental) nor more than" from the last sentence of the above statement.]

I understand that every effort will be made to provide rental assistance so long as I remain eligible and the rental assistance agreement between the owner and FmHA remains in effect. However, should this assistance be terminated I may arrange to terminate this lease, giving proper notice as set forth elsewhere in this lease.

3. For leases with borrowers operating under Plan II Interest Credit only:

"I understand and agree that my monthly rental payment under this lease will be $——. I also understand and agree that my monthly rental payment under this lease may be raised or lowered based on changes in my income and changes in the number and age of family members living in my household and based on the escalation clause in the lease. The rental payment will not, however, be less than $—— (Basic Rental) nor more than $—— (Market Rental) during the term of this lease, except that based on the escalation clause in this lease these rental payments may be raised by a Farmers Home Administration approved rent increase. I agree to promptly provide any certifications and income verifications required by the owner to permit eligibility determination and, if applicable, the rental rate to be charged."

4. For all cases involving farm labor housing loans and/or grants, the following additional clauses:

a. "I understand that the project is operated and maintained for the purpose of providing housing for domestic farm laborers and their families. I do hereby certify that a substantial portion of my family income is and will be derived from farm labor. I further understand that domestic farm labor means persons who receive a substantial portion of their income as laborers on farms in the United States and either (1) are citizens of the United States, or (2) reside in the United States, Puerto Rico, or the Virgin Islands, after being legally admitted for permanent residence therein, and may include the immediate families of such persons. Laborers on farms may include laborers engaged in handling agricultural commodities while in the unprocessed stage, provided the place of employment, such as a packing shed, is on or near the farm where the commodity is produced. It also includes labor for the production of aquatic organisms under a controlled or selected environment."

b. "I agree that if my household income ceases to be substantially from farm labor for reasons other than disablement or retirement, I will promptly vacate my dwelling after proper notification by the owner."

5. The lease agreement in congregate housing cases must include in the major provisions the following statement: "I understand that my ability to live independently in the project with the support services available will be evaluated on a continuous basis. I may be requested to vacate if a determination is made that I am no longer able to live in the project without additional assistance. This involves cases where the tenant has progressed or regressed to a state of health that requires, in the opinion of the management, a level of care not available in the congregate housing facility.

6. All lease agreements must include in the major provisions the following statement: "I understand and agree that for the term of this lease this will be my permanent residence and I must physically occupy the unit. I agree that nonoccupancy for a period exceeding 60 days may be reason for eviction." Exceptions can be made for reasons of health and safety.

7. All leases must contain specific provisions for eviction as provided by State law.

C. *Other Leave Provisions.* All leases must contain provisions covering:

1. Names of the parties to the lease and all individuals to reside in the unit and the identification of the premises leased.

2. The amount and due date of rental payments.

3. Any penalty for late payment of rent in accordance with Paragraph VIII B of this exhibit.

4. The utilities and quantities thereof and the services and equipment to be furnished to the tenant by management and tenants responsibility to pay utility charges promptly when due.

5. The process by which rents and eligibility for occupancy shall be determined and redetermined including:

a. The frequency of such rental and eligibility determinations.

b. The information which the tenant shall supply to permit such determinations: usually, income verification; names and ages of household members; and, in congregate care facilities, information so management can determine the tenant's or con-tenant's level of function and degree of competence in performing daily living activities.

c. The standards by which rents, eligibility, and appropriate dwelling unit size shall be judged.

d. Tenant's agreement to move to a unit of appropriate size if family size changes.

e. The circumstances under which a tenant may request a redetermination of rent.

f. The effect of misrepresentation by tenant of the facts upon which rent or eligibility determinations are based.

g. The time at which rent changes or notice of ineligibility shall become effective.

6. The limitation upon the tenant of the right to the use and occupancy of the dwellings.

7. The responsibilities of the tenant in the maintenance of the dwelling and the obligation for intentional or negligent failure to do so.

8. Agreement of management to accept rental payment without regard to any other charges owed by tenant to management and to seek separate legal remedy for the collection of any other charges which may accrue to management from tenant(s).

9. The responsibility of management to maintain the buildings and any unassigned communtiy areas in a decent, safe, and sanitary condition in accordance with local housing codes and FmHA regulations, and its liabilities for failure to do so.

10. The responsibility of management to provide the tenant with a written statement of the condition of the dwelling unit (when the tenant initially enters into occupancy and when vacating the dwelling unit), and the conditions under which the tenant may paritcipate in the inspection of the premises which is the basis for such statement.

11. The circumstances under which management may enter the premises during the tenant's possession thereof, including a periodic inspection of the dwelling unit as a part of a preventive maintenance program.

12. Responsibility of tenant to advise management of any planned absense for an extended period, usually 2 weeks or more.

13. Agreement that tenant may not let or sublet all or any part of the premises.

14. Understanding that should the project be sold to a buyer approved by FmHA, the lease will be transferred to the new owner.

15. The formalities that shall be observed by management and tenant in giving notice one to the other as may be called for under the terms of the lease.

16. The circumstances under which management may terminate the lease, all limited to good cause, and the length of notice required for the tenant to exercise the right to terminate.

17. The procedure for handling tenant's abandoned property as provided by State law.

18. Disposition of lease if building becomes untenantable because of fire or other disaster. Right of owner to repair or rehabilitate the building within a certain period or terminate the lease.

19. The agreement that any tenant grievance or appeal from management's decision other than eviction which is covered by State law, shall be resolved in accordance with procedures consistent with FmHA regulations covering such procedures, which are posted in the rental office.

20. The usual signature clause attesting that the lease has been executed by the parties.

D. *Prohibited Lease Clauses.* Lease clauses in the classifications listed below shall not be included in any lease.

1. Confession of Judgment. Prior consent by tenant to any lawsuit the landlord may bring against the tenant in connection with the lease and to a judgment in favor of the landlord.

2. Distraint for Rental or Other Charges. Authorization to the landlord to take property of the tenant and hold it as a pledge until the tenant performs any obligation which the landlord has determined the tenant has failed to perform.

3. Exculpatory Clause. Agreement by tenant not to hold the landlord or landlord's agents liable for any acts or omissions whether intentional or negligent on the part of the landlord or the landlord's authorized representative or agents.

4. Waiver of Legal Notice by Tenant Prior to Actions for Eviction or Money Judgements. Agreement by tenant that the landlord may institute suit without any notice to the tenant that the suit has been filed.

5. Waiver of Legal Proceedings. Authorization to the landlord to evict the tenant or hold or sell the tenant's possessions whenever the landlord determines that a breach or default has occurred.

6. Waiver of Jury Trial. Authorization to the landlord's lawyer to appear in court for the tenant and to waive the tenant's right to a trial by jury.

7. Waiver of right to appeal Judicial Error in Legal Proceedings. Authorization to the landlord's lawyer to waive the tenant's right to appeal on the ground of judicial error in any suit or the tenant's right to file a suit in equity to prevent the execution of a judgment.

8. Tenant Chargeable with Costs or Legal Actions Regardless of Outcome. Agreement by the tenant to pay attorney's fees or other legal costs whenever the landlord decides to take action against the tenant even though the court finds in favor of the tenant. (Omission of this clause does not mean that the tenant, as a party to a lawsuit, may not be obligated to pay attorney's fees or other costs if the tenant loses the suit.)

E. *Modification of Lease—Notification to Tenants.* The landlord may modify the terms and conditions of the lease, effective at the end of the initial term or a successive term, by serving an approprite notice on the tenant, together with the tender of a revised lease or an addendum revising the existing lease. This notice and tender shall be sent to the tenant by first-class mail, properly stamped and addressed or delivered to the premises.

The date on which the notice shall be deemed to be received by the tenant shall be the date on which the first-class letter is mailed or the date on which the copy of the notice is delivered to the premises. The notice must be recieved within 30 days prior to the last date on which the tenant has the right to terminate the tenancy without executing the revised lease. The notice must advise the tenants that they may appeal modifications to the lease in accordance with Subpart L of Part 1944 of this Chapter if the modification will result in a denial, substantial reduction, or termination of benefits being received.

The same notification will be applicable to any changes in the rules and regulations for the project.

F. *Rules for Occupancy.*

1. All rules for occupancy and rent structures will be in writing, posted conspicuously in the borrower's and/or manager's offices, and provided to each tenant with the lease agreement.

2. Proposed changes of any rules for occupancy must be made available to each tenant at least 30 days in advance of implementation, and tenants must be advise that they may appeal changes in acordance with subpart L, Part 1944 of this Chapter.

3. No rule may infringe on the rights of the tenants to organize an association of tenants. Such associations may be organized to bargain with management, as well as to act socially and/or provide for the welfare of its members.

4. Rules may be promulgated that prohibit activities which are detrimental to management and tenants. Such activities include threats to the health or safety of other tenants or the employees of the borrower, interference with the quiet enjoyment of the premises by other tenants, or damage to the physical structure of the project.

5. Initial rules will be attached to the lease agreement and be approved by FmHA. Approval by FmHA for changes and additions may be requested annually with submission of annual reports or more frequently only in the case of an emergency situation.

G. *Security Deposits.*

1. Security deposits are not mandatory but may be permitted if reasonable and customary for the area. If used they will not be in an amount in excess of the tenant's one month's rent or the basic rent for the project, whichever is greater. The amount of security deposits should be reflected in the borrower's management plan and not be changed without the written consent of the FmHA District Director. Security deposits for persons eligible for Rental Assistance or Section 8 assistance shall be administered so as not to create a hardship on the household. If such tenants cannot pay the full amount initially, they may be given terms that should ordinarily:

a. For RRH projects, not exceed a down payment of 25 percent of adjusted monthly income plus $15 per month until the basic rent amount is reached.

b. For low-income farmworkers in a LH project not exceed a $25 down payment and $15 per month until an equivalent of one month's rent is reached. In the case of migrants who will occupy the units for a short period of time, exception to this policy by FmHA may be made upon written request from the borrower when it is shown that such deposit needs to be raised to protect the security interest of the government and will not create a hardship on the tenants.

2. Security deposits shall be handled in accordance with any State or local laws governing tenant security deposits. Tenant security deposits shall be deposited in a separate account at a Federally insured institution, and shall be handled in accordance with any State or local laws governing tenant security deposits. Funds in the Security Deposit Account shall only be used for authorized purposes as intended and represented by the project management, and until so used, shall be held by the borrower in trust for the respective tenants.

3. Borrowers may assess fair and reasonable charges to the security deposit for damage and losses caused or allowed by the tenant. An itemized accounting for such charges must be presented to the tenant in such cases, after the move-out inspection provided for in Paragraph X E 2, of this Subpart unless the tenant has abandoned the property and his/her whereabouts are unknown and cannot be ascertained after reasonable inquiry.

VIII. *Rent Collection:* A pre-established day of the month should be designated rental collection day. The time and place of onsite collection and the correct address for payment by mail should be well publicized and consideration should be given to any need for an after-hours' depository.

A. *Rental Receipts.* A form of serially-numbered rental receipts should be selected for use and the collection agent held accountable for every receipt. If optional collection services are available, they may be considered.

B. *Delinquent Rents.* A system to identify and detect unpaid rents should be instituted within the project. A penalty for late payment of rent beyond a 10-day grace period, or the grace period prescribed by State law, not to exceed $10.00 may be permitted. The borrower should consider the circumstances causing the late payment before assessing any penalty. True hardship cases should not be assessed penalties; however, a firm and fair policy on payment of rent will help collections.

C. *Recapture of Improperly Advanced Rental Assistance.* In cases where a tenant has received rental assistance benefits to which he/she may not be entitled, the borrower-landlord must provide the tenant with a notice of intent to recoup improperly advanced rental assistance benefits. Such a notice must inform the tenant of the amount improperly advanced and the monthly amount that will be added to the tenant's rent to recoup the improper rental assistance. If it appears that the tenant has willingly and knowingly misrepresented his/her income, the case will be reported to the FmHA District Director. If the tenant fails to make restitution, the facts will be reported to the State Director for further action.

IX. *Rent Increases:* It may be necessary as operating costs increase or revenue decreases to consider a rental increase to keep the project viable. If this occasion should arise, *prior consent* of FmHA *is required.* The procedure to initiate a rent increase is specifically covered in Exhibit C of this Subpart. The borrower must meet these requirements.

X. *Maintenance:* Maintenance is the process by which a project is kept up in all respects and includes land, buildings, and equipment. Maintenance responsibilities will be included in the management plan. Proper maintenance will help to keep a good image for the project and help to minimize vacancies. Plans and policies for inspections, effective maintenance and repair are to be established at the outset. The following types of maintenance items will be necessary.

A. *Routine Maintenance.* Routine or short-term type maintenance and repairs will be those cost items and services allowed for in the annual budgets to be paid for out of the operations and maintenance expense account. These are tasks concerning the maintenance of the project that can be prescheduled or planned for, based on

equipment need and property characteristics. Also included are janitorial tasks performed on a regular basis in order to maintain the appearance of the project and to prevent an accumulation of dirt and subsequent deterioration.

B. *Responsive Maintenance.* This includes all tasks of maintenance performed in response to either requests for service from tenants or unplanned breakdowns. An essential part of any maintenance system is to plan for requests coming from the dwelling units and for emergencies occurring in the systems serving the apartments. The project manager should develop a plan to focus on: who receives the requests, how they are handled, how specific employees are assigned in the tasks and what kind of records are kept. The capacity of the project manager to respond to requests and emergencies is one of the true tests of a successful maintenance program.

C. *Preventive Maintenance.* This is similar to inspection type maintenance in that regular checking and servicing of equipment and systems are done as required by service information. Preventive maintenance of mechanical systems, building exteriors, elevators, and heating systems in rental projects require specially trained personnel. The project manager should establish biweekly or monthly schedules in which the routine oiling, replacing of filters, and the like is done based on manufacturer's manuals and specifications.

D. *Long-term Maintenance.* These are major expense items which normally do not occur on an annual basis. When such expenses occur, the borrower may request permission to use reserve funds to pay for these expenses. However, use of funds out of the reserve account must be preapproved by FmHA.

E. *Inspection Maintenance.* These are maintenance inspections performed periodically to discover problems before crisis situations develop. The following inspections of each tenant's apartment should be made at various times:

1. *Move-In Inspection.* When an applicant is accepted for occupancy of a unit, the management and the applicant together should inspect the unit to be occupied and agree upon any repairs needed. A written inspection report shall be prepared and a copy retained in the tenant's file. Any of these deficiencies not corrected prior to occupancy should be noted on the lease or inspection move-in report and signed by tenant and management's representative.

2. Move-Out Inspection. When the management becomes aware that the tenant is moving out or has vacated the unit, an inspection should be scheduled with the tenant. Any repairs or costs to be charged to the tenant will be in accordance with the terms of the lease and regulations governing security deposits in Paragraph VI IG of this Exhibit.

3. Periodic Inspection. The borrower should make allowances in the lease for periodic inspection of the units as a part of preventive maintenance. An inspection of this type should be made at least annually.

XI. *Accounting and Reporting Requirements and Financial Management Analysis:* All RRH and LH projects approved on or after October 27, 1980, are required to comply with the provisions of this section. All RRH and LH projects approved prior to October 27, 1980, in accordance with regulations then extant will be guided by the reporting requirments of their effective loan agreement, but are encouraged to adopt the provisions of this section by amending their existing loan agreement. The State Director may require adoption of these provisions when deemed necessary as a loan servicing action. Any amendment to an existing loan agreement requires approval by the State Director with advice from the OGC.

A. *Accounting System.* The type and form of bookkeeping and accounting system to be used will normally have been determined prior to the loan closing, or revised at some subsequent date to meet program objectives. The underlying purpose of a bookkeeping and accounting system is to provide the financial information needed by the project manager to help plan and control the activities of the project. It is also needed by the owner, FmHA, investors, and the public who have an interest that will be served by information about the project's financial position and operating results. Therefore the borrower must develop a methodical system of ledger accounts to record the business transactions of the project. Borrower and grant recipients may be required to implement and use bookkeeping and accounting system as prescribed by FmHA. The following accounts, as a *minimum,* will be established for all projects and shall be maintained for so long as the loan obligations remain unsatisfied or through any restrictive time period in the case of prepayment. The term "account" is used interchangeably to mean ledger account and/or banking account. All funds in any account shall be used only as authorized in this section. Except for the security deposit account, all funds shall until used be held in trust by the borrower or grant recipient for the government as security for the loan obligation.

1. *General Operating (Ledger) Account.* Funds in this account will be held in a checking account and must be maintained in a bank or banks insured by the Federal Deposit Insurance Corporation (FDIC).

a. *Initial Operating Capital.* The borrower will have deposited the required initial operating capital into this account by the time of loan closing or when interim funds are obtained in order to preclude the necessity for multiple advances of FmHA loan funds, whichever occurs first. The initial operating capital will be recorded in a separate Ledger column of the General Operating Account. Only deposits of initial operating capital will be recorded in this Ledger column. Transfers from the initial operating capital ledger column will be made to the General Operating Account Ledger as needed to cover disbursements described below until cash flow from operation of the project is sufficient to cover on-going project operating expenses. After two full years of operation, the State Director may authorize return of any remaining balance in the initial operating capital column to the borrower, provided the borrower has submitted the year-end audit, the estimated and actual budget, and has paid for all required initial start-up and annual operating expenses and they have been reviewed and approved by the State Director.

b. *Deposits.* All income and revenue from the housing project shall, upon receipt, immediately be deposited in the General Operating Account. This will include rent receipts, housing subsidy payments, laundry revenue, or any other project income. The deposit of initial operating capital will be recorded and handled as described above. The borrower may also at its discretion at any time deposit other funds which are also to be used for purposes authorized by this section including transfer from the Reserve Account. All Housing Assistance Payments received from the Department of Housing and Urban Development (HUD) and FmHA rental assistance on the basis of eligible occupants in the project shall be deemed to be revenue derived from the operation of the project and shall be held by the borrower or grant recipient in trust for the Government as security for the loan obligations.

c. *Disbursements.* Not later than the 15th of each month, out of the General Operating Account, the borrower or grant recipient shall pay the actual, reasonable and necessary monthly expenses, for the current month, for operating and maintaining the project. Current expenses may include the initial purchase and installation of furnishings and equipment with any funds deposited in the General Operating Account which are not proceeds of the loan or income or revenue from the project. Other authorized disbursements are authorized installments of debt service, real estate tax and insurance escrow, reserve, and at the end of the fiscal operating year, return on investment as provided in Sections 2 and 3 below. Any balance remaining in the General Operating Account except as authorized above, may be transferred to the Reserve Account or retained in the General Operating Account.

2. *Real Estate Tax and Insurance Escrow (Ledger) Account.* Funds in this account shall be deposited in an interest bearing account at a Federally insured institution. Each month after the payment of actual, reasonable, and necessary current operating and maintenance expenses there shall be transferred from the General Operating Account to the Real Estate Tax and Insurance Escrow Account an amount equal to one-twelfth of the total anticipated real estate tax and insurance payments for the year. All interest earned shall be prorated based on the amount in each escrow at the time the interest is earned.

3. *Reserve (Ledger) Account.* Funds in this account shall be held in a separate interest bearing account or accounts which shall be maintained at a Federally insured institution. Immediately after paying each installment for the orderly retirement of the FmHA loan, as provided in the borrower's promissory note, required reserve installments at the monthly rate stipulated by the borrower's Loan Agreement or Resolution shall be transferred to the Reserve Account. Monthly transfers will continue until the account reaches the aggregate amount specified in the Loan Agreement or Resolution. Monthly transfers

shall be resumed within one month following disbursement from the Reserve Account, to restore it to the specified minimum sum. Reserve Account funds not immediately needed for authorized purposes may be invested in savings certificates insured by a Federal institution, or invested in readily marketable obligations of the United States Treasury Department, the earnings on which shall accrue to the reserve account. Interest earnings should be used toward meeting the monthly installments to the Reserve Account. Any amount in the reserve account which exceeds the aggregate sum specified in the Loan Agreement or Resolution, and is agreed between the borrower or grant recipient and the Government to be in excess of need for the authorized purposes described below, may be transferred to the General Operating Account, unless the Government directs the sum to be retained in the Reserve Account. With prior consent of the Government, funds in the Reserve Account may be used by the Owner and Agent for the following purposes:

a. To meet payments due on the loan obligations in the event the amount for debt service is not sufficient for the purpose.

b. To pay costs of repairs or replacements to the housing, furnishings or equipment caused by catastrophe or long-range depreciation which are not current expenses. Withdrawal for approved purposes may be approved in advance during the annual budget approval process.

c. To make improvements for extensions to the housing.

d. For other purposes desired by the borrower, which in the judgment of the Government will either promote the loan purposes, strengthen the security, or facilitate, improve, or maintain the orderly collectibility of the loan without jeopardizing collectibility of the loan or impairing the adequacy of the security.

e. To pay a return on investment, provided that after such disbursements (a) the amount in the Reserve Account will not be less than that required by the Loan Agreement or Resolution to be accumulated by that time and (b) during the next 12 months the amount in the Reserve Account will likely not fall below that required to be accumulated by the end of such period.

1. In the case of borrowers operating on a limited profit basis, to pay a return of up to 8 percent per annum of the borrower's initial investment as identified in the Loan Agreement or Resolution.

2. In the case of borrowers operating on a full profit basis, to pay a return on the borrower's initial investment as identified in the Loan Agreement or Resolution.

(4) *Tenant Security Deposit (Ledger) Account.* (If applicable) Immediately upon receipt, all tenant security deposit funds collected shall be recorded in a ledger kept separate from the project ledger accounts. These funds shall be deposited in a bank account, kept separate from any project funds, maintained at a Federally insured institution, and shall be handled in compliance with any State or local laws governing tenant security deposits. Funds in the Tenant Security Deposit Account shall only be used for authorized purposes as intended and represented by the project management and, until so used, shall be held by the borrower in trust for the respective tenants. Any amount of the Tenant Security Deposit Account which is retained by the borrower as a result of lease violations, shall be transferred to the General Operating Account and treated as income of the housing.

a. If security deposits are deposited into an interest bearing account, the owner must follow State and local statutes regarding the disposition of the interest earned for individual tenants.

b. Some jurisdictions allow owners and tenants to agree that the interest earned on a security deposit may be used in lieu of individual tenant refunds to fund a tenant's association or some alternate form of tenant activity. In this regard, project-related expenses are usually excluded as forms of "tenant activity." Generally, the owner must make agreements of this nature with each individual tenant.

B. *Borrower Reporting Requirements.* Certain reports will be necessary in order to meet the FmHA requirements and aid the borrower in carrying out the objectives of the loan. Some must be submitted with the FmHA payments and others submitted to FmHA either monthly or annually. The following reports will be prepared and submitted by the borrower. Exhibits B–6, B–7, and B–8 which are available in any FmHA District Office, are to be used as a guide for determining when reports are due and the number of copies.

1. Monthly Reports:

a. Submit Form FmHA 1930–6, "Monthly Report," by the tenth of each month to the District Office. Monthly reports may be completed on a cash basis if the borrower elected to use modified cash accounting.

b. Submit Form FmHA 444–29, "Project Worksheet for Interest Credit and Rental Assistance," with the payment to the District Office. This form *must* be submitted each month to report overage and/or request for rental assistance, even if a loan payment is not submitted.

2. Annual Reports: Within 45 days following the close of the borrower's fiscal year, the borrower will submit the following reports to the FmHA District Office. Annual reports will be completed on an accrual basis.

a. Form FmHA 1930–7, "Statement of Budget, Income and Expense (Excluding Depreciation)," showing planned income and expenses for the next year as well as actual income and expenses for the past year.

b. Form FmHA 1930–8, "Year End Report and Analysis For Fiscal Year Ending ."

c. Audit report to be completed in accordance with the booklet, "Instructions to Independent Certified Public Accountants and Licensed Public Accountants Performing Audits for FmHA Borrowers and Grantees." For projects with 25 or more units, the audit will be prepared by (1) a CPA or (2) LPA licensed on or before *December 31, 1970.* Borrowers with 24 units or less will need to provide a verification by an individual who is qualified by education and/or experience and who is independent of the borrower or by a committee of the membership not including any officer, director, or employee of the borrower; however, the State Director may also require audits by a CPA or LPA for any project.

d. Copy of the minutes of the annual meeting, if applicable.

e. Energy Audit.

f. Any other related material that may be requested by the District Director.

c. *Financial and Management Analysis.* Financial and management analysis provides information on how the project is progressing. Regular analysis of the project's operations can help identify problems and deficiencies early so that appropriate corrections can be initiated. Some methods of analysis are:

1. Budget Analysis: This is one of the simplest tools to use in financial analysis. Utilizing the monthly and annual reports, the project manager records actual income and expenses and compares them with the budgeted amounts. Any differences between the budget and actual figures indicate where the manager may need to focus added attention or take corrective action.

2. Ratio Analysis: This is another technique used in financial analysis. It prescribes various measures of actual operating performance in terms of ratios. Some useful ratios are:

a. *Vacancy Rate* =

$$\frac{\text{Total vacancy days for the month}}{\text{Total unit days for the month}}$$

b. *Resident Turnover Ratio* =

$$\frac{\text{Total units becoming vacant during the period}}{\text{Average units occupied for the period}}$$

c. *Expense Ratio* =

$$\frac{\text{Total Expense}}{\text{Total Income}}$$

d. *Cost Per Unit* =

$$\frac{\text{Total Expense (By category)}}{\text{Total No. of Units}}$$

e. *Working Capital Ratio* =

$$\frac{\text{Current Assets}}{\text{Current Liabilities}}$$

f. *Collection Ratio* =

$$\frac{\text{Total Collections}}{\text{Total Rent Roll}}$$

g. *Percent of Revenue from Government Sources* =

$$\frac{\text{FmHA Rent Assistance}}{\text{Total Market Rent}}$$

or

$$\frac{\text{HUD Section 8 payments}}{\text{Total Market Rent}}$$

XII. *Management-Tenant Relations*: This portion of the management plan should be complete since it establishes the basic relationships that could be the difference between success and failure in the project. A well-planned orientation for tenants or prospective tenants is advisable. Rules and regulations must be provided and adequately explained so the tenant will understand the goals and objectives of the project. The management should be available and willing to work with a tenant organization. Listed below are a number of areas that should be addressed in written materials developed by management and provided to all tenants prior to move-in:

A. *Explanation of rights and responsibilities under the lease.* Where a non-English language is common to an area, a

lease written in that language should also be provided.

B. *Rent payment policies and procedures should be fully explained.*

C. *Policy on periodic inspection of units.*

D. *Responding to tenant complaints.*

E. *Maintenance request procedure.*

F. *Services provided by management.*

G. *Office hours, emergency telephone numbers.*

H. *Map showing location of community facilities including schools, hospitals, libraries, parks, etc.*

I. *Restrictions on storage and prohibition against abandoning vehicles in the project area.*

J. *A project newsletter;* if desired.

K. *Community and public transportation schedules.*

XIII. *Termination of Tenancy and Eviction:* Borrowers should actively work to avoid forced terminations of leases and evictions. The rules governing termination of leases and evictions for cause are outlined in this section.

A. *Entitlement of Tenants to Continued Occupancy.*

1. *General.* The borrower may not terminate or refuse to renew any tenancy except upon material noncompliance with the lease or for other good cause. Any termination or refusal to renew tenancy must be grounded upon material noncompliance with the lease, non-eligibility for tenancy or action or conduct of the tenant which disrupts the liveability of the project, adversely affects the health or safety of any person, or the right of any tenant to the quiet enjoyment of the leased premises and related project, or has an adverse financial effect on the project.

2. *Material Noncompliance.* Material noncompliance with the lease includes (a) one or more substantial violations of the lease or (b) repeated minor violations of the lease which disrupt the liveability of the project, adversely affect the health or safety of any person, or the right of any tenant to the quiet enjoyment of the leased premises and related project or have an adverse financial effect on the project. Repeated nonpayment of rent or any other financial obligation due under the lease (including any portion thereof) beyond any grace period constitutes substantial violation.

3. *Notice of Other Good Cause.* Conduct cannot be considered other good cause unless the borrower has given the tenant prior notice that the conduct will constitute a basis for termination of tenancy.

4. *Rent Overburden.* Any tenant household paying more than 25 percent of their adjusted income toward rent, including utilities, is experiencing rent overburden. Borrowers are encouraged to apply for rental assistance or to assist tenants in applying for Section 8 assistance whenever a tenant is experiencing rent overburden.

B. *Notice of Termination.* Any notice to terminate must be based on material violation of the lease terms or for other good cause. Also, a tenant may not be evicted solely because the lease has expired.

1. The borrower's notice of intent to terminate the tenancy will be handled in accordance with the terms of the lease, this Subpart, and as provided by State law. The tenant will be given at least 30 days notice prior to any eviction. The notice must:

a Refer to relevant provisions in the lease.

b. State the reasons for the termination with enough specificity to enable the tenant to prepare a response. In those cases where the proposed termination of the tenancy is due to the tenant's failure to pay rent, a notice stating the dollar amount of the balance due on the rent account and the date of such computation shall satisfy the requirement of specificity.

c. Inform the tenant that he or she is afforded the opportunity to meet with the project management within 10 days if he or she believe the notice to be unfair or unjust.

d. Cite the specific section of State law under which the notice to terminate is based.

2. A copy of any proposed eviction notice will be forwarded to the FmHA District Office. The District Director will review the notice for compliance with this Subpart and any State Supplements that have been issued covering tenant evictions. If the notice is found to be proper, no further action need be taken. If the notice is found to be improper, the District Director will notify the borrower to terminate the action and will provide the borrower guidance on how to proceed.

3. The State Director will issue State Supplements covering termination notices if, with the advice of the OGC, it is determined that such action is necessary to carry out the requirements of this Subpart in the State.

XIV. *Security Servicing:* Security servicing, as contained in this Exhibit, concerns the borrower's responsibilities in relation to the loan agreement or resolution, mortgage, and other loan closing papers. It does not deal with security items between the borrower and the tenants. FmHA will look to the borrower to fulfill its obligation in accordance with the requirements of the loan agreement or resolution, note, mortgage, and other legal or closing documents. Some items of special emphasis are:

A. *Fidelity Bond.* All borrowers will be required to provide Fidelity Bond coverage for the officials and employees of the borrower, and to require Fidelity Bond coverage from management agents entrusted with the receipt, custody, and disbursement of its funds or any other negotiable or readily saleable personal property except in those cases where a loan has been made to an individual (natural person) and that individual will be responsible for such activities. In the case of a Land Trust where the beneficiary is responsible for management, the beneficiary will be treated as an individual. Also, a 2-party General partnership where there is no power of attorney or designated partner, will be treated as an individual. The amount of the bond will at least equal the potential gross project income for two months rental collection or the maximum amount of money the project must have on hand at any one time, including cash on hand, money in reserve and other special accounts, etc., whichever is greater. The United States will be named as co-obligee in the bond if not prohibited by State Law. Form FmHA 440-24, "Position Fidelity Schedule Bond," may be used if permitted by State Law. Form FmHA 440-24, "Position Fidelity Schedule Bond," may be used if permitted by State Law. In those cases where other forms are used, the form of bond must be approved by the State Director, if found legally acceptable by the OGC. A blanket policy may be accepted in the case of borrowers with more than one project if blanket coverage is more advantageous cost-wise and the amount of coverage for each project is identified.

B. *Insurance.* The minimum amounts and types of insurance required of the borrower will be determined by FmHA in accordance with Subpart A of Part 1806 (FmHA Instruction 426.1) and Subpart B of Part 1806 (FmHA Instruction 426.2). All references to County Supervisor shall be construed to mean District Director when applied to the Multiple Housing Program:

1. Adequate fire and extended coverage and earthquake as needed will be required on all buildings included as security for the loan. The amount of coverage will be not less than the amount specified on Form FmHA 426-1, "Valuation of Buildings."

2. Suitable Worker's Compensation Insurance will be carried by the borrower for all its employees.

3. The borrower will also carry adequate liability insurance.

4. If the project is located in a designated flood hazard area, flood insurance will be required.

C. *Property Taxes.* All borrowers will be required to pay their own taxes before they become delinquent and to provide FmHA with proof of payment when any taxes have been paid.

Exhibit B-1—Management Plan Requirements for FmHA Mutliple Family Housing Projects

A Management Plan in detail commensurate to project size and complexity is required for all FmHA Multiple Housing projects. Also, a Management Agreement must be provided where a management agent is to be used. The Management Plan will be used by FmHA in evaluating the feasibility of the project from a management standpoint. A Management Plan will be considered sufficiently detailed if it is responsive to each of the following areas and accurately reflects FmHA program requirements. The Management Plan will be approved by the loan approval official. No loan will be closed or construction started until the Management Plan has been approved by FmHA.

1. *The role and responsibility of the owner and the relationship and delegations of authority to the management agent.* If there is no Management Agent, supply the equivalent information concerning the management staff assigned to day-to-day operation of the project.

a. If the management agent is closely associated with the owner in such a manner that creates a possible conflict of interest, is such relationship fully explained and justified?

b. What are the supervisory relationships, and to whom are the persons responsible for the day-to-day operation of the project accountable?

c. Under what conditions must the management agent consult the owner before taking action?

d. What are the areas in which the management agent may make decisions without consulting the owner?

e. Who, in the owner's organization, is the key contact person for the management agent? What decision making powers does this contact person have?

f. Are the respective responsibilities of the owner and the managing agent listed? Are these responsibilities clearly defined so as not to overlap? Are they clearly assigned? Are all basic responsibilities covered?

2. *Personnel policy and staffing arrangements.*

a. Is all hiring in conformance with equal employment opportunity requirements?

b. What are the projected staffing needs for the project?

c. What are the lines of authority, responsibility, and accountability within the management entity?

d. What are the positions to be filled, the duties of each position, and the compensation?

3. *Plans and procedures for marketing units and achieving and maintaining full occupancy, and affirmative marketing.*

a. How and when will the units be advertised as available?

b. How will affirmative marketing practices be used? What outreach and marketing efforts will be made to reach those low-income and minority persons who traditionally would not be expected to apply for such housing without special outreach efforts?

c. What plans are being made to achieve and maintain the highest level of occupancy reasonably obtainable? Indicate any additional compensation or incentives that may be allowed management agents for early initial rent up. (If this area is not covered in the management plan, it will usually not be allowed by FmHA at a later date.)

d. What are the procedures to allow for eligible applicants to inspect the units prior to their being made available for occupancy?

e. What orientation services are to be provided tenants to acquaint them with the project and care of the units?

f. Who is responsible for selecting the tenants? Is this selection subject to review? If so, under what conditions and by whom?

4. *Procedures for determining tenant eligibility and for certifying and recertifying incomes.*

a. How are applications and other records pertinent to this function kept?

b. Who will be responsible for carrying out this function?

c. Is the responsible person knowledgeable regarding certification and recertification requirements? If not, what provisions are being made to provide this person with the necessary training?

d. Is the responsible person aware of FmHA requirements covering family size and needs as they relate to unit size?

e. Is the responsible person aware of FmHA requirements regarding tenant eligibility, rejection, or placement on a waiting list?

5. *Tenant Admissions Policies and Leasing Policies.*

a. What procedures will be used in maintaining waiting lists?

b. What are leasing policies and procedures?

c. Is the person who is responsible, knowledgeable of FmHA required lease clauses? FmHA prohibited lease clause?

d. What are the Rules for Occupancy?

e. If a substantial number of tenants do not speak or read the English language, are leases and the established rules and regulations for the project written in both English and the non-English concentration language available?

6. *Rent Collection Policies and Procedures.*

a. What are the rent collection policies and procedures?

b. Where are rents to be paid and who is responsible for collection?

c. Is there a provision for on-site collections? After hours depositing?

d. Are rent payments adequately recorded and kept in a separate account?

e. What is the amount of any required security deposits? What is the program for maintaining adequate accounting records of security deposits?

7. *Procedures for requesting and implementing a rent increase.*

a. What procedures will be followed in requesting FmHA approval of a rent increase? (Refer to Exhibit C of this subpart.)

b. At what time of year will such a request normally be made and what information will be presented to FmHA as justification?

c. How will the tenants be notified of a proposed increase, and if approved, how will you inform the tenants?

8. *Plans for carrying out an effective maintenance and repair program.*

a. What procedures have been developed to service appliances and the mechanical equipment? To check out all such equipment to be sure that it is properly installed and operating prior to releasing units for occupancy?

b. What are the procedures for inspecting and carrying out maintenance activities in units prior to a movement? Prior to rerenting the unit?

c. What is the schedule for interior and exterior painting and redecorating?

d. How will garbage and trash removal be handled?

e. How will major repairs be handled?

f. How will grounds upkeep and maintenance be carried out?

g. What is the schedule for cleaning entryways, halls, and other common areas?

h. How will tenants be instructed to report major and/or minor maintenance repair needs?

i. What security provision will be made for the protection of project residents such as fire extinguishers, outside lighting, etc.?

9. *Plans for Record Maintenance and Reports.*

a. Who will be responsible for the preparation and submission of the monthly and annual reports required by FmHA?

b. What type of project records will be used and how will they be maintained?

c. Discuss the proposed tenant record and maintenance system including retention of records.

D. Where will records subject to FmHA review be kept?

10. *Energy Conservation Measures.*

a. What utilities will the tenants have direct control of where energy conservation can be practiced.?

b. What utilities will the management have direct control of where energy conservation can be practiced?

c. Explain the proposed energy conservation practices in connection with utilities paid by the management.

d. Describe proposed actions to stimulate energy conservation by the tenants.

e. How will tenants be oriented to energy conservation measures?

11. *Plans for tenant-management relations.*

a. How will tenants be oriented to the project?

b. Is the person who is responsible, knowledgable of FmHA Tenant Grievances and Appeals procedures?

12. *Termination of Leases and Evictions.*

a. Is the person responsible, knowledgable of State and local laws and FmHA's requirements regarding termination of leases and evictions?

b. Is the person responsible, knowledgable of State and local laws and FmHA's requirements regarding notification that must be given to a tenant when termination of the lease or eviction is proposed?

13. *Security Servicing.*

a. Is the person responsible, knowledgable of FmHA requirements for Fidelity Bond coverage?

b. Is the person responsible, knowledgable of FmHA's insurance requirements?

14. *Management Background and/or Experience.* FmHA requires adequate management of multi family housing projects. Exhibit B–4 of this Subpart will be used by a prospective management agent to provide a resume of management background and/or experience; Exhibit B–5 of this Subpart will be used by an owner who proposes to provide direct project management.

15. *Management Agreement (Contract).* Attach a copy of the proposed form of Management Agreement (Contract) that will be used if the project will not be owner-managed. (See Exhibit B–2 for requirements for management agreements.)

16. *Management Compensation.*

a. If some management is provided by the owner, will a full management fee be paid?

b. What amount of management fee will be paid monthly?

c. Will management fee be paid as cash or as value of apartment or a combination of both?

17. *Validity of the Management Plan.* The plan must provide space at the end for the following:

a. Date, title and signature of borrower or borrower's authorized represenative.

b. Date, title and signature of the FmHA official approving the Plan.

Exhibit B–2—Requirements for Management Agreements

A completed and executed management agreement must be submitted to Farmers Home Administration (FmHA) whenever a management agent is to be used.

1. A written management agreement shall be required for any project when the owner

retains a management agent. Although a written management plan is required for all projects, a management agreement is not required if the project is managed by the owner.

2. The management agreement shall conform to FmHA requirements. The owner may delegate to the agent any management duties which are not required to be performed by the owner. Nevertheless, whatever the scope of the agent's authority, the owner remains totally responsible to FmHA for all aspects of management, including duties delegated to the agent.

3. The management agreement shall be consistent with the management plan for the project. The management plan is the primary management charter, constituting a comprehensive description of the detailed policies and procedures to be followed in managing the project. The function of the management agreement is incident to implementation of the management plan. The agreement must define in precise language the terms of the agreement, and accordingly, the agreement need not repeat all of the detailed procedures contained in the management plan.

4. In all cases where the owner retains a management agent, the Management Agreement document shall contain the management agent's organized and staffing structure, management controls, and outside ownership interests. When evidence of transaction with identity of interest firm, or central service unit exists, the owner shall refer this case to the FmHA for review and approval of such procurement arrangements and the reasonableness of charges to the project. A list of competitive costs shall be provided.

5. The management agreement may conform to the suggested housing management agreement as reflected in Exhibit B–3 of this Subpart. Each management agreement shall be realistically tailored to the specific conditions of the particular project. The site, design, and size of the project fiscal constraints; market conditions; social factors; local law and business practices are among the elements which may require variations in the management agreement. Consideration should also be given to the capabilities and legitimate desires of the owner and agent.

Exhibit B–3—Suggested Housing Management Agreement for FmHA Multiple Family Housing Projects

This agreement is made this day of , 19 , between (the "Owner") and (the "Agent").

1. *Appointment and Acceptance.* The Owner appoints the Agent as exclusive agent for the management of the property described in Section 2 of this Agreement, and the Agent accepts the appointment, subject to the terms and conditions set forth in this Agreement.

2. *Description of Project.* The property to be managed by the Agent under this Agreement (the "Project") is a housing development consisting of the land, buildings, and other improvements which make up Project No. . The project is further described as follows:

Name ———————————
Location: City ———————————
County: ———————————
State ———————————
No. of dwelling units ———————————
Type of units ———————————
(Family, Elderly, Congregate)

3. *Definitions.* As used in this Agreement:

a. "FmHA" means the Farmers Home Administration, including any successor agencies.

b. "Principal Parties" means the Owner and the Agent.

4. *FmHA Requirements.* In performing its duties under this Management Agreement, the Agent will comply with all pertinent requirements of FmHA.

5. Management Input During FmHA Processing. The Agent will advise and assist the Owner with respect to management input during the remaining stages of FmHA loan processing. The Agent's specific tasks will be as follows:

a. Preparation and submission to the Owner of a recommended operating budget for the initial operating year of the Project.

b. Participation in any conference with FmHA officials involving project management.

c. Preparation and submission to the Owner (for the Owner's signature and submission to FmHA) of Form FmHA 1930–6, "Monthly Report," throughout the period from initial occupancy after FmHA loan closing until such time as no longer required by FmHA. If the management is authorized to sign the reports in the owner's absence, a copy of the signed report as submitted to FmHA will be provided.

d. Participation in the on-site final inspection of the Project, required by FmHA prior to initial occupancy.

e. Continuing review of the Management Plan, for the purpose of keeping the Owner advised of necessary or desirable changes.

6. *Management Plan.* Attached is a copy of the Management Plan for the Project, which provides a comprehensive and detailed description of the policies and procedures to be followed in the management of the Project. In many of its provisions, this Agreement briefly defines the nature of the Agent's obligations, with the intention that reference be made to the Management Plan for more detailed policies and procedures. Accordingly, the Owner and the Agent will comply with all applicable provisions of the Management Plan, regardless of whether specific reference is made thereto in any particular provision of this Agreement. A copy of the Loan Resolution or Agreement with FmHA is also attached.

7. *Basic Information.* As soon as possible, the Owner will furnish the Agent with a complete set of "as built" plans and specifications and copies of all guarantees and warranties pertinent to construction, fixtures, and equipment. With the aid of this information and inspection by competent personnel, the Agent will become thoroughly familiar with the character, location, construction, layout, plan and operation of the Project, and especially of the electrical, heating, plumbing, and air-conditioning and ventilating systems, the elevators, and all other mechanical equipment.

8. *Liaison with Architect and General Contractor.* At the direction of the owner during the planning and construction phases, the Agent will maintain direct liaison with the architect and general contractor, in order to coordinate management concerns with the design and construction of the Project, and to facilitate completion of any corrective work and the Agent's responsibilities for arranging utilities and services pursuant to Section 14 of this Agreement. The Agent will keep the Owner advised of all significant matters in this connection.

9. *Marketing.* The Agent will carry out the marketing activities prescribed in the Management Plan, observing all requirements of the Affirmative Fair Housing Marketing Plan.

10. *Rentals.* The Agent will offer for rent and will rent the dwelling units in the Project. The following provisions will apply:

a. The Agent will make preparations for initial rent-up, as described in the Management Plan.

b. The Agent will follow the tenant selection policy described in the Management Plan.

c. The Agent will show the premises to prospective tenants.

d. The Agent will take and process applications for rentals. If an application is rejected, the Agent will inform the applicant in writing of the reason for rejection, and the rejected application, with reason for rejection noted on it, will be kept on file until a compliance review has been conducted. If the rejection is due to information obtained from a Credit Bureau, the source of the report must be revealed to the applicant in accordance with the Fair Credit Reporting Act. A current list of prospective tenants will be maintained.

e. The Agent will prepare all dwelling leases, parking permits, and will execute the same in its name, identified as agent for the Owner. The terms of all leases will comply with the pertinent provisions of FmHA regulations. Dwelling leases will be in a form approved by the Owner and FmHA.

f. The Owner will furnish the Agent with rent and income report forms required by FmHA, showing rents as appropriate for dwelling units, and other charges for facilities and services, and income data pertinent to determinations of tenant eligibility and tenant rents. In no event will the rents and other charges be exceeded.

g. The Agent will counsel all prospective tenants regarding eligibility and will prepare and verify eligibility certifications and recertifications in accordance with FmHA requirements.

h. The Agent will collect, deposit, and disburse security deposits, if required, in compliance with any State or local laws governing tenant security deposits. Security deposits will be deposited by the Agent in a separate account, at a Federally insured institution. This account will be carried in the owner's name and designated of record as "(Name of Project) Security Deposit Account."

11. *Collection of Rents and Other Receipts.* The Agent will collect when due all rents, charges, and other amounts receivable on the Owner's account in connection with the management and operation of the Project. Such receipts will be deposited immediately

in the project's General Operating Account with or such other bank designated by the owner, a bank whose deposits are insured by the Federal Deposit Insurance Corporation.

12. *Enforcement of Leases.* The Agent will ensure full compliance by each tenant with the terms of the lease. Voluntary compliance will be emphasized. The Agent, using the services of local social service agencies when available, will counsel tenants and make referrals to community agencies in cases of financial hardship or under other circumstances deemed appropriate by the Agent. Involuntary termination of tenancies should be avoided to the maximum extent consistent with sound management of the Project. Nevertheless, and subject to the pertinent procedures prescribed in the Management Plan, the Agent may initiate action to terminate any tenancy when, in the Agent's judgment, there is material noncompliance with the lease or other good cause as prescribed by FmHA regulations for such termination. The tenant must be given at least 30 days notification in accordance with FmHA regulations. The notice shall comply with state law requirements, subject to the Owner's approval, attorney's fees and other necessary costs incurred in connection with such actions will be paid out of the General Operating Account as Project expenses.

13. *Maintenance and Repair.* The Agent will cause the Project to be maintained and repaired in accordance with the Management Plan and local codes, and in a condition at all times acceptable to the Owner and FmHA. This will include but is not limited to cleaning, painting, decorating, plumbing, carpentry, grounds care, energy conservation practices and such other maintenance and repair work as may be necessary, subject to any limitations imposed by the Owner in addition to those contained herein.

Incident to this, the following provisions will apply:

a. Special attention will be given to preventive maintenance, and to the greatest extent feasible, the services of regular maintenance employees will be used.

b. Subject to the Owner's prior written approval, the Agent will contract with qualified independent contractors for the maintenance and repair of air-conditioning systems and elevators, and for extraordinary repairs beyond the capability of regular maintenance employees.

c. The Agent systematically and promptly receive and investigate all service requests from tenants, take such action as may be justified, and keep records of the same. Emergency requests will be received and serviced on a twenty-four (24) hour basis. Serious complaints will be reported to the Owner after investigation.

d. The Agent is authorized to purchase all materials, equipment, tools, appliances, supplies and services necessary for proper maintenance and repair subject to the prior written approval of the owner as provided for in f below.

e. The Agent will advise the Owner of any cost-effective energy conservation measures adaptable to the project. The Agent will encourage their use and will assist the Owner during any installation of these measures.

f. The prior written approval of the Owner will be required for any expenditure which exceeds Dollars ($) in any one instance for labor, materials, or otherwise in connection with the maintenance and repair of the Project. This limitation is not applicable for recurring expenses within the limits of the operating budget or emergency repairs involving manifest danger to persons or property, or required to avoid suspension of any necessary service to the Project. In the latter event, the Agent will inform the Owner of the facts as promptly as possible.

14. *Utilities and Services.* In accordance with the Management Plan, the Agent will make arrangements for water, electricity, gas, fuel oil, sewage and trash disposal, vermin extermination, decorating, laundry facilities, and telephone service. Subject to the Owner's prior written approval, the Agent will make such contracts as may be necessary to secure such utilities and services acting as agent for the owner.

15. *Employees.* The Management Plan prescribes the number, qualifications, and duties of the personnel to be regularly employed in the direct management of the Project, including a Resident Manager, maintenance, bookkeeping, clerical and other managerial employees. All such personnel should be employees of the Agent and not the Owner, and will be hired, paid, supervised, and discharged by the Agent. Employee salaries will be paid directly from the Owner's General Operating Account. This account will also reimburse the agent for Workers Compensation, Social Security taxes, and other taxes normally paid by the employer dealing with wages.

16. *Records and Reports.* The Management Agent will be guided by the record and reporting requirements of the borrower's loan agreement, as amended, in projects approved prior to October 27, 1980. For RRH and LH projects approved on or after October 27, 1980, the following responsibilities with respect to records and reports will be in addition to any other requirements specified in the Management Plan or other provisions of this Agreement:

a. *Accounting System.* The Agent must develop a methodical system of ledger accounts to record the business transactions of the project. The Agent may be required to implement and use a bookkeeping and accounting system as prescribed by FmHA. The following accounts, as a minimum, will be established for all projects and shall be maintained for so long as the loan obligations remain unsatisfied or through any restrictive time period in the case repayment. The term "account" is used interchangeably to mean ledger account and/or banking account. All funds in any account shall be used only as authorized in this section. Except for the security deposit account, all funds shall until used, be held in trust by the Agent for the government as security for the loan obligation.

(1) *General Operating (Ledger) Account.* Funds in this account will be held in a checking account and must be maintained in a bank or banks insured by the Federal Deposit Insurance Corporation (FDIC).

(a) *Initial Operating Capital.* The Agent will receive from the Owner and deposit the required initial operating capital. If a loan is closed using multiple advances, it will be the full required amount. If a loan is closed using interim financing, it will be the balance of the required amount plus an accounting of any expended portion. The initial operating capital will be recorded in a separate ledger column of the General Operating Account. Only deposits of initial operating capital will be recorded in this ledger column. Transfers from the initial operating capital ledger column will be made to the General Operating Account Ledger as needed to cover disbursements described below until cash flow from operations of the project is sufficient to cover ongoing project operating expenses. After two full years of operation, the State Director may authorize return of any remaining balance in the initial operating capital column to the borrower, provided the borrower has submitted the annual audit, the estimated and actual budget, and has paid for all required initial start-up and annual operating expenses and they have been reviewed and approved by the State Director.

(b) *Deposits.* All income and revenue from the housing project shall, upon receipt, immediately be deposited in the General Operating Account. This will include rent receipts, housing subsidy payments, laundry revenue, or any other project income. The deposit of initial operating capital will be recorded and handled as described above. The borrower may also at its discretion at any time deposit other funds which are also to be used for purposes authorized by this section including transfer from the Reserve Account. All Housing Assistance Payments received from the Department of Housing and Urban Development (HUD) and FmHA rental assistance on the basis of eligible occupants in the project shall be deemed to be revenue derived from the operation of the project and shall be held by the borrower or grant recipient in trust for the Government as security for the loan obligations.

(c) *Disbursements.* Not later than the 15th of each month, out of the General Operating Account, the Agent shall pay the actual, reasonable and necessary monthly expenses for the current month for operating and maintaining the project. Current expenses may include the initial purchase and installation of furnishings and equipment with any funds deposited in the General Operating Account which are not proceeds of the loan or income or revenue from the project. Other authorized disbursements are authorized installments of debt service, real estate tax and insurance escrow, reserve, and at the end of the fiscal year, return on investment as provided in Sections 2 and 3 below. Any balance remaining in the General Operation Account except as authorized above, may be transferred to the Reserve Account.

(2) *Real Estate Tax and Insurance Escrow (Ledger) Account.* Funds is this account shall be deposited in an interest bearing account at a Federally insured institution. Each month after the payment of actual, reasonable, and necessary current operating and maintenance expenses there shall be transferred from the General Operating Account to the Real Estate Tax and Insurance Escrow Account an

amount equal to one-twelfth of the total anticipated real estate tax and insurance payments for the year. All interest earned shall be prorated based on the amount in each escrow at the time the interest is earned.

(3) *Reserve (Ledger) Account.* Funds in this account shall be held in a separate interest bearing account or accounts which shall be maintained at a Federally insured institution. Immediately after paying each installment for the orderly retirement of the FmHA loan, as provided in the borrower's promissory note, installments at the monthly rate stipulated by the borrower's Loan Agreement or Resolution shall be transferred to the Reserve Account. Monthly transfers will continue until the account reaches the aggregate amount specified in the Loan Agreement or Resolution. Monthly transfers shall be resumed within one month following disbursement from the Reserve Account, to restore it to the specified minimum sum. Reserve Account funds not immediately needed for authorized purposes may be invested in saving certificates insured by a Federal institution, or invested in readily marketable obligations of the United States Treasury Department, the earnings on which shall accrue to the reserve account. Interest earnings should be used toward meeting the monthly installments to the Reserve Account. Any amount in the reserve account which exceeds the aggregate sum specified in the Loan Agreement or Resolution, and is agreed between the Owner and the Government to be in excess of need for the authorized purposes described below, may be transferred to the General Operating Account, unless the Government directs the sum to be retained in the Reserve Account. With prior consent of the Government, funds in the Reserve Account may be used by the Owner and Agent for the following purposes:

(a) To meet payments due on the loan obligations in the event the amount for debt service is not sufficient for the purpose.

(b) To pay costs of repairs or replacements to the housing, furnishings or equipment caused by catastrophe or long-range depreciation which are not current expenses. Withdrawal for approved purposes may be approved in advance during the annual budget approval process.

(c) To make improvements for extensions to the housing.

(d) For other purposes desired by the Owner, which in the judgment of the Government will either promote the loan purposes, strengthen the security, or facilitate, improve, or maintain the orderly collectibility of the loan, without jeopardizing collectibility of the loan or impairing the adequacy of the security.

(e) To pay a return on investment provided that after such disbursement (a) the amount in the Reserve Account will be not less than that required by the Loan Agreement or Resolution to be accumulated by that time and (b) during the next 12 months the amount in the Reserve Account will likely not fall below that required to be accumulated by the end of such period.

(i) In the case of borrowers operating on a limited profit basis, to pay a return of up to 8 percent per annum on the borrower's initial investment as identified in the Loan Agreement or Resolution.

(ii) In the case of borrowers operating on a full profit basis, to pay a return on the borrower's initial investment as identified in the Loan Agreement or Resolution.

(4) *Tenant Security Deposit (Ledger) Account.* (If applicable) Immediately upon receipt, all tenant security deposit funds collected shall be recorded in a ledger kept separate from the project ledger accounts. These funds shall be deposited in a bank account, kept separate from any project funds, maintained at a federally insured institution, and shall be handled in compliance with any State or local laws governing tenant security deposits. Funds in the Tenant Security Deposit Account shall only be used for authorized purposes as intended and represented by the project management and, until so used, shall be held by the Agent in trust for the respective tenants. Any amount of the Tenant Security Deposit Account which is retained by the Agent as a result of lease violations, shall be transferred to the General Operating Account and treated as income of the housing.

(a) If security deposits are deposited into an interest bearing account, the owner must follow State and local statutes regarding the disposition of the interest earned for individual tenants.

(b) Some jurisdictions allow owners and tenants to agree that the interest earned on a security deposit may be used in lieu of individual tenant refunds, to fund a tenant's association or some alternate form of tenant activity. In this regard, project-related expenses are usually excluded as forms of "tenant activity." Generally, the owner must make agreements of this nature with each individual tenant family.

b. *Reports.*

(1) The Agent will furnish information (including occupancy reports) as may be requested by the Owner or the FmHA from time to time with respect to the financial, physical, or operational condition of the Project.

(2) The Agent will prepare and submit:

Form FmHA 444–8—"Tenant Certification"
Form FmHA 444–29—"Project Worksheet for Interest Credit and Rental Assistance"
Form FmHA 1930–6—"Monthly Report"
Form FmHA 1930–7—"Statement of Budget, Income and Expense (Excluding Depreciation)"
Form FmHA 1930–8—"Year End Report and Analysis For Fiscal Year Ending ———"

(3) The Agent will assist the owner in completing all additional forms and data prescribed by FmHA affecting the operation and maintenance of the project.

17. *Fidelity Bond.* The Agent will furnish, at its own expense, a fidelity bond in the principal sum of ——— Dollars ($———), which is at least equal to the potential gross project income for two months and cash on hand and is conditioned to protect the Owner and FMHA against misapplication of project funds by the agent and its employees. The United States will be named as co-obligee in the bond at the time of FmHA loan closing if not prohibited by State law. The other terms and conditions of the bond, and the surety thereon, will be subject to the approval of the Owner.

18. *Bids, Discounts, Rebates, etc.* With prior approval of the owner, the Agent will obtain contracts, materials, supplies, utilities, and services on the most advantageous terms to the Project, and is authorized to solicit bids, either formal or informal, for those items which can be obtained from more than one source. The Agent will secure and credit to the Owner all discounts, rebates, or commissions obtainable with respect to purchases, service contracts, and all other transactions on the Owner's behalf.

19. *Insurance.* The Owner will inform the Agent of insurance to be carried with respect to the Project and its operations, and the Agent will cause such insurance to be placed and kept in effect at all times. The Agent will pay premiums out of the General Operating Account, and premiums will be treated as operating expenses. All insurance will be placed with such companies, on such conditions, in such amounts, and with such beneficial interests appearing thereon as shall be acceptable to the Owner and the FmHA provided that the same will include public liability coverage, with the Agent designated as one of the insured, in amounts acceptable to the Agent as well as the Owner and FmHA. The Agent will investigate and furnish the Owner with full reports as to all accidents, claims, and potential claims, for damage relating to the Project, and will cooperate with the Owner's insurers in connection therewith.

20. *Compliance with Governmental Orders.* The Agent will take such action as may be necessary to comply promptly with all governmental orders or other requirements affecting the Project, whether imposed by federal, state, county or municipal authority, subject, however, to the limitation stated in Subsection 13e of this exhibit with respect to repairs. Nevertheless, the Agent shall take no such action so long as the Owner is contesting, or has affirmed its intention to contest, any such order or requirement. The Agent will notify the Owner in writing of all notices of such orders or other requirements, within seventy-two (72) hours from the time of their recept.

21. *Nondiscrimination.* In the performance of its obligations under this Agreement, the Agent will comply with the provisions of any Federal, State or local law prohibiting discrimination in housing on the grounds of race, color, creed, sex, age, marital status, national origin, or physical or mental handicap (applicant must have capacity to execute a legal contract) including Title VI of the Civil Rights Act of 1964 (Pub. L. 88–352, 78 Stat. 241), Title VIII of the Civil Rights Act of 1968, Executive Order 11246, and the Equal Credit Opportunity Act of 1974, as they relate to the Farmers Home Administration (FmHA).

22. *Agent's Compensation.* The Agent will be compensated for its services under this Agreement by monthly fees, to be paid from the Operating and Maintenance Account and treated as project expenses. Such fees will be payable on the —— day of each month for the preceding month. Each such monthly fees, will be in an amount computed as follows: — % of the gross rents, including rental

assistance and interest credit, actually collected for the preceding month.

23. *Term of Agreement.* This Agreement shall be in effect for a period of —— year(s), beginning on the —— day of ———, 19—, subject, however to the following conditions:

a. This Agreement will not be binding upon the Principal Parties until approved by FmHA.

b. This Agreement may be terminated by the mutual consent of the Principal Parties as of the end of any calendar month, provided that at least thirty (30) days advance written notice thereof is given to FmHA.

c. In the event that a petition in bankruptcy is filed by or against either of the Principal Parties, or in the event that either makes an assignment for the benefit of creditors or takes advantage of any insolvency act, the other party may terminate this Agreement without notice to the other, provided that prompt written notice of such termination is given to FmHA.

d. Upon termination, the Agent will submit to the Owner all project books and records and any financial statements required by the FmHA, and after the Principal Parties have accounted to each other with respect to all matters outstanding as of the date of termination, the Owner will furnish the Agent security, in form and principal amount satisfactory to the Agent, against any obligations or liabilities which the Agent may properly have incurred on behalf of the Owner hereunder.

24. *Interpretative Provisions.*

a. This Agreement constitutes the entire agreement between the Owner and the Agent with respect to the management and operation of the Project, and no change will be valid, unless made by supplemental written agreement, approved by FmHA.

b. This Agreement has been executed in several counterparts, each of which shall constitute a complete original Agreement, which may be introduced in evidence or used for any other purpose without production of any of the other counterparts.

IN WITNESS WHEREOF, the Principal Parties [by their duly authorized officers] have executed this Agreement on the date first above written.

Owner _____
By _____
Title _____
Witness _____
Agent _____
By _____
Title _____
Witness _____

Approved as lender or insurer of funds to defray certain costs of the project and without liability for any payments hereunder, the Farmers Home Administration hereby approves this Agreement.

By _____
Title _____
Date _____

Attachments: Management Plan, Loan Resolution or Agreement.

Exhibit B–4—Questionnaire for Prospective Management Agent of FmHA Multiple Family Housing Projects

Note.—This questionnaire outline will be used by prospective management agents in developing a resume of their capacity to provide management in a new or existing multiple family housing project.

Please provide a written signed statement for FmHA and the Owner giving your answers in the same order, to the information requested. Please be brief and concise in your answers and indicate if a certain question is not applicable in your particular case. Your statement will be used by FmHA and the owner to evaluate your capacity to successfully manage the project successfully.

1. Provide your name, address, name of project, location of project, and the name of the owner.

2. Provide information as to projects previously or presently managed by the management entity and its employees, including information relative to default history, mortgage relief history, and foreclosure history along with an explanation of the circumstances that led to such actions.

3. Describe your firm including number of main office staff employed in the following capacities: supervisory, clerical, maintenance, and social services.

4. Describe your plan for project on-site staff including their duties and work frequency.

5. Give the distance in miles from your home office or branch office to the project.

6. Describe the accounting system, rent-up procedure, rent-collection policy, and preventive maintenance program you intend to use in the proposed project.

7. Describe your relationship with the owner and your knowledge of the intended degree of owner involvement in operating the project.

8. Describe the frequency and type of direct supervision to be given the resident manager.

9. Give a description of your financial stability and financial resources.

10. Describe applicable FmHA accounting requirements for your particular type of project. If you have managed this type of project before, cite those projects as a showing of your knowledge of such requirements. If you have not managed such projects, indicate your understanding of what needs to be done to fulfill such requirements.

11. Please also describe:

a. Your plans for handling tenant grievances and appeals, providing tenant counseling, and using outside social service agencies.

b. The extent of your knowledge of FmHA requirements for tenant eligibility, tenant certifications and recertifications.

c. Your plans, if any, to train your personnel in the management of FmHA multifamily housing.

12. Provide evidence of fidelity bonding capacity.

13. Include the following statement: "I hereby certify that there is no close association between the management Agent and the Owner of the above described project in such manner that creates a possible conflict of interest." If such an association exists (e.g. the management agent is a member, stockholder, partner, principal, etc., of the borrower organization, familiar relationship) explain in detail.

Exhibit B–5—Questionnaire for Owner who Proposes Owner-Management of a Multiple Family Housing Project

Note.—This questionnaire outline will be used by owners, who propose to provide owner-management, in developing a resume of their capacity to provide management in a new or existing multiple family housing project.

Please provide a written signed statement for FmHA responding in the same order to the items that follow. Please be brief and concise in your answers and indicate if a certain item is not applicable in your case. Your statement will be used by FmHA to evaluate your capacity to operate the project successfully. For projects owned by a partnership, the following information should be provided for the partnership entity as well as each general partner.

1. Provide name of Owner, address, and the name and location of project. State the number of units in the proposal.

2. Provide information on your previous projects, regardless of the source of financing, including mortgage relief and foreclosure history along with an explanation of the circumstances that led to such actions.

3. List names and addresses of management agents who manage your previously or presently owned projects.

4. Describe you understanding of the responsibilities connected with owning and managing a multifamily project under FmHA.

5. Outline your experience and capabilities in providing housing for low- and moderate-income tenants.

6. Describe your intended tenure of ownership and the extent of personal involvement in operating and managing this project.

7. Describe your intentions and capacity to meet negative cash flow situations.

8. Describe your plans for the mangement of the proposed project. If you intend to manage the project, describe your management capacity by answering applicable portions of the "Questionnaire for Management Agent of FmHA Multiple Family Housing Projects," Exhibit B–4 of this subpart.

EXHIBIT B-6—MONTHLY REPORTS

Report or item required	Due date	Prepared by	Report or item applicable to	Distribution	References and notes
Project worksheet for interest credit and rental assistance (Form FmHA 444-29).	Monthly payment date	Borrower	All borrowers-individuals and organizations.	Copy kept by borrower, original to the FmHA district office with payments.	Instructions for preparation continued in the FMI for Form FmHA 444-29.
Monthly report (Form FmHA 1930-6).	Submit to FmHA District Director by the 10th of each month; due in State Office before 15th.	Borrower	All borrowers	Copy kept by borrower. Original and two copies to FmHA District Office; District Director to forward original and a copy to State Office. Signed original returned to District Office.	Reports will continue until notice for discontinuance is received from FmHA District Director. Instructions for preparation are in the FMI for Form FmHA 1930-6.

EXHIBIT B-7—ANNUAL REPORTS

Report or item required	Due date	Prepared by	Report or item applicable to	Distribution	References and notes
Verification of account (in lieu of audit report) according to this Subpart.	Within 45 days following close of borrower's fiscal year.	Competent individual, independent of the borrower, or by a committee of the membership *not* including any officer, director or employee of borrower.	Borrowers with 24 or less units.	Copy kept by borrower. Original and one copy to FmHA District Office; one copy to State Office.	
Statement of budget, income and expense (excluding depreciation) (Form FmHA 1930-7).	Within 45 days following close of borrower's fiscal year.	Borrower	All Borrowers	Copy kept by borrower. Original and two copies to FmHA District Office, original and one copy to State Office. State Office returns approved original to District Office.	Instructions for preparation are in the FMI for Form FmHA 1930-7.
Housing allowances for utilities and other public services exhibit A-5 to FmHA Instruction 1944-E.	Submitted with Form FmHA 1930-7.	Borrower	Plan II and rental assistance borrowers where tenant pays any utilities.	Copy kept by borrower. Original and two copies to FmHA District Office with backup data; District Office returns original to Borrower after State Office approval.	Instruction for preparation in FmHA Instruction 1944-E.
Year end report and analysis for fiscal year ending ——— (Form FmHA 1930-8).	Within 45 days following close of borrower's fiscal year.	Borrower	All borrowers—individuals and organizations.	Copy kept by borrower. Original and two copies to FmHA District Office. District Office to send original and one copy to State Office. State Office retains copy and returns signed original to District Office.	Instructions for preparation in the FMI for Form FmHA 1930-8.
Minutes of annual meeting.	Within 45 days following close of borrower's fiscal year.	Borrower	All organizational borrowers with governing bodies, and all corporations.	Two copies to FmHA District Office; one to be sent by District Office to State Office.	
Energy audit	Within 45 days following close of borrower's fiscal year.	Borrower	All borrowers—individual and organization.	1 copy to District Director	FmHA Instruction 1930-C Exhibit D.
NOTE.—All preceding items will be submitted together.					
Audit report	Within 45 days following close of borrower's fiscal year.	Borrower's CPA or LPA in accordance with booklet "Instructions to Independent Certified Public Accountants & Licensed Public Accountants Performing Audits of FmHA Borrowers and Grantees".	Borrowers with 25 or more units in one or more projects, or as required by State Director of FmHA.	Copy kept by Borrower. Original and one copy to FmHA District Office; one copy to State Office.	Should be submitted with previous items but may be submitted separately.

EXHIBIT B-8—MISCELLANEOUS REPORTS OR SUBMITTALS

Report or item required	Due date	Prepared by	Report or item applicable to	Distribution	Examples and notes
Request for rental assistance (Form FmHA 444-25).	When rental assistance is requested.	Borrower	Mulitple family housing borrowers and applicants with tenants paying rent in excess of 25% of their adjusted income.	Original and copy to District Office; submit to State Office for approval after District Office review.	Refer to exhibit C to subpart E, part 1944 for material to be included with request.
Compliance Reviews. Review conducted within the 1st reporting year after the project is occupied.	November 1st to October 31st of each year.	FmHA District Director.	All multiple family housing borrowers.	Original to State Office; copy retained in District Office.	

EXHIBIT B-8—MISCELLANEOUS REPORTS OR SUBMITTALS—Continued

Report or item required	Due date	Prepared by	Report or item applicable to	Distribution	Examples and notes
(a) Initial reviews Form FmHA 400-8, "Compliance Review" (nondiscrimination by Recipients of Financial Assistance through FmHA).	To be completed only after all units are occupied.				
(b) Subsequent reviews Form FmHA 400-8.	Minimum of every 3 years				

Exhibit B-9—Employment Inquiry

Project Name, Project Address

Date ———
Employee ———
Address ———
(incl. zip code) ———

To Whom It May Concern:

The person named above and whose authorization signature appears below, is a tenant/applicant for a dwelling unit and subsidy assistance in this housing project. One of the requirements of the Federal law that provides the assistance is that family incomes must be within the limits set by the Government agency. The information requested below is for the purpose of determining eligibility and will be kept in *Strict Confidence.* Thank you for your cooperation and return of the form in the enclosed self-addressed envelope.

Please complete that portion below which is applicable.

Authorization to release information:

Very truly yours,
Tenant/Applicant ———
Project Manager ———

Presently Employed

1. Date employment began ———
2. Occupation ———
3. Present rate of pay $——— per (Check one: hour-day-week).
4. If present rate of pay has been in effect less than 12 months, give previous rate of pay $———.
5. Average regular (a) hrs. worked per day ——, (b) days worked per wk. ——.
6. Average overtime (a) hrs. worked per day ——, (b) rate per overtime hr. ——.
7. Other estimated income (tips-meals), if any $—— per (day-week).

Previously Employed

1. (Period) From ——— To ———. 2. Rate of pay at termination $—— per ——.
Remarks: ———
———
Date: ———
Signature: ———
Telephone No. ———
Title: ———

(To Be Reproduced Locally)

Exhibit B-10—Objective Guides to Assist Management in Determining the Ability of Tenants to Sustain Relative Independence

In providing housing for senior citizens and handicapped persons, especially when that housing is provided in the form of congregate housing or housing involving group living arrangements, there is a critical dimension of occupancy that must be considered by the project management when selecting, placing, certifying and recertifying tenants. This dimension concerns the ability of tenants with functional impairments to sustain relative independence given the supportive services provided in the project.

No matter how well meaning management might be in trying to provide housing for those tenants that have become ill or acutely impaired, rural rental housing apartment projects are designed for occupancy by tenants who are capable of caring for themselves. In a similar sense, congregate housing is designed for occupancy by those who are fully capable of living totally independent lives as well as those who are able to sustain relative independence given the non-shelter supportive services provided in the project. When management provides additional types of non-shelter support services to counteract the progressive functional impairments that prohibit tenants from being able to function on a semi-independent basis, it only makes those tenants more *dependent* on project management. Over time, this increased dependency has the effect of creating an "institution," and it runs contrary to the congregate housing objective of enabling tenants that are functionally impaired (but not ill) to sustain relatively independent lives.

Physicians, or state or local agencies responsible for providing non-shelter supportive services to the tenants, can assist project managers by providing certificates or statements concerning the degree of a tenant's functional impairment. This information can be used by project management to assess the tenant's ability to remain independent with assistance from the services provided in the project.

Exhibit B-10A "Type of Living Environment Needed in Relation to Nature and Degree of Disability," is a guide which can be used by management to assess a person's capacity for personal care and independent or semi-independent living.

EXHIBIT B-10A—TYPE OF LIVING ENVIRONMENT NEEDED IN RELATION TO NATURE AND DEGREE OF DISABILITY

Component	Semi-independent		Independent—standard
	Subminimum	Minimum	
Mobility			
In the home	Movement restricted, painful and slow. Requires assistance to remain in home such as grab rail, ramps, location of electrical outlets. Some help needed for cleaning and meal preparation.	Movement restricted, painful and slow. Housekeeping becoming difficult; need some assistance for heavy work.	Easy movement; able to feed, clothe, bathe, stoop, reach, clean, climb with little or no difficulty.
In the neighborhood	Limited as to what can be done; mass transit rarely used; poor driver; slow at foot intersections.	Slowing down—cannot take mobility for granted; fair driver, cautious in mass transit.	Get about easily—can drive private car, use cabs, buses, mass transit.
Out of town	Must plan travel with care to avoid fatigue, bustle; short trips better.	Some fatigue on long trips; better with companion	Able to travel widely. Long trips, out-of-state, country, seasonal trips easy.
Physical Health			
	Moderate malfunctioning of several major organ systems; increasing susceptibility to infectious disease, injury, accidents, and pollutants. Occasional discomfort and loss of vitality. Slowing of movement, slumping of posture. Stiffness or inflexibility of joints, noticeable deline in functioning systems.	Appearance of difficulty in one or more major organ system, i.e., (1) circulatory, (2) execretory, (3) skeletal, (4) muscular, (5) nervous, (6) respiratory, etc. Decreased ability to ward off disease and/or becoming susceptible to accidents and injury.	Major organ systems performing well. Free from infections, diseases and nonsusceptibility to frequent accidents. Physically healthy, mobile, capable of self-maintenance and/or self care.

EXHIBIT B-10A—TYPE OF LIVING ENVIRONMENT NEEDED IN RELATION TO NATURE AND DEGREE OF DISABILITY—Continued

Component	Semi-independent		Independent—standard
	Subminimum	Minimum	
Mental Health			
Sensory skills	Major difficulty with one or more senses	Some difficulty with one or more senses that may be co-compensated somewhat by other senses or aids.	Sensory activity is high—smell, hearing, taste, touch, sight.
Motor skills	Significant loss of coordination	Decreased coordination	Physically vigorous; capable of quick movements.
Cognitive skills	Frequent memory lapses; generally unable to formulate new ideas.	Memory beginning to fade; capable of some new learning, less capable of abstract thinking.	High level of cognitive functioning, able to adapt to environmental changes; good power of retention, capable of new learning.
Affective skills	Extended moments of depression and/or anxiety. Declining self-concept.	Less postive self-concept, some depression and anxiety.	Positive self-concept, generally depression and anxiety free.
Social Inter Action			
	Ability to sustain and control social interaction with others difficult; family rarely seen; rarely goes to social gatherings like church, social clubs; eating habits sub-standard.	No longer initiates visits, friendships, or conversation with other, maintains occasional contact with family and friends.	Able to initiate, control, and sustain social interaction with family, friends, new encounters. Maintains existing social contact with church, social groups, neighbors, work, etc.
Income			
Subsistence	Minimum standards of dress can be maintained with low quality clothing. Bare minimum nutritional standard are affordable, but not consistently. Standard housing without gov't subsidy rarely affordable.	Minimum standards of dress can be maintained with sub-standard wardrobe. Bare minimum nutritional standards are affordable or made available. Minimally standard housing can be afforded only in the poorest areas.	Standards of dress can be maintained with a standard wardrobe. Standard nutritional levels and a range of food choice is affordable. Standard housing is attainable.
Discretionary	Money is rarely available for discretionary purposes.	Money is occasionally available for discretionary limited purposes without sacrificing basic necessities.	Some money is frequently available for limited discretionary purposes.

Source: Adapted from Sam Harris Associates, Ltd., 1976.

Exhibit C—Rent Increases

I. *Objectives:* The basic objective of this Exhibit is to provide a method of processing requests for increases in the monthly rental rates for tenants in Farmers Home Administration (FmHA) Rural Rental Housing (RRH) and Labor Housing (LH) projects. This Exhibit covers all RRH and LH loans including those approved before the date of this Subpart.

II. *Initial Understanding with Borrower:* All RRH and LH applicants will be informed at the time of application that rental rates in projects financed in whole or in part by an RRH or LH loan cannot be raised without FmHA consent in accordance with requirements in loan agreements, loan resolutions, and other instruments executed in connection with RRH and LH loans. LH borrowers and/or grant recipients whose projects are occupied on a seasonal basis should request rent increases only when the project is at least 40 percent occupied in order that a greater number of tenants will have an opportunity to make comments. Borrowers are encouraged to have the effective date of needed rent increases coincide with the start of their fiscal year or with the start of the season in the case of LH projects occupied on a seasonal basis. Rental increase requests, therefore, normally should be made at least 60 days prior to the end of the borrower's fiscal year or at least 60 days prior to the end of the season in the case of LH projects occupied on a seasonal basis. It is anticipated that rent increases would not be necessary more than once a year. All borrowers are encouraged to participate in the Rental Assistance Program. However, borrowers with projects meeting the eligibility requirements of Paragraph II D of Exhibit C Part 1944 Subpart E, except profit borrowers, will be *required* according to Section 530 of Title V of the Housing Act of 1949, as amended, to participate in the Rental Assistance Program if it appears that a rent increase will cause more than 20 percent of the low-income tenants to pay in excess of 25 percent of adjusted monthly income for costs of rent and utilities. All borrowers will be advised that all proposed rent increases are subject to compliance with this Exhibit. This Exhibit will also apply to rent increases resulting from HUD's Automatic Adjustment Factors for units receiving Section 8 assistance.

III. *Borrower's Responsibility in Processing Requests:*

A. When an RRH or LH borrower determines that a rental increase is needed, the borrower should provide FmHA with the following information:

1. An application for Rental Assistance on Form FmHA 444–25, "Request For Rental Assistance," if the borrower's project is an eligible project and the proposed rent increase will cause any low-income tenant to pay in excess of 25 percent of adjusted monthly income for the costs of rent and utilities.

2. Facts demonstrating the need and justification for a rent increase.

3. Current year's operating budget showing actual income and expenses for the project to date and estimating the income and expenses for the remainder of the year or to the end of the season in the case of LH projects occupied on a seasonal basis.

4. A new operating budget based on the old rates covering the period to the effective date of the proposed rent increase and then using the new rates to the end of the operating year selected by the borrower, if applicable.

5. A budget for the next full year of operation using the proposed rents for each size unit.

6. Current tenant Certifications on Form FmHA 444–8 "Tenant Certification," or other form approved by FmHA.

7. A dated copy of the Notice required by paragraph III B of this Exhibit.

8. Any other information the borrower believes necessary to justify the proposed rent increase.

B. The borrower will notify tenants of any proposed rent increase unless an exception is permitted in accordance with paragraph III C of this Exhibit. Tenants must be notified by the following methods on the *same date* the application for the proposed rent increase is submitted to FmHA:

1. Post prominently in common areas around the project (laundry rooms, parking areas, recreation rooms, etc.) a Notice to Tenants of Proposed Rent Increase (hereinafter referred to as Notice) in the format of Exhibit C–1. In addition to plain English, all notifications will be published in the other primary languages of the tenants, and will:

a. Advise the tenants that during a 20-day comment period in which the Notice will be posted, they have an opportunity to inspect, copy, and make written comments or objections to all materials justifying the proposed rental increase which will be made available to them.

b. Advise the tenants that all written comments or objections should be submitted directly to the FmHA District Director by the end of the 20 day waiting period.

2. Give or mail copies of the Notice to all *affected* tenants.

3. After the 20 day comment period has ended, submit any other information to be considered to the District Director.

C. Notification to the tenant of proposed rent increase will not be required (1) when the borrower is receiving either FmHA rental assistance or HUD Section 8 on all units, and all tenants are eligible tenants participating in the rent subsidy program or (2) when an increase in the utility allowance only is proposed on Exhibit A–5 and the utilities are paid directly by the tenants. This does not preclude posting of the FmHA Letter of

Approval as provided for in Paragraph IV B 2 of this Exhibit.

IV. *Determination by FmHA:*

A. *Actions by District Director.* When the application and all attachments for the proposed rent increase have been received (including the tenant comments when notification is required), the District Director will:

1. Review the application, past year's budgets, planned budgets, schedule for proposed rents, and other information received.

2. Write a short narrative describing the general tone of the tenant comments and complaints.

3. Provide copy of the borrower's latest Form FmHA 444–29, "Project Worksheet for Interest Credit and Rental Assistance."

4. Determine whether the borrower's project is eligible to receive Rental Assistance on behalf of the low-income tenants of the project and whether or not rental assistance is available for the borrower's project.

5. When the increase is requested for energy savings improvements identified in an Energy Audit, the District Director shall determine the cost effectiveness and financial impact of the proposed improvements from information contained in the energy audit. The District Director's determination will be made in accordance with Paragraph VI of Exhibit D of this Subpart.

6. Recommend whether the proposed increase should be approved and indicate the number of tenants who will need rental assistance as a result of the rent increase. If the District Director cannot recommend approval of the rent increase based on the borrower's rent increase submission, the submission will be returned to the borrower. The District Director will advise the borrower to make necessary corrections.

7. Submit all the material received from the borrower, including tenant comments or objections, to the State Director at the end of the 20 day comment period.

B. *Actions by the State Director.* When the application and attachments with comments have been submitted, the State Director will review the material to make a determination on the rent increase. The borrower will be notified of the determination within 45 days from the date the "Notice to Tenants of Proposed Rent Increase" is posted.

1. *Disapproval Actions.* When the State Director determines an application for a proposed rent increase is not justified on the basis of the information submitted, the State Director will directly, or through the District Director, notify the borrower in writing stating the reason(s) why the rent increase is not approved. The borrower will be advised of the right to file an appeal regarding the rent increase disapproval in accordance with § 1900.56, Subpart B, Part 1900 of this chapter. Rent increases may not be approved if any of the following circumstances exist:

a. The borrower is able but unwilling to comply with applicable tenant eligibility requirements, the audit and reporting requirements of this Subpart or the conditions set forth in the borrower's loan agreement or resolution, interest credit and/or rental assistance agreement, form of note, or mortgage.

b. The budget for the project reflects sufficient income at the present rent structure to meet operation and maintenance expenses which are appropriate and reasonable in amount, meet the FmHA debt service requirements, meet the required reserve account deposit, and provide a return to the borrower, if appropriate.

c. The borrower's project is operated on a profit basis as defined in § 1944.205(s) of Subpart E to Part 1944 and the proposed rent increase is for purposes other than meeting operation and maintenance expenses and debt service; i.e., the purpose is to allow excessive profits and the proposed rent increase will result in rental rates in excess of what eligible tenants can afford.

d. The borrower's project is operated on either a nonprofit basis or limited profit basis as defined in § 1944.205(r) of Subpart E to Part 1944, the borrower has not applied for rental assistance within the most recent period of 180 days prior to the rent increase request, 20 percent or more of the low-income tenants of the project are eligible to receive rental assistance, and the State Director is able to provide the rental assistance units to the project.

2. *Approval Actions.* When a rent increase is approved, the State Director will directly or through the District Director notify the borrower by a Letter of Approval of the amount of rent increase approved. *The letter must:*

a. Show the current rate(s), the rate(s) requested, and the rate(s) approved.

b. Contain concise statements of FmHA's reasons for approval of the rent increase.

c. Indicate that it does not authorize the borrower to violate the terms of any lease with the tenants.

d. For those projects where there is rental assistance and/or HUD Section 8 assistance, explain that for those receiving subsidy assistance, their costs for rent and utilities will continue to be based on 25 percent of their adjusted monthly income.

e. If rental assistance units are not available, approve the rent increase subject to the borrower's acceptance of the units when they become available. Acknowledge that the borrower has applied for rental assistance on behalf of other tenants who are eligible for rental assistance.

f. Require that the borrower must notify the tenants individually in writing of the FmHA decision prior to the effective date of the increase. If the proposed rent increase cannot be processed prior to the effective date shown on the Notice to Tenants, an additional notice will be posted and the tenants will be notified in writing that the new rents will be effective at the next rent due date following the additional notice and the State Director's approval.

g. For profit motivated borrowers which do not desire to convert to limited profit and apply for rental assistance, and where rental assistance units are not available, suggest that the borrower advise tenants of the availability of Section 8 assistance for low-income tenants and that they may apply to the local HUD office or State or local Public Housing Agency for certification of eligibility.

h. Grant the rent increase conditioned on the requirement that the borrower carry out energy conservation measures as determined necessary by the project energy audit. Allow a sufficient time frame for completion of the work and offer FmHA assistance, if necessary, to finance the improvements needed.

i. Advise the borrower and the tenants of either party's right to file an appeal regarding the rent increases as approved within 45 days of the date of the notice by writing to the Administrator, Farmers Home Administration, Washington, D.C. 20250. Until the appeal is resolved, the tenants are required to pay the increased amount of rent as indicated in the Notice of Approval.

j. Require that the borrower post the Letter of Approval in a conspicuous place for the information of the tenants.

3. *Automatic Adjustment Factors for Section 8 Units.* If the State Director disapproves a rental rate increase requested as a result of HUD's automatic adjustment increase for units receiving Section 8 assistance or approves a rent increase for a lesser amount than the increase permitted by HUD, the State Director must require the borrower to deposit any excess funds into the Reserve Account. If this results in a buildup of excess funds in the Reserve Account, the interest reduction on a Section 8/515 project should be further reduced or canceled by memorandum to the Finance Office. The borrower will still be required to operate on a limited profit basis.

4. *Return on Investment.* Limited profit borrowers can take their 8 (or 6) percent return if the project produces adequate income to cover all expenditures in accordance with the actual "Statement of Budget Income and Expense." If income is not adequate in any given accounting period to cover the return to owner, the return can be recouped the following year from excess funds available at the end of the fiscal year of operation and provided it does not result in a rent increase. Business losses do not qualify for recoupment.

V. Special Problem Cases: Problem cases which cannot be handled under this Subpart should be submitted to the National Office for review with the State Director's recommended plan of action.

Exhibit C–1 Notice to Tenants of Proposed Rent Increase

Date Posted ————

You are hereby notified that, subject to Farmers Home Administration approval, rents will be increased effective ———— (at Least 60 days from posting).
has filed with the Farmers Home Administration (FmHA), United States Department of Agriculture, a request for approval of an increase in the monthly rental rates of the ———— project for the following reasons:

1. ————
2. ————
3. ————
4. ————

Planned rent increases are as follows:

Project name	Unit	Present rent		Proposed rent		Amount increase
		Basic	Market	Basic	Market	

(Use where applicable:

Since you receive rent subsidy, your rent will not be changed so long as your income remains unchanged.)

All materials justifying the proposed rent increase will be made available for the tenants to inspect and copy at ———— during the hours of ————.

Tenants may submit comments or objections in writing to the District Director of the FmHA District Office for a 20 day period or until ————. The FmHA District Director is ————, and the District Office is located at ————.

These comments will be reviewed by the FmHA District Director and forwarded to the FmHA State Director and a decision will be made as to whether the rent increase should be approved.

Each tenant will be notified in writing of the FmHA decision to approve, reduce or deny the increase. The approved rents will then be effective upon the effective date given above, or if the approved rent increase cannot be made effective by such date an additional notice will be posted and the tenants will be notified in writing that new rents will be effective at the next rent due date following the additional notice and the FmHA approval.

By ————

Borrower or Borrower's Representative.

Exhibit D—Energy Audit

I. *Objectives*: The basic objective of this Exhibit is to define the Farmers Home Administration (FmHA) requirement in Multiple Family projects for an energy audit and what is included in an energy audit.

II. *Purpose*: An energy audit and implementation of the recommended improvements contained therein should: Increase the comfort and enjoyment of the project by the tenants; improve the value of the borrower's property; reduce project operating costs; reduce tenant and/or borrower utility costs; reduce subsidy costs; and conserve energy.

III. *Borrower Responsibility*:

A. *Initial Audit.* An energy audit is required for each project. The cost of the audit is an operating expense. The cost should be consistent with the size of the project and comparable to the cost of other audits in the area. Those projects built under FmHA insulation requirements effective July 1, 1978, will not require an initial audit until five (5) years following completion of construction.

B. *Subsequent Audit.* A subsequent energy audit is required five years following the initial audit and every five years thereafter, to identify if further improvements are feasible.

C. *Submission of Audit.* The borrower shall submit a copy of the initial or subsequent energy audit with the annual project reports due 45 days following the end of the borrower's fiscal year. The borrower's plan for implementing the recommended improvements shall be included with the report. If any of the improvements are deferred, each year thereafter the borrower shall include with the annual project report an analysis of the deferred improvements, based on current costs, and the borrower's recommendation for implementing the improvements.

IV. *Types of Audits Acceptable to FmHA:*

A. *The class "B" energy audit* is governed by the regulations of 10 CFR 456 (RCS). For this audit estimates of costs and savings are based upon information collected by the borrower concerning the housing project and forwarded to a utility company or a home heating supplier that participates with a State Energy Conservation program for analysis.

B. *The "Program Audit"* is an in-depth, on-site inspection of a building, which is performed by a trained energy auditor. This type of audit is also governed by the regulations of 10 CFR 456 (RCS). The auditor inspects the building to determine the installation applicability of energy conservation improvements.

1. These improvements should be included in the inspection as a minimum:

a. Caulking and weatherstripping

b. Replacement central high efficiency air conditioners

c. Ceiling, wall, and floor insulation

d. Duct or pipe insulation

e. Water heater insulation

f. Storm or thermal windows and doors

g. Heat-reflective and heat-absorbing window and door material

h. Load management devices

i. Clock thermostats

j. Furnace efficiency modifications

2. Consideration of these improvements is encouraged, but not required:

a. Solar domestic hot water systems

b. Active solar space heating systems

c. Combined active solar space heater and solar domestic hot water systems

d. Passive solar space heating and cooling systems

e. Wind energy devices

f. Replacement solar swimming pool heaters

3. During the "Program Audit" inspection, the auditor also examines the building to determine the possible application of energy conserving practices which can lead to immediate energy savings. These practices include the following:

a. Furnace efficiency maintenance and adjustments

b. Water flow reduction on showers and faucets

c. Sealing leaks in pipes and ducts

d. Raising thermostat sittings in summer and lowering of them in winter

e. Nighttime temperature setback

f. Reducing energy use when apartment is unoccupied

g. Plugging leaks in attics, basements, and fireplaces

h. Efficient use of shading

4. Upon completion of the program audit, the auditor calculates the estimated energy savings and installation costs for applicable measures and presents the results in writing to the borrower.

C. Any other energy audit which substantially complies with 1 or 2 above. This may be applicable in some States where State energy plans are not yet in place. In such cases the State Director may accept such Audits. Some private energy suppliers, Regional Utility Commissions (RUC), Public Utility Districts (PUD), Rural Electrification Administration (REA) offices, State extension offices, property management firms, and the Department of Energy have developed energy audit check-lists and forms. These sources of information may be utilized.

V. *Funding:* Improvements may be funded from borrower's funds, project reserve, a subsequent loan, or any other FmHA authorized funding which will keep the imporvement cost effective. Plans for funding the improvements should be included in the borrower's recommendation for implementation.

VI. *District Director Responsibility:*

A. The District Director shall determine the cost effectiveness and financial impact of the proposed improvements from information contained in the energy audit.

1. *Cost effectiveness.* Cost effectiveness shall be determined by comparing the life cycle costs of the facility with and without the proposed energy saving improvement. The improvement is cost effective when the present value of its life cycle costs is less than the present value of the life cycle costs without the improvement. Present value of life cycle costs shall be computed utilizing the following criteria:

a. 7 percent discount rate;

b. All costs indexed to current year;

c. Future fuel costs as determined by the Department of Energy Mid Term Energy Forecasting System;

d. 25-year maximum analysis period;

e. Present value of life cycle fuel costs increased by 10 percent to reflect value of energy savings not reflected in market price of fuel; and

f. Capital investments are discounted from the year they are made and are not amortized.

2. *Financial Impact.* Financial impact shall be determined by comparing the estimated net energy and operation and maintenance costs savings in the first year to the annual cost of amortizing a loan to install the proposed energy saving improvement. A positive financial impact occurs when the first year annual savings equals or exceeds the annual cost of amortizing any loan(s) for the proposed energy savings improvement.

3. When the improvements identified by the energy audit are cost effective and have a positive financial impact, the District Director *shall* recommend that any rent increase requested by the borrower be conditioned upon installation of such energy saving improvement(s).

4. The District Director *may* recommend a rent increase for energy saving improvements which are not "cost effective" whenever the

borrower contributes sufficient funds to reduce the cost of the improvement so that, on the basis of the FmHA investment only, the improvement is cost effective. A positive first year financial impact is not required. Any contribution made by the borrower to reduce the cost of the improvement to the cost effective limits will not be an eligible contribution for computing return on investments. The project reserve may not be utilized for such contribution.

B. If the improvements are not cost effective the District Director may recommend deferral of implementation of the improvements. Any deferred improvements must be analyzed during each subsequent years annual analysis.

C. A copy of the decision regarding the energy audit will be included in the annual reports forwarded to the State Director.

VII. *State Director Responsibility:* The State Director shall review the District Director's recommendations and the decision regarding implementation of the proposed improvements as a part of the annual report review.

VIII. *Development:* All development will be performed in accordance with the requirements of Subpart E of Part 1944 and Subpart A of Part 1924 of this Chapter, except that § 1924.6(b)(3)(i) of Subpart A of Part 1924 will not apply to improvements made by the owner-builder method.

IX. *Rent Increase:* Any rent increase necessitated by the improvements must be processed as set forth in Exhibit C to Subpart C of Part 1930 of this Chapter.

Dated: March 17, 1982.

Charles W. Shuman,

Administrator, Farmers Home Administration.

[FR Doc. 82-11051 Filed 4-22-82; 8:45 am]

BILLING CODE 3410-07-M

CIVIL AERONAUTICS BOARD

[ODR-25A; Economic Regulation Docket No. 30586]

14 CFR Part 389

Fees and Charges for Special Services; Elimination of License Fees and Revision of Filing Fees; Extension of Comment Period

Dated: April 16, 1982.

AGENCY: Civil Aeronautics Board.

ACTION: Supplemental Notice of Proposed Rulemaking.

SUMMARY: The CAB extends for 10 days the comment period in its rulemaking to revise its filing fee schedule. The reply comment period is extended accordingly. The Airline Transport Association asked for the extension.

DATES: Comments by: April 30, 1982. Reply comments by: May 20, 1982.

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

ADDRESSES: Twenty copies of comments should be sent to Docket 30586, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428. Individuals may submit their views as consumers without filing multiple copies. Comments may be examined in Room 711, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C., as soon as they are received.

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

SUPPLEMENTARY INFORMATION: By a notice of proposed rulemaking (ODR-25, 47 FR 7846, February 23, 1982), the Board proposed to revise its filing fee schedule in 14 CFR Part 389. The changes would bring the CAB's fee structure into line with the rising costs that the CAB has experienced and with the changes in services made by deregulation.

On April 15, 1982, the Airline Transport Association (ATA) asked that the date for filing comments be extended from April 20 to April 30, 1982. ATA cited the need to review background documents recently received by it under the Freedom of Information Act, and the need to coordinate further with its members after this review of the rulemaking.

For those reasons, and because it does not appear that the brief extension requested will prejudice any other person or delay Board action in the rulemaking, ATA's request is granted. The date for Reply Comments will be extended accordingly.

List of Subjects in 14 CFR Part 389

Archives and records.

Accordingly, good cause is found to extend the time for filing of comments. Under authority delegated by the Board in 14 CFR 385.20(d), the time for filing initial comments is extended to April 30 and the time for filing reply comments to May 20, 1982.

(Secs. 204, 1102, Pub. L. 85-726, as amended, 72 Stat. 743, 797; 49 U.S.C. 1324, 1502. Act of August 31, 1951, ch. 376, 65 Stat. 288; 31 U.S.C. 483a)

By the Civil Aeronautics Board.

Richard B. Dyson,

Associate General Counsel Rules and Legislation.

[FR Doc. 82-11211 Filed 4-22-82; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

20 CFR Part 404

Experiments and Demonstration Projects Under the Disability Insurance and Supplemental Security Income Programs

Correction

In FR Doc. 82-9730 appearing on page 15602 in the issue of Monday, April 12, 1982, make the following correction:

In § 404.1599, paragraph (d), in the line that is 10th from the bottom of the first column on page 15604, "provide large" should have read "provide larger".

BILLING CODE 1505-01-M

Food and Drug Administration

21 CFR Part 333

[Docket No. 81N-0114]

Topical Acne Drug Products for Over-the-Counter Human Use; Establishment of a Monograph

Correction.

In FR Doc. 82-7683 appearing on page 12430 in the issue of Tuesday, March 23, 1982, make the following correction:

In § 333.350(b)(2) on page 12476, paragraph (vi) should read as follows: "Helps prevent new acne lesions".

BILLING CODE 1505-01-M

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21 CFR Part 333

[Docket No. 80N-0476]

Topical Antifungal Drug Products for Over-the-Counter Human Use; Establishment of a Monograph

Correction

In FR Doc. 82-7684 appearing on page 12480 in the issue of Tuesday, March 23, 1982, make the following corrections:

1. On page 12481, third column, second complete paragraph, in the eighth line, "will not be permitted" should have read "will now be permitted".

2. In § 333.220, paragraph (b)(3), in the line that appears 26th from the top of the first column on page 12565, the reference to "§ 333.210(a)" should have read "§ 333.220(a)".

BILLING CODE 1505-01-M

21 CFR Part 357

[Docket No. 81N-0022]

Weight Control Drug Products for Over-the-Counter Human Use; Advance Notice of Proposed Rulemaking; Extension of Time for Comments and Reply Comments

AGENCY: Food and Drug Administration.

ACTION: Advance notice of proposed rulemaking; extension of comment periods.

SUMMARY: The Food and Drug Administration (FDA) is extending to July 26, 1982, the comment period and to August 27, 1982, the reply comment period for the advance notice of proposed rulemaking to establish conditions for the safety, effectiveness, and labeling of over-the-counter (OTC) weight control drug products. This action is being taken in response to a request to allow more time for interested parties to examine background data on the safety of phenylpropanolamine, an active ingredient in weight control drug products, in order to provide more informed comments on the notice.

DATES: Written comments by July 26, 1982, and reply comments by August 27, 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: William E. Gilbertson, Bureau of Drugs (HFD-510), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4960.

SUPPLEMENTARY INFORMATION: In the Federal Register of February 26, 1982 (47 FR 8466), FDA issued an advance notice of proposed rulemaking to establish conditions for the safety, effectiveness, and labeling of weight control drug products for OTC human use. This advance notice of proposed rulemaking, based on the recommendations of the Advisory Review Panel on OTC Miscellaneous Internal Drug Products, is part of the ongoing review of OTC drug products conducted by the agency. Interested persons were given until May 27, 1982, to comment on the advance notice of proposed rulemaking and until June 28, 1982, for reply comments.

In response to the proposal, The Proprietary Association requested a 60-day extension of the comment period in order to allow adequate time for the association to examine background data on the ingredient phenylpropanolamine in order to respond more meaningfully to safety questions regarding this ingredient raised by the agency in this advance notice of proposed rulemaking.

FDA has carefully considered the request and believes that information described in the request may be of assistance to the agency in establishing the safety and effectiveness of OTC weight control drug products and is in the public interest. The agency considers a general extension of the comment period for 60 days to be appropriate. Accordingly, the comment period for submissions by any interested person is extended to July 26, 1982, and the reply comment period is extended to August 27, 1982. Comments may be seen in the Dockets Management Branch, Food and Drug Administration, at the address noted above, between 9 a.m. and 4 p.m., Monday through Friday.

Dated: April 16, 1982.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 82-11114 Filed 4-20-82; 12:11 pm]

BILLING CODE 4160-01-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 942

Abandoned Mine Land Reclamation Program

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

ACTION: Proposed rule.

SUMMARY: On March 24, 1982, the State of Tennessee submitted to OSM its proposed Abandoned Mine Land Reclamation Plan (Plan) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). OSM is seeking public comment on the adequacy of the State Plan.

DATES: Written comments on the Plan must be received on or before 5:00 p.m., May 24, 1982.

ADDRESSES: Copies of the full text of the proposed Tennessee Plan are available for review during regular business hours at the following locations:

Office of Surface Mining Reclamation and Enforcement, Region II, 530 Gay Street, Suite 500, Knoxville, Tennessee 37902

State of Tennessee, Department of Conservation, Division of Surface Mining and Reclamation, 305 W. Springdale, Knoxville, Tennessee 37917

Office of Surface Mining Reclamation and Enforcement, Administrative Record, Rm. 5315; 1100 "L" Street, N.W., Washington, D.C. 20240

Written comments must be mailed or hand carried to: Office of Surface Mining at the first address listed above. Comments received after 5:00 p.m., (30 days from publication) ordinarily will not be considered or included in the administrative record for this rulemaking.

The administrative record will be available for public review at the OSM Knoxville office above, on Monday through Friday, 8:00 a.m. to 4:00 p.m. excluding holidays.

FOR FURTHER INFORMATION CONTACT: Richard Ellison, Abandoned Mine Land Reclamation, Office of Surface Mining, 530 Gay Street, Suite 500, Knoxville, Tennessee 37902, Telephone: (615) 971-5290.

SUPPLEMENTARY INFORMATION: Title IV of the Surface Mining Control and Reclamation Act of 1977 (SMCRA), Pub. L. 95-87, 30 U.S.C. 1201 *et seq.*, establishes an abandoned mine land reclamation program for the purposes of reclaiming and restoring lands and water resources adversely affected by past mining. This program is funded by a reclamation fee imposed upon the production of coal. Lands and water eligible for reclamation are those that were mined or affected by mining and abandoned or left in an inadequate reclamation status prior to August 3, 1977 and for which there is no continuing reclamation responsibility under State or Federal law.

Title IV provides that if the Secretary determines that a State has developed and submitted a program for reclamation of abandoned mines and has the ability and necessary State legislation to implement the provisions of Title IV, the Secretary may approve the State program and grant to the State exclusive responsibility and authority to implement the approved program.

On March 24, 1982, OSM received a proposed Abandoned Mine Land Reclamation Plan from the State of Tennessee. The purpose of this submission is to demonstrate both the intent and capability to assume responsibility for administering and conducting the provisions of SMCRA and OSM's Abandoned Mine Land Reclamation (AMLR) Program (30 CFR Chapter VII, Subchapter R) as published in the Federal Register (FR) on October 25, 1978, 43 FR 49932-49952.

This notice describes the proposed program and sets forth information concerning public participation in the Assistant Secretary's determination of whether or not the submitted Plan may be approved. The public participation requirements for the consideration of a State Plan are found in 30 CFR 884.13 and 884.14 (43 FR 49948 (1978)). Additional information may be found under corresponding sections of the preamble to OSM's AMLR Program Final Rules (43 FR 49932–49940 (1978)).

The receipt of the Tennessee Plan submission is the first step in the process which will result in the establishment of a comprehensive program for the reclamation of abandoned mine lands in Tennessee.

By submitting a proposed Plan, Tennessee has indicated that it wishes to be primarily responsible for this program. If the submission is approved by the Assistant Secretary for Energy and Minerals of the Department of the Interior, the State will have primary responsibility for the reclamation of abandoned mine lands in Tennessee. If the program is disapproved and the State does not choose to revise the Plan, a Federal AMLR program will be implemented and OSM will have primary responsibility for these activities.

OSM's Regional Director has determined that the public was provided adequate notice and opportunity to be heard on the Plan and that the record does not reflect any major unresolved controversies. Therefore, a public hearing will not be held.

Representatives of OSM's Regional Office Director will be available to meet Monday through Friday, excluding holidays, between 8:30 a.m. and 4:00 p.m. at OSM's office in Knoxville, TN, indicated above under "Addresses", at the request of members of the public to receive their advice and recommendations concerning the proposed State Abandoned Mine Land Reclamation Plan.

Persons wishing to meet with representatives of the Regional Director's Office during this time period may place such requests with Richard Ellison, telephone 615/971–5290.

The Department intends to continue to discuss the State's Plan with representatives of the State throughout the review process. All contacts between Departmental personnel and representatives of the State will be conducted in accordance with OSM's guidelines on contacts with States published September 19, 1979 at 44 FR 54444.

The Office of Surface Mining has examined this proposed rulemaking under Section 1(b) of Executive Order No. 12291 (February 17, 1981) and has determined that, based on available quantitative data, it does not constitute a major rule. The reasons underlying this determination are as follows:

1. Approval will not have an effect on costs or prices for consumers, individual industries, Federal, State, or local government agencies or geographic regions; and

2. Approval will not have adverse effects on competition, employment, productivity, innovation or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

This proposed rulemaking has been examined pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* and the Office of Surface Mining has determined that the rule will not have significant economic effects on a substantial number of small entities, the reason for this determination is that approval will not have demographic effects, direct costs, information collection and recordkeeping requirements, indirect costs, nonquantifiable costs, competitive effects, enforcement costs or aggregate effects on small entities.

Further, the Office of Surface Mining has determined that the Tennessee Plan will not have a significant effect on the quality of the human environment because the decision relates only to the policies, procedures and organization of the State's Abandoned Mine Land Reclamation Program. Therefore, under the Department of the Interior Manual DM 5162.3(A)(1), the Assistant Secretary's decision on the Tennessee Plan is categorically excluded from the National Environmental Policy Act requirements. As a result, no environmental assessment (EA) nor environmental impact statement (EIS) has been prepared on this action. It should be noted that a programmatic EIS was prepared by OSM in conjunction with the implementation of Title IV. Moreover, an EA or an EIS will be prepareed for the approval of grants for the abandoned mine land reclamation projects under 30 CFR Part 886.

The Tennessee Abandoned Mine Land Reclamation Plan can be approved if:

1. The Assistant Secretary finds that the public has been given adequate notice and opportunity to comment, and the record does not reflect major unresolved controversies.

2. Views of other Federal agencies have been solicited and considered.

3. The State has the legal authority, policies and administrative structure to carry out the Plan.

4. The Plan meets all requirements of the OSM, AMLR Program Provisions.

5. The State has an approved Regulatory Program.

6. It is determined that the Plan is in compliance with all applicable State and Federal laws and regulations.

The Tennessee Department of Conservation has been designated by the Governor of the State of Tennessee to implement and enforce the Abandoned Mine Land Reclamation Program in accordance with SMCRA. The Department will, as an objective of its proposed Plan, promulgate regulations enabling implementation of all program elements not otherwise directly enabled by the Tennessee Coal and Surface Mining Act of 1980. Contents of the State Plan submission include:

(a) Designation of authorized State Agency to administer the Program;

(b) State's chief legal officer's opinion on the authority of the designated agency to conduct the program in accordance with Title IV of the SMCRA;

(c) Description of the policies and procedures to be followed in conducting the Program including:

(1) Goals and objectives;

(2) Project ranking and selection procedures;

(3) Coordination with other reclamation projects;

(4) Land acquisition, management and disposal;

(5) Reclamation on private land;

(6) Rights of entry; and

(7) Public participation in the Program;

(d) Description of the administrative and management structure to be used in the Program including:

(1) Description of the organization of the designated agency and its relationship to other organizations that will participate in the Program;

(2) Personnel staffing policies;

(3) Purchasing and procurement systems and policies; and

(4) Description of the accounting system including specific procedures for operation of the reclamation fund;

(e) Description of the public's participation in the preparation of the Plan;

(f) A general description of activities to be conducted under the Plan including:

(1) Known or suspected eligible lands and water requiring reclamation, including a map;

(2) General description of the problems identified and how the Plan proposes to deal with them;

(3) General description of how the lands to be reclaimed and proposed

reclamation relate to the surrounding lands and land uses;

(4) A table summarizing the quantities of land and water affected and an estimate of the quantities to be reclaimed during each year covered by the Plan;

(5) General description of the social, economic, and environmental conditions in the different geographic areas where reclamation is planned, including:

(i) The economic base;

(ii) Sociologic and demographic characteristics;

(iii) Significant aesthetic, historic or cultural, and recreational values;

(iv) Hydrology, including water quality and quantity problems associated with past mining;

(v) Flora and fauna, including endangered and threatened species and their habitat;

(vi) Underlying or adjacent coal beds and other minerals and projected methods of extraction; and

(vii) Anticipated benefits from reclamation.

List of Subjects in 30 CFR Part 942

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Dated: April 12, 1982.

J. S. Griles,

Acting Director, Office of Surface Mining.

Dated: April 16, 1982.

Daniel N. Miller, Jr.

Assistant Secretary for Energy and Minerals.

[FR Doc. 82-11118 Filed 4-22-82; 8:45 am]

BILLING CODE 4310-05-M

SELECTIVE SERVICE SYSTEM

32 CFR Part 1665

Selective Service Regulations; Privacy Act of 1974

AGENCY: Selective Service System.

ACTION: Proposed rule.

SUMMARY: Procedures under the Privacy Act of 1974 (5 U.S.C. 552a) are revised to exempt certain information in a system of records from the disclosure requirements of that act.

DATES: Comment Date: Written comments received on or before May 24, 1982 will be considered. Effective date: Subject to the comments received the amendments are proposed to become effective upon republication in the **Federal Register** not earlier than May 25, 1982.

ADDRESS: Written comments to: Selective Service System, ATTN: Associate Director for Policy Development, Washington, D.C. 20435.

FOR FURTHER INFORMATION CONTACT: Edward A. Frankle, Associate Director for Policy Development, Selective Service System, Washington, D.C. 20435. Phone: (202) 724-0844.

SUPPLEMENTARY INFORMATION: These amendments to Selective Service Regulations are published pursuant to section 13(b) of the Military Selective Service Act (50 U.S.C. App. 463(b) and 5 U.S.C. 552 and 552a. These Regulations implement 5 U.S.C. 552a.

Interested persons are invited to submit written comments on the proposed regulation. All written comments filed in response to this notice of proposed rulemaking will be available for public inspection in the office of the Associate Director for Policy Development from 9:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays.

As required by Executive Order 12291, I have determined that this proposed rule is not a "Major" rule and therefore does not require a Regulatory Impact Analysis.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-534, 94 Stat. 1164, 5 U.S.C. 601-612). I have determined that these regulations do not have significant economic impact on a substantial number of small entities.

List of Subjects in 32 CFR Part 1665

Armed Forces; Draft, Privacy.

Thomas K. Turnage,

Director.

April 20, 1982.

PART 1665—PRIVACY ACT PROCEDURES

The amendment is:

Part 1665—Privacy Act Procedures of 32 CFR is amended by adding § 1665.8 to read as follows:

§ 1665.8 Systems of records exempted from certain provisions of this act.

Pursuant to 5 U.S.C. 552a(k)(2), the Selective Service System will not reveal to the suspected violator the informant's name or other identifying information relating to the informant.

(5 U.S.C. 552a)

[FR Doc. 82-11283 Filed 4-23-82; 8:45 am]

BILLING CODE 8015-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 122

[FRL 1946-5]

Underground Injection Control Program

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing an amendment to its Consolidated Permit Regulations (40 CFR Part 122), as promulgated on May 19, 1980, to allow more flexibility to the Agency in perscribing Class II Underground Injection Control programs for Indian lands under the Safe Drinking Water Act.

DATE: EPA will accept public comments on the proposed amendments until June 7, 1982, either in writing or the informal public hearing to be held at the time and place listed below.

ADDRESS: Written public comments should be sent to the Comment Clerk, UIC Program Regulations, Office of Drinking Water (WH-550), EPA, Washington, DC 20460.

PUBLIC HEARING: A public hearing will be held in Washington, D.C., at the U.S. Environmental Protection Agency, 401 M St. SW, Room 3908 M, on June 2, 1982. The Agenda for the hearing is as follows:

Registration, 8:30 am-9:00 am
Proposed amendment—9:00 am-5:00 pm
or until all speakers have been heard.

FOR FURTHER INFORMATION CONTACT: Thomas E. Belk, Chief, Ground Water Protection Branch, Enviromental Protection Agency, (202) 426-3934.

SUPPLEMENTARY INFORMATION: An issue which has arisen as a result of the enactment of the Safe Drinking Water Act, section 1425 (the "Waxman amendment") is what kind of program pursuant to section 1422(c) of the Act should EPA prescribe for Class II wells on Indian lands located in a State which does not have jurisdiction over the Indian lands or which does not have an approved Class II program.

The Agency's position with regard to a State's assertion of jurisdiction over Indian lands was set forth in the preamble to 40 CFR Part 123 as follows:

EPA will assume that a State lacks authority unless the State affirmatively asserts authority and supports its assertion with an analysis from the State Attorney General. Thus, the State will not be forced to

take a position unless it chooses to assert jurisdiction." (45 FR 33378).

As a result, EPA will prescribe and implement Underground Injection Control (UIC) programs on Indian reservations and lands except in cases where a State has chosen to assert and has demonstrated the requisite jurisdiction. Under the current Consolidated Permits Regulations, when EPA prescribes a program, whether for a State or Indian lands, it will do so in conformance with the requirements of 40 CFR Parts 122, 124 and 146, insofar as they apply to UIC programs (see e.g. 40 CFR 122.1(b)(1)(i) and (iii)).

The amendment proposed here today is not intended to suggest a change in the Agency's position concerning States' assertions of jurisdiction over Indian lands. EPA believes that its approach, as expressed in 40 CFR Part 123, is still correct. However, EPA does wish to raise the question of whether the Class II (oil and gas-related injection wells) UIC programs prescribed by the Agency for Indian lands should invariably follow 40 CFR Part 122, 124 and 146 or whether the Agency should be more flexible and take a number of considerations into account in designing an appropriate Class II UIC program for a particular Indian reservation.

The Agency's original approach would have assured that whenever EPA was responsible for implementing an UIC Program, only one set of Federal standards based on 40 CFR Parts 122, 124 and 146 would have applied. The existence of only one basic Federal program could have benefited not only EPA in administering the program but also owners and operators who would have had to learn but one set of requirements. This could be an important considertion since Class II operators also operate other types of injection wells, for example Class III. The existing regulations already provided some degree of flexibility to allow local circumstances to be taken into consideration. They did not, however, have the degree of flexibility that section 1425 provides for Class II wells. Thus the Agency is proposing to be more flexible and to take a number of considerations into account in designing a Class II program for Indian lands. In designing such a program it should be recognized that EPA is limited by Federal statutory authority in the types of requirements it can establish, and these limits will have to be taken into account when prescribing specific programs.

There are, however, two reasons why EPA believes that it may be appropriate to chnge its approach and the Agency wishes to invite comments on the proposed changes from interested parties. First, subsequent to the promulgation of the Consolidated Permit Regulations, Congress amended the Safe Drinking Water Act (SDWA). New section 1425 allows a State to make an alternative demonstration in order to gain EPA's approval for its Class II program. Whereas previously under section 1422 of the SDWA the State had to demonstrate that its UIC program met the requirements of the Consolidated Permit Regulations and Part 146, under section 1425 a State may choose to demonstrate that its Class II UIC program meets the requirements of section 1421(b)(1)(A)–(D) and represents an effective program to prevent endangerment of underground sources of drinking water.

Prior to the enactment of section 1425, EPA expected all programs, whether adopted by States or prescribed by EPA, to share a certain degree of consistency since they would all be based on the Consolidated Permit Regulations and Part 146. Under section 1425, however, EPA expects to approve a number of State Class II UIC programs which, while effective, may vary significantly from the program the Agency would prescribe pursuant to the Consolidated Permit Regulations and Part 146.

The opportunity for an alternative demonstration under section 1425 raises the possibility, if EPA retains its current approach, that the State (within its jurisdiction) and EPA (for Indian lands) will establish inconsistent requirements for the regulation of oil and gas-related injection wells. This possibility is compounded by the fact that Indian lands cross State boundaries.

The Agency is mindful of the admonition of the Safe Drinking Water Act that, to the extent feasible, EPA regulatory actions designed to protect underground sources of drinking water should not unnecessarily interfere with or impede underground injections in connection with oil and natural gas production and recovery. In this regard, the Agency is aware of the possibility that special circumstances may exist in certain cases where the presence of two inconsistent Class II programs within a given State, within a given reservation, or perhaps between a reservation and an adjoining State, might create an undue burden on affected oil and gas producers.

The second reason for this proposal is that the Agency is mindful of the responsibilities and interests of tribal governments having authority over Indian lands. In keeping with the special "government-to-government relationship" which generally exists between such tribes and the Federal Government, it is appropriate to give special consideration to the expressed interests and desires of the affected tribal government when prescribing a Federal program for the Reservation.

The amendment proposed here today would allow EPA to prescribe the most appropriate Class II program for individual reservations or Indian lands where it is responsible for the UIC program. In determining the appropriate program in each case, the Administrator would take into account: (1) The interests and preferences of the responsible tribal government or nation; (2) the goal of simplifying regulatory requirements applicable to producers of oil and gas; and (3) the authorities and responsibilities conferred upon EPA by the Safe Drinking Water Act to protect underground sources of drinking water.

The Agency proposes to consider these factors in each case, based upon the facts pertaining to the individual reservation. The Agency anticipates that as a result of the proposed amendments some of the programs it prescribes for Indian lands and reservations may be patterned after State programs in States which have primacy under Section 1425.

In States where EPA has jurisdiction, the Agency may prescribe a unified Federal Program pursuant to the Consolidated Permit Regulations and Part 146. Alternatively the Agency may prescribe a program different from either of these approaches, which may be suggested by the affected tribal government or other interested parties if that approach is deemed more appropriate and satisfies the requirements of the Safe Drinking Water Act. However, the Agency would in all cases take into consideration the desires of the tribal governments in establishing the specific programs.

Each specific Class II program prescribed for Indian lands or reservations, as all UIC programs prescribed by EPA, will be prescribed through formal rulemaking, with further opportunity for public comment and public hearing.

The Agency is requesting public comment on this amendment, specifically whether other pertinent factors have been overlooked which should be considered by the Administrator when prescribing Class II UIC programs for Indian reservations and lands. The Agency particularly welcomes comment from Indian tribes, oil and gas producers and others on the issue of tribal input into the Administrator's determination and the issue of consistency between programs in adjoining jurisdictions.

Impact on Small Businesses

Under the Regulatory Flexibility Act an agency is required to prepare an initial regulatory flexibility analysis whenever it is required to publish general notice of any proposed rule, unless the head of the agency certifies that the rule, if promulgated will not have a significant economic impact on a substantial number of small entities. This amendment is proposed in order to provide increased regulatory flexibility; therefore, the Administrator certifies that this regulation will not have a significant impact on a substantial number of small entities.

Executive Order 12291

Under Executive Order 12291, EPA must judge whether the proposed rule is major and therefore subject to the requirements of a regulatory impact analysis. The proposed amendment would provide increased regulatory flexibility to the Administrator and does not set any specific requirement for the regulated community. It does not constitute major rulemaking.

This amendment was submitted to OMB for review as required by Executive Order 12291.

(Secs. 1421, 1422, 1423, 1431, 1445, 1447, 1450, Safe Drinking Water Act, as amended 42 U.S.C. 300(f) et seq.)

Dated: April 9, 1982.

Anne M. Gorsuch,

Administrator.

List of Subjects in 40 CFR Part 122

Administrative practice and procedure, Air pollution control, Hazardous materials, Reporting and recordkeeping requirements, Waste treatment and disposal, Water pollution control, Water supply, Confidential business information.

40 CFR Part 122 is amended as follows:

PART 122—EPA ADMINISTERED PERMIT PROGRAMS: THE NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM; THE HAZARDOUS WASTE PERMIT PROGRAM; AND THE UNDERGROUND INJECTION CONTROL PROGRAM

1. Add § 122.46 which reads:

§ 122.46 Promulgation of Class II programs for Indian lands.

Notwithstanding the requirements of this Part or of Parts 124 and 146, when the Administrator prescribes a Class II program for an Indian reservation or for Indian lands, he or she may do so in a manner that he or she deems appropriate for the individual reservation or Indian lands. In prescribing such programs the Administrator shall consider the following factors:

(a) The interest and preferences of the tribal government having responsibility for the given reservation or Indian lands.

(b) The consistency between the prescribed program and program or programs in effect in adjoining jurisdictions.

(c) Such other factors as are necessary and appropriate to attain the purposes of the Safe Drinking Water Act.

[FR Doc. 82-11236 Filed 4-22-82; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 228

[WH-FRL 2076-1]

Ocean Dumping; Proposed Cancellation of Site Designations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA today proposes to cancel the designation of four ocean dumping sites which are currently designated on an interim basis. This action is being taken because there is no projected future need for these sites. These sites will be removed from the list of "Approved Interim and Final Ocean Dumping Sites."

DATE: Comments must be received on or before June 22, 1982.

ADDRESS: Send comments to Mr. T. A. Wastler, Chief, Marine Protection Branch (WH-585), EPA, Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Mr. T. A. Wastler, 202/755-0356.

SUPPLEMENTARY INFORMATION: EPA published revised Ocean Dumping Regulations and Criteria in the Federal Register on January 11, 1977 (42 FR 2462 et seq.). Section 228.12 contains a list of "Approved Interim and Final Ocean Dumping Sites." This list was amended on December 9, 1980 (45 FR 81042 et seq.) to extend the interim designation of some ocean dumping sites and cancel the designation of six industrial sites and one dredged material site. At that time EPA stated its intention to identify additional ocean dumping sites for which there is no projected future need.

Four such sites have now been identified, and EPA proposes to cancel the designation of these sites based upon recommendations from the Corps of Engineers.

The purpose of this notice is to provide the public an opportunity to comment on the proposed cancellation of four interim designated ocean dumping sites for the disposal of dredged material. These sites with their identifying coordinates are listed below.

1. Withlacoochee River, FL—28d 59'54" N., 82d 47'14" W.; 29d 00'28" N., 82d 46'06" W.; 29d 00'14" N., 82d 45'58" W.; 28d 59'40" N., 82d 47'06" W.

2. Horseshoe Cove, FL—29d 25'23" N., 83d 17'53" W.; 29d 25'18" N., 83d 17'43" W.; 29d 25'09" N., 83d 17'49" W.; 29d 25'14" N., 83d 17'59" W.

3. Crescent City, CA, 100 fathom site—41d 43' 50" N, 124d 28'00" W (center coordinates).

4. American Samoa, Pago Pago Harbor—14d 23'00" S., 170d 39'30" W (center coordinates).

The cancellation of these four sites as EPA Interim Approved Ocean Dumping Sites is being published as proposed rulemaking. Interested persons may participate in this proposed rulemaking by submitting written comments within 60 days of the date of this publication to the address given above.

Under the Regulatory Flexibility Act, EPA is required to perform a Regulatory Flexibility Analysis for all rules which may have a significant impact on a substantial number of small entities. Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirement of a Regulatory Impact Analysis.

EPA has determined that this proposal will not have a significant impact on small entities. No small entities are using or, as far as EPA is aware, are planning to use these sites in the near future. Furthermore, the cancellation of these site designations will have no effect on the economy or cause any of the other effects which would result in its being classified as a "major" action. Consequently, this proposal does not necessitate the preparation of a Regulatory Flexibility Analysis or Regulatory Impact Analysis.

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

(33 U.S.C. Secs. 1412 and 1418)

List of Subjects in 40 CFR Part 228

Water pollution control.

Dated: March 8, 1982.

Bruce R. Barrett,

Acting Assistant Administrator for Water.

PART 228—CRITERIA FOR THE MANAGEMENT OF DISPOSAL SITES FOR OCEAN DUMPING

In consideration of the foregoing, Subchapter H of Chapter I of Title 40 is proposed to be amended by removing from § 228.12(a) four ocean dumping sites as follows:

§ 228.12 [Amended]

1. Withlacoochee River, FL—28d 59'54" N., 82d 47'14" W.; 29d 00'28" N., 82d 46'06" W.; 29d 00'14" N., 82d 45'58" W.; 28d 59'40" N., 82d 47'06" W.

2. Horseshoe Cove, FL—29d 25'23" N., 83d 17'53" W.; 29d 25'18" N., 83d 17'43" W.; 29d 25'09" N., 83d 17'49" W.; 29d 25'14" N., 83d 17'59" W.

3. Crescent City, CA, 100 fathom site—41d 43'50" N, 124d 28'00" W (center coordinates).

4. American Samoa, Pago Pago Harbor—14d 23'00" S., 170d 39'30" W (center coordinates).

[FR Doc. 82-11165 Filed 4-22-82; 8:45 am]

BILLING CODE 6560-50-M

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41 CFR Part 15-1

[AAA-FRL-2110-1]

Individual Conflicts of Interest Involving Current or Former Agency Employees

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) proposes to revise its procurement regulation to add policy and procedures to control conflicts of interest involving current or former EPA employees. The proposed regulation is designed to prevent Agency contract awards from being affected by favoritism to or improper influence by current or former EPA employees. The proposed regulation provides a mechanism for identifying the proposed use of current or former EPA employees and procedures for the proper treatment of contract proposals in these situations.

DATE: Comments must be received on or before May 14, 1982.

ADDRESS: Send comments to: Environmental Protection Agency, Procurement and Contracts Management Division (PM-214), Attention: Grafton E. Young, Jr., 401 M Street, S.W., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Mr. Grafton E. Young, Jr., address as above, telephone (202) 755-0900.

SUPPLEMENTARY INFORMATION: This proposed rule establishes 41 CFR 15-1.55 (new coverage of Conflicts of Interest Involving Current or Former EPA Employees).

(Sec. 205(c), 63 Stat. 390, as amended; 40 U.S.C. 486(c))

Dated: March 17, 1982.

John P. Horton,

Assistant Administrator, Office of Administration.

List of Subjects in 41 CFR Part 15-1

Conflict of interest, Environmental protection, Government procurement.

PART 15-1—GENERAL

1. The table of contents for Part 15-1 is amended to add the following new entries:

Subpart 15-1.55—Prevention of Conflicts of Interest in Contracts Involving Current or Former Employees of the Environmental Protection Agency (EPA)

Sec.
15-1.5500 Scope of subpart.
15-1.5501 Definitions.
15-1.5502 Limitations on award of noncompetitive negotiated contracts.
15-1.5503 Treatment of competitive contracts.
15-1.5504 Solicitation disclosure provision.
15-1.5505 Subcontracts.

2. Part 15-1 is amended by adding Subpart 15-1.55 to read as follows:

Subpart 15-1.55—Prevention of Conflicts of Interest in Contracts Involving Current or Former Employees of the Environmental Protection Agency (EPA)

§ 15-1.5500 Scope of subpart.

This subpart sets forth EPA policy and procedures for identifying and dealing with conflicts of interest and improper influence or favoritism in connection with contracts involving current or former EPA employees. This subpart does not apply to agreements with other departments or agencies of the Federal Government, nor to contracts awarded to State or local units of government.

§ 15-1.5501 Definitions.

(a) "Regular employee" means any officer or employee of EPA who is employed or appointed, with or without compensation, to serve more than 130 days during any period of 365 consecutive days, including regular officers of the Public Health Service Commissioned Corps and reserve officers of the Public Health Service Commissioned Corps while on active duty.

(b) "Special employee" means an officer or employee of EPA who is retained, designated, appointed or employed to perform, with or without compensation, temporary duties either on a full-time or intermittent basis for not more than 130 days during any period of 365 consecutive days and who actually served more than 60 days during such 365 day period.

§ 15-1.5502 Limitations on award of noncompetitive negotiated contracts.

(a) No contract may be awarded without competition to a current regular or special EPA employee or to a former regular or special EPA employee whose employment terminated within 365 days before submission of a proposal to EPA. Likewise, no contract shall be awarded without competition to a firm which employs, or proposes to employ a current regular or special EPA employee or a former EPA regular or special employee whose employment terminated within 365 calendar days before submission of a proposal to EPA. These restrictions apply if either of the following conditions exists:

(1) The current or former EPA regular or special employee is or was involved in developing or negotiating the proposal for the prospective contractor.

(2) The current or former EPA regular or special employee will be involved directly or indirectly in the management, administration, or performance of the contract.

(b) Waiver—The foregoing restriction may be waived in writing by the Deputy Administrator if the award would not involve a violation of 18 U.S.C. 203, 18 U.S.C. 205, 18 U.S.C. 207, 18 U.S.C. 208, EPA regulations at 40 CFR Part 3, or the Federal Procurement Regulations at 41 CFR 1-1.302-3 and if the award would be in the best interests of the Government. The Deputy Administrator will consult with the Designated Agency Ethics Official before making such a determination.

§ 15-1.5503 Treatment of competitive contracts.

(a) The prohibition of § 15-1.5502 does not apply to competitively awarded contracts. However, such awards must not involve violation of 18 U.S.C. 205, 18 U.S.C. 207, 18 U.S.C. 208, or 41 CFR 1-1.302-3 and must not be based on improper influence or favoritism arising out of an EPA employee's current or former EPA employment.

(b) When any part of the disclosure required under § 15-1.5504 is affirmative, or when the contracting officer has reason to believe that an award may be prohibited by this subpart, no award may be made without the written approval of an official at a level above that of the Head of the Procuring Activity (see § 15-1.206) indicating that award would be consistent with § 15-1.5503(a). The official will consult with the Designated Agency Ethics Official before making such a determination.

§ 15–1.5504 Solicitation disclosure provision.

The following provision shall be included in all EPA requests for proposals (RFP's):

Current/Former Agency Employee Conflict of Interest Certification

The offeror certifies that:

(a) The offeror is ☐ is not ☐ a current regular or special EPA employee or a former regular or special EPA employee whose EPA employment terminated within one (1) year prior to submission of this proposal.

(b) The offeror does ☐ does not ☐ employ or propose to employ a current regular or special EPA employee or a former regular or special EPA employee whose EPA employment terminated within one (1) year prior to submission of this proposal and who has been or will be involved, directly or indirectly, in developing or negotiating this proposal for the offeror; or in the management, administration or performance of any contract resulting from this proposal.

(c) The offeror does ☐ does not ☐ employ or propose to employ as a consultant or subcontractor under any contract resulting from this proposal a current regular or special EPA employee or a former regular or special EPA employee whose EPA employment terminated within one (1) year prior to submission of this proposal:

(d) A current regular or special EPA employee or a former regular or special EPA employee whose EPA employment terminated within one (1) year prior to submission of this proposal or such employee's spouse or minor child does ☐ does not ☐ hold a controlling interest in the offeror firm.

§ 15–1.5505 Subcontracts.

This subpart does not apply to subcontracts; that is, agreements by which a subcontractor agrees to undertake part of the work as an independent contractor. However, where subcontracts essentially create a "employer-employee" relationship, the restrictions apply. In determining whether such a relationship exists, the contracting officer will be generally guided by the standards of Chapter 304, Subchapter 1–4 of the Federal Personnel Manaul (distinguishing between employees and independent contractors).

[FR Doc. 82–11183 Filed 4–22–82; 8:45 am]

BILLING CODE 6560–50–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

42 CFR Parts 50 and 441

45 CFR Part 1392

Sterilization Regulations

AGENCY: Office of the Secretary, HHS.

ACTION: General notice.

SUMMARY: This notice solicits comments on the operation of HHS regulations on sterilizations. Comments are requested for two reasons. First, comments are being requested as a result of a mandate in the regulations that requires the Department to solicit public comments no later than 3 years after their 1979 effective date.

Second, comments on the sterilization regulations are requested to assist us in assessing their clarity and effectiveness and in determining whether any unnecessary burdens have resulted from their implementation. We will consider any comments we receive in making decisions as to whether revisions to the regulations are needed. If we revise the regulations, the public will be afforded an opportunity to comment on proposed changes prior to final publication.

DATE: To assure consideration, comments should be mailed by June 22, 1982.

ADDRESS: Address comments on all HHS sterilization regulations in writing to: Administrator, Health Care Financing Administration, Department of Health and Human Services, P.O. Box 17076, Baltimore, Maryland 21235.

All comments will be reviewed by each of the affected programs.

If you prefer, you may deliver your comments to Room 309–G Hubert H. Humphrey Building, 200 Independence Ave., S.W., Washington, D.C., or to Room 793, East High Rise Building, 6325 Security Boulevard, Baltimore, Maryland.

In commenting, please refer to file code BPP–508–GN. Agencies and organizations are requested to submit comments in duplicate.

Comments will be available for public inspection, beginning approximately two weeks after publication, in Room 309–G of the Department's office at 200 Independence Ave., S.W., Washington, D.C. 20201, on Monday through Friday of each week from 8:30 a.m. to 5:00 p.m. (202–245–7890).

FOR FURTHER INFORMATION CONTACT: Robert Wren, (301) 594–9820.

SUPPLEMENTARY INFORMATION:

Background

On November 8, 1978, we issued final rules governing expenditures for sterilizations under certain federally assisted programs administered by the Health Care Financing Administration (HCFA), the Public Health Service (PHS), and the Administration for Public Services of the Office of Human Development Services (OHDS) (43 FR 52146). These rules were codified at 42 CFR Part 441, Subpart F for HCFA; 42 CFR Part 50, Subpart B for PHS; and 45 CFR 1392.21, 1392.59, and 1396.633[1] for OHDS. The rules contain a requirement that we request comments on the operation of the regulations no later than 3 years after their effective date.

In addition, the rules require that a candidate for a federaly funded sterilization be at least 21 years of age, be mentally competent, and give informed consent to the procedure. The rules also require that 30 days must have elapsed between the date the individual signs the consent form and the date the sterilization procedure is performed. (A 72-hour waiting period is required for sterilization performed during emergency abdominal surgery or premature delivery. In the case of premature delivery, the informed consent must have been given at least 30 days before the expected date of delivery.)

These rules also describe requirements for availability of Federal funds for hysterectomies as follows:

(1) Federal funds are not available for hysterectomies performed solely for the purpose of sterilizing the individual;

(2) Federal funds are not available for hysterectomies performed when there is more than one purpose to the procedure, but which nevertheless would not have been performed except for the purpose of making the individual sterile;

(3) Federal funds are available for a hysterectomy performed for a reason other than sterilization, provided that the following "acknowledgement requirements" are met:

(a) The person securing authorization to perform the hysterectomy informs the individual and her representative, if any, orally and in writing, that the procedure will make the patient sterile; and

(b) The individual, or her representative, if any, signs a statement acknowledging receipt of that information.

The Department published a Notice of Proposed Rulemaking (NPRM) that addressed the hysterectomy requirements (46 FR 5003, January 19, 1981). The proposal contained provisions that would revise the rule that no Federal funds be made available for hysterectomies unless the individual or her representative has signed an acknowledgement that she was informed that the operation would make her sterile. (42 CFR 441.255 and 256, 42 CFR 50.207 and 209.) Under the proposal, the "acknowledgement requirement" would be eliminated in

[1] Editorial Note.—45 CFR Part 1396 was removed effective October 1, 1981 (46 FR 48598, Oct. 1, 1981).

certain situations where the patient is already sterile or a life threatening emergency exists. The comment period on the proposal closed on March 20, 1981. We have reviewed the comments received on the NPRM and expect to publish the final rule on the hysterectomy portion of the sterilization regulations shortly.

Request for Comments

We are interested in comments concerning any aspect of the operation of HHS sterilization regulations. The Address section above explains the procedures to be used in commenting.

Dated: April 5, 1982.

Richard S. Schweiker,

Secretary of Health and Human Services.

[FR Doc. 82-11047 Filed 4-22-82; 8:45 am]

BILLING CODE 4110-12-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

[Docket No. FEMA-6278]

National Flood Insurance Program; Proposed Flood Elevation Determinations; California, et al.

AGENCY: Federal Emergency Management Agency.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the nation. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in each community.

ADDRESSES: See table below.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, P.E., National Flood Insurance Program, (202) 287-0230, Federal Emergency Management Agency, Washington, D.C. 20472.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency gives notice of the proposed determinations of base (100-year) flood elevations for selected locations in the nation, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 44 CFR 67.4 (a).

These elevations, together with the flood plain management measures required by § 60.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or Regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that the proposed flood elevation determinations, if promulgated, will not have a significant economic impact on a substantial number of small entities. A flood elevation determination under section 1363 forms the basis for new local ordinances, which, if adopted by a local community, will govern future construction within the floodplain area. The elevation determinations, however, impose no restriction unless and until the local community voluntarily adopts floodplain ordinances in accord with these elevations. Even if ordinances are adopted in compliance with Federal standards, the elevations prescribe how high to build in the floodplain and do not proscribe development. Thus, this action only forms the basis for future local actions. It imposes no new requirement; of itself it has no economic impact.

List of Subjects in 44 CFR Part 67

Flood insurance, Floodplains.

The proposed base (100-year) flood elevations for selected locations are:

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
California	Riverside (city), Riverside County	Santa Ana River	100 feet upstream from center of upstream crossing of Van Buren Boulevard.	*698
			200 feet upstream from center of State Highway 60	*806
		Spring Book Wash	Center of Market Street	*800
			150 feet upstream from center of North Main Street	*818
		University Wash	150 feet upstream from center of Orange Street	*830
			100 feet upstream from center of Spruce Street	*885
			10 feet upstream from center of 3rd Street	*950
			Center of Avocado Drive	*1,052
			100 feet upstream from center of Mount Vernon Drive	*1,134
		Box Springs Wash	Center of Park Avenue	*884
			Center of Chicago Avenue	*972
		Tequesquite Arroyo	100 feet upstream from center of Terracina Avenue	*808
			50 feet upstream from center of Sedgewick Avenue	*871
			100 feet upstream from center of Chicago Avenue	*925
		Alessandro Wash	15 feet upstream from center of Victoria Avenue	*946
			15 feet downstream from center of Alessandro Dam	*1,078
		Prenda Wash	25 feet upstream from center of Victoria Avenue	*912
			25 feet upstream from center of Dufferin Avenue	*999
			Center of Whitegate Avenue	*1,095
			15 feet downstream from center of Prenda Dam	*1,185
		Woodcrest Wash	Center of Cleveland Avenue	*915
			50 feet upstream from center of Washington Street	*1,060

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Mockingbird Canyon Wash	70 feet upstream from center of Victoria Avenue	*876
			Centerline of Dufferin Avenue	*912
		Harrison Wash	50 feet upstream from center of Dufferin Avenue	*926
			25 feet upstream from center of Gage Canal	*998

Maps available for inspection at Public Works Department, 3900 Main Street, Riverside, California.
Send comments to the Honorable A. B. Brown, 3900 Main Street, Riverside, California 92522.

Connecticut	Westbrook, town, Middlesex County	Long Island Sound	Westbrook coastline	*11
		Patchogue River	At Boston Post Road	*11
			At Interstate Route 95	*11
		Menunketesuck River	Upstream of Conrail	*7
			Downstream of Boston Post Road	*11
			Dam approximately 0.26 mile upstream of Interstate Route 95 (upstream).	*14
			Upstream Breakneck Hill Road	*19

Maps available for inspection at the Office of the Town Clerk, Town Hall, Boston Post Road, Westbrook, Connecticut.
Send comments to Honorable Donald P. Morrison, First Selectman of Westbrook, Town Hall, Boston Post Road, Westbrook, Connecticut 06498.

Delaware	Kent, county, unincorporated area	Delaware Bay	Northern County line at Smyrna River	*12
			Woodland Beach	*12
			Leipsic River	*12
			Simons River	*12
			Port Mahon	*12
			Little River	*12
			Pickering Beach	*12
			Kitts Hummock	*12
			St. Jones River	*12
			South Bowers	*12
			Bennetts Pier	*12
			Big Stone Beach	*12
			Southern County line at Mispillion River	*12

Maps are available for inspection in Room 318, Kent County Administration Building, 414 Federal Street, Dover, Delaware.
Send comments to William Pakey, President, Kent County Levy Court, Kent County Administration Building, 414 Federal Street, Dover Delaware 19901.

Florida	Belleair (town), Pinellas County	Gulf of Mexico-Clearwater Harbor	Belleview Island	*13
			Western end of Winston Drive	*11

Maps available for inspection at Town Hall, 901 Ponce de Leon Boulevard, Belleair, Florida.
Send comments to the Honorable John H. Lumley, 901 Ponce de Leon Boulevard, Belleair Florida 33516.

Florida	Belleair Bluffs (city), Pinellas County	Gulf of Mexico-Clearwater Harbor	Approximately 1,000 feet west along West Bay Drive from its intersection with Harbor View Lane.	*12

Maps available for inpsection at City Hall, 115 Florence Drive, Belleair Bluffs, Florida.
Send comments to the Honorable J. Wilson Reed, 115 Florence Drive, Belleair Bluffs, Florida 33540.

Florida	Hallandale (city), Broward County	Atlantic Ocean-open coast	Approximately 550 feet east of the intersection of Hallandale Beach Boulevard and South Ocean Drive.	*10
		Atlantic Ocean-Intracoastal Waterway/Golden Isles Lake.	Intersection of Parkview Drive and Three Islands Boulevard.	*6
			Intersection of Layne Boulevard and Alamanda Drive	*6
			Intersection of Northeast 3rd Street and NE 8th Avenue.	*6

Maps available for inspection at Planning & Zoning Department, 308 Dixie Highway, Hallandale, Florida.
Send comments to the Honorable Arthur J. Rosenburg, 308 S. Dixie Highway, Hallandale, Florida 33009.

Indiana	(C) Kendallville, Noble County	Waterhouse Ditch	At confluence with Henderson Lake Ditch	*952
			About 1.0 mile upstream of East 900 Road	*956
		Lash Ditch	Just upstream of Brillhart Street	*971
			Just downstream of Waits Road	*975
		Bixler Lake	Within the community	*966
		Henderson Lake Ditch	Just upstream of East 600 road	*942
			Just upstream of Conrail	*953
		Bixler Lake Ditch	Just upstream of Garden Street	*966
			At Bixler Lake Control Structure	*966

Maps available for inspection at the Clerk's Office, City Hall, Kendallville, Indiana.
Send comments to Honorable John W. Riemke, Mayor, City of Kendallville, City Hall, Kendallville, Indiana 46755.

Indiana	(C) Ligonier, Noble County	Elkhart River	Just upstream of 1100 West Road	*862
			About 0.91 mile upstream of 750 West Road	*874
		Sparta Lake Ditch	At confluence with Elkhart River	*872
			About 700 feet upstream of U.S. Route 6	*873
			About 500 feet upstream of 650 North Road	*880
			Just downstream of 500 North Road	*882
		Solomon Creek	About 0.57 mile downstream of 1050 West Road	*873
			About 0.80 mile upstream of 550 North Road	*881

Maps available for inspection at the City Hall, Ligonier, Indiana.
Send comments to Honorable Steven C. Hagen, Mayor, City of Ligonier, City Hall, Ligonier, Indiana 46767.

Indiana	(C) Valparaiso, Porter County	Salt Creek	Just upstream of Joliet Street	*680

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			Just upstream of Norfolk and Western Railway	*688
			About 2300 feet upstream of U.S. Route 30	*691

Maps available for inspection at the Engineer's Office, City Hall, 16 IndianaAvenue, Valparaiso, Indiana.

Send comments to Honorable Elden Kuehl, Mayor, City of Valparaiso, City Hall, 16 Indiana Avenue, Valparaiso, Indiana 46383.

Massachusetts	Fitchburg, city, Worcester County	North Nashua River	Downstream corporate limits	*332
			Confluence of Baker Brook	*344
			Downstream of Bemis Road	*371
			1,000 feet downstream of Fifth Street	*401
			Upstream of Cushing Street	*439
			Upstream of Rollstone Street	*461
			Upstream of Sheldon Street	*483
			Upstream of Oak Hill Road	*506
			Upstream of Depot Street	*524
			Approximately 3,700 feet upstream of Depot Street	*554
			Confluence of Whitman River and Flagg Brook	*580
		Baker Brook	Confluence with North Nashua River	*344
			Approximately 125 feet upstream of Falulah Road	*351
			Confluence of Pearl Hill Brook and Falulah Brook	*379
		Falulah Brook	Confluence with Baker Brook	*379
			Upstream of Townsend Street	*394
			Downstream of Pearl Hill Road	*441
			Approximately 2,600 feet upstream of John Fitch Highway (downstream crossing).	*490
			Downstream of Ashby State Road	*517
			Confluence of Brook to Siama Pond	*526
			Upstream of Rindge Road	*565
			Confluence of Scott Brook	*689
		Pearl Hill Brook	Confluence with Baker Brook	*379
			Upstream corporate limits	*383
		Scott Brook	Confluence with Falulah Brook	*689
			Approximately 1,225 feet downstream of Ashby West Road.	*810
			Approximately 65 feet upstream of Ashby West Road	*884
		Brook to Siama Pond	Confluence with Falulah Brook	*526
			Approximately 2,920 feet upstream of Scott Road	*620
			Upstream of Richardson Road	*657
			Approximately 1,020 feet upstream of Scripture Road	*669
		Phillips Brook	Confluence with North Nashua River	*534
			Upstream of Westmininster Hill Road	*598
			Approximately 2,300 feet upstream of Sanborn Street	*648
			Approximately 1,550 feet downstream corporate limits	*684
			Upstream corporate limits	*701
		Whitman River	Confluence with North Nashua River	*580
			At Snow Mill Pond	*665
			Upstream corporate limits	*665
		Flagg Brook	Confluence with North Nashua River	*580
			Upstream of Boston and Maine Railroad culvert	*605
			Approximately 850 feet downstream of Fifth Street	*617
			Upstream of Water Treatment Plant	*643
			Upstream of State Route 2	*654
			300' upstream of confluence of Sawmill Pond	*656
		Wyman Pond Brook	Confluence with Sawmill Pond	*658
			Approximately 1,180 feet upstream of State Route 2 (first crossing).	*660
			Approximately 1,500 feet downstream of State Route 2 (second crossing).	*690
			Upstream corporate limits	*720

Maps available for inspection at the Fitchburg City Planning Office, City Hall, 718 Main Street, Fitchburg, Massachusetts 01420.

Send comments to the Honorable David M. Gilmartin, Mayor of the City of Fitchburg, City Hall, 718 Main Street, Fitchburg, Massachusetts 01420.

Massachusetts	North Reading, town, Middlesex County	Ipswich River	At downstream corporate limits	*60
			Upstream of Haverhill Street	*68
			At upstream corporate limits	*75
		Martins Brook	At confluence with Ipswich River	*71
			At corporate limits (downstream crossing)	*76
			At corporate limits (upstream crossing)	*78
			At Martins Pond outlet	*80
		Skug River	At confluence with Martins Pond	*80
			At upstream corporate limits	*83
		Martins Pond	Entire shoreline within community	*80

Maps available for inspection at the Office of the Community Planning Commission, Town Hall, Park Street, North Reading, Massachusetts.

Send comments to Honorable George Sandorf, Chairman of the North Reading Board of Selectmen, Town Hall, Park Street, North Reading, Massachusetts 01864.

Massachusetts	Saugus, town, Essex County	Atlantic Ocean	Along the entire southern corporate limits	*10
		Saugus River	Confluence of Shute Brook	*10
			Upstream of Bridge Street	*13
			Upstream of U.S. Route 1	*39
			Approximately 800' upstream of Richardson Circle extended.	*47
			Upstream of Water Street	*55
			Upstream corporate limits	*59
		Shute Brook	Confluence with Saugus River	*10
			Upstream of Central Street culvert	*16
			Upstream of Highland Street	*25
		Fiske Brook	Approximately 480' upstream of Pennybrook Road	*26
			Confluence with Shute Brook	*26

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			Approximately 820' upstream of confluence with Shute Brook.	*26
		Bennett's Pond Brook	Confluence with Saugus River	*37
			Upstream of Laurine Drive	*48
			Corner of Main Street and Lynn Falls Parkway	*58
			Approximately 1,500' upstream of Falmouth Street	*65

Maps available for inspection at the Saugus Engineering Department, Town Hall, Central Street, Saugus, Massachusetts.

Send comments to the Honorable Danny Hoffman, Chairman of the Town of Saugus Board of Selectmen, Town Hall, Central Street, Saugus, Massachusetts 01906.

Michigan	(Cht. Twp.), Allendale, Ottawa County	Grand River	About 3,000 feet downstream of Lake Michigan Drive	*600
			About 6,100 feet upstream of Lake Michigan Drive	*602
		Ottawa Creek	At mouth	*601
			About 150 feet upstream of 40th Avenue	*606
			About 100 feet downstream of Lake Michigan Drive	*633
			About 300 feet upstream of Radcliff Drive	*641
			About 4,350 feet upstream of Radcliff Drive	*657

Maps available for inspection at the Town Hall, 6676 Lake Michigan Avenue, Allendale, Michigan.

Send comments to Honorable Roger Rycenga, Supervisor, Charter Township of Allendale, Town Hall, 6676 Lake Michigan Avenue, Allendale, Michigan, 49401.

Michigan	(V) Coopersville, Ottawa County	Deer Creek	Just upstream of Interstate 96 West	*615
			Just upstream of Center Street	*622
			About 2,500 feet upstream of Cleveland Street	*627

Maps available for inspection at the City Hall, 289 Danforth Street, Coopersville, Michigan.

Send comments to Honorable Elvin P. Harris, Mayor, Village of Coopersville, City Hall, 289 Danforth Street, Coopersville, Michigan 49404.

Michigan	(Twp.) Tallmadge, Ottawa County	Grand River	About 0.6 mile downstream of Lake Michigan Drive	*600
			About 8.0 miles upstream of Lake Michigan Drive (at southeastern corporate limits).	*605

Maps available for inspection at the Town Hall, 0-1451 Leonard Road West, Grand Rapids, Michigan.

Send comments to Honorable Robert J. Rinck, Supervisor, Township of Tallmadge, Town Hall, 0-1451 Leonard Road, West, Grand Rapids, Michigan 49504.

Minnesota	(C) Independence, Hennepin County	South Fork Crow River	Within the corporate limits	*919
		Lake Robina Tributary	At mouth	*939
			Just upstream of Pioneer Creek Road	*942
			Just downstream of Burlington Northern Railroad	*955
		Pioneer Creek	About 2,500 feet downstream of County Highway 20	*930
			Just upstream of Watertown Road	*932
			Just upstream of Burlington Northern Railroad	*950
			Just downstream of Independence Road	*959
		Lake Independence	Shoreline	*960
		Lake Sarah	Shoreline	*981
		Lake Robina	Shoreline	*956

Maps available for inspection at City Clerk's Office, City Hall, 1790 County Road 90, Independence, Minnesota.

Send comments to Honorable Marvin D. Johnson, Mayor, City of Independence, City Hall, 1790 County Road 90, Independence, Minnesota 55359.

Minnesota	(C) Sandstone, Pine County	Kettle River	Just upstream of Kettle River dam	*962
			About 2,300 feet upstream of State Highway 123	*967
		Skunk River	About 900 feet downstream of Government Road	*1,027
			Just upstream of Government Road	*1,039
			About 130 feet upstream of Burlington Northern Railroad.	*1,055
			About 2,300 feet upstream of Burlington Northern Railroad.	*1,058

Maps available for inspection at the City Administrator's Office, City Hall, Fourth and Commercial, Sandstone, Minnesota.

Send comments to Honorable Harland A. Johnson, Mayor, City of Sandstone, City Hall, Fourth and Commercial, Sandstone, Minnesota 55072.

Missouri	(C) Hardin, Ray County	Missouri River	At eastern corporate limit	*695
			At western corporate limit	*696

Maps available for inspection at the City Hall, Hardin, Missouri.

Send comments to Honorable Homer Lollar, Mayor, City of Hardin, City Hall, Hardin, Missouri 64035.

Montana	Laurel (city), (Yellowstone County)	Italian Ditch	200 feet upstream of intersection of Interstate Highway 90 (downstream crossing and Italian Ditch).	*3,287
		Nutting Ditch	40 feet upstream of intersection of Fir Avenue and Nutting Ditch.	*3,292
		Main Street Overflow	Intersection of Fir Avenue and Main Street (U.S. Highway 10).	*3,285
		West Main Street overflow	50 feet upstream of intersection of Eighth Avenue and West Main Street overflow.	*3,306
		Yellowstone River	200 feet downstream of intersection of U.S. Highways 310 and 212, and Yellowstone River.	*3,270

Maps available for inspection at City Hall, Laurel, Montana.

Send comments to the Honorable Albert Ehrlick, P.O. Box 10, Laurel, Montana 59044.

Nebraska	(C) Grand Island, Hall County	Wood River	About 0.3 mile downstream of Gun Barrel Road	*1,822
			About 2,400 feet downstream of Stuhr Road	*1,840
			About 650 feet upstream of U.S. Highways 281 and 34.	*1,870
		Moore Creek	About 1,350 feet downstream of U.S. Highway 281	*1,854
			About 1,000 feet downstream of Webb Street	*1,862

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Silver Creek	About 713 feet upstream of State Highway 2	*1,874
			About 0.56 mile downstream North Road	*1,887
			About 0.15 mile upstream North Road	*1,870
		Shallow flooding (overflow from Moores Creek).	Southeast of the intersection of State Highway 2 and North Road.	#1
			Intersection of State Highway 2 and Diers Avenue	#1
			Intersection of O'Flannegan Avenue and O'Grady Street.	#1
			Intersection of Grand Island Avenue and Capital Avenue.	#1
			Southwest of the intersection of Broadwell Avenue and Airport Road.	#2

Maps available for inspection at the City Hall, Grand island, Nebraska.

Send comments to Honorable Robert Kriz, Mayor, City of Grand island, City Hall, Grand Island, Nebraska 68801.

New Jersey	Barnegat, township, Ocean County	Barnegat Bay	Entire shoreline within community	*7

Maps available for inspection at the Municipal Building, 900 West Bay Avenue, Barnegat, New Jersey.

Send comments to Honorable Douglas A. Steffy, Mayor of Barnegat Township, Municipal Building, 900 West Bay Avenue, Barnegat, New Jersey 08005.

New Jersey	Eagleswood, township, Ocean County	Little Egg Harbor	Entire shoreline within community	*8

Maps available for inspection at the Municipal Building, Division Street, West Creek, New Jersey.

Send comments to Honorable John T. Hendericksen, Jr., Mayor of Eagleswood Township, Municipal Building, Division Street, West Creek, New Jersey 08092.

New Jersey	Howell, township, Monmouth County	Manasquan River	Upstream of Southard Avenue	*44
			Upstream of West Farm Road	*51
			Upsteam of Ketcham Road	*60
			Confluence of Ardena Brook	*65
			Upstream of Route 9	*72
			Confluence of Long Brook	*75
			Upstream corporate limits	*78
		Long Brook	Confluence with Manasquan River	*75
			Upstream of Route 9	*95
			Upstream of Adelphia Farmingdale Road	*100
			Upstream of Howell Road	*109
			Upstream of Vanderveer Road	*115
			Upstream of Conrail	*119
			Upstream of Route 33	*125
		Bannen Meadow Brook	Confluence with Manasquan River	*71
			Upstream of Casino Drive	*76
			Upstream of Route 9	*80
			Approximately 700 feet upstream of Fort Plains Road	*89
		Ardena Brook	Confluence with Manasquan River	*65
			Upstream of Adelphia Farmingdale Road	*81
		North Branch Meteconk River	Downstream corporate limits	*17
			Confluence of Gravelly Run	*20
			Confluence of Haystack Brook	*23
			Upstream of Ramtown Greenville Road	*24
			Upstream of Lakewood Allenwood Road	*33
			Downstream of Lakewood Farmingdale Road	*43
			Upstream of Route 9	*53
			Upstream of Kent Road	*59
			Upstream of Church Road	*70
			Confluence of Aldrich Lake	*81
			Downstream of Interstate Route 195	*86
			Upstream of Hulses Road	*89
			Approximately 100' downstream of upstream corporate limits.	*93
		Haystack Brook	Confluence with North Branch Metedeconk River	*23
			Upstream of Ramtown Greenville Road	*23
			Upstream of Lakewood Allenwood Road	*33
			Upstream of Oak Glen Road	*37
			Upstream of Lakewood Farmingdale Road	*46
			Confluence of Groundhog Brook	*50
			Upstream of Lanes Pond Road	*60
			Upstream of Maxim Southard Road	*70
			Approximately 4,300' upstream of Maxim Southard Road.	*75
		Groundhog Brook	Confluence with Haystack Brook	*50
			Upstream of Lanes Pond Road	*59
			Confluence of Polipod Brook	*59
			Approximately 300' downstream of Locust Avenue	*59
		Polipod Brook	Confluence with Groundhog Brook	*59
			Approximately 810' upstream of confluence with Groundhog Brook.	*59
		Gravelly Run	Confluence with north branch Metedeconk River	*20
			Approximately 400' downstream of Western Drive	*33

Maps available for inspection at the Municipal Building, Howell, New Jersey.

Send comments to Honorable Gerald Levine, Mayor of Howell Township, P.O. Box 580, Howell, New Jersey 07731.

New Jersey	Logan, township, Gloucester County	Delaware River	At the confluence of Repaupo Creek	*10
			At the confluence of Raccoon Creek	*9
			At the confluence of Oldmans Creek	*9
			The entire shoreline of Repaupo Creek	*10
			The entire shoreline of Pargey Creek	*10

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			The entire shoreline of Raccoon Creek	*9
			The entire shoreline of Oldmans Creek	*9
Maps available for inspection at the Municipal Building, 73 Main Street, Bridgeport, New Jersey.				
Send comments to Honorable Ruth Bay, Mayor of Logan Township, Municipal Building, 73 Main Street, Bridgeport, New Jersey 08014.				
New Jersey	Ocean, township, Ocean County	Barnegat Bay	Entire shoreline within corporate limits	*7
Maps available for inspection at the Municipal Building, 50 Railroad Avenue, Waretown, New Jersey.				
Send comments to Honorable David E. Ekelmann, Mayor of Ocean Township, Municipal Building, 50 Railroad Avenue, Waretown, New Jersey 08758.				
New Jersey	Roxbury, township, Morris County	Lamington River	Downstream corporate limits	*694
			Approximately 5,000' feet upstream of downtown corporate limits.	*696
			Up stream of Righter Road	*700
			Approximately 200' upstream of American Legion Memorial Highway (State Route 50).	*706
			Approximately 4,700' upstream of American Legion Memorial Highway (State Route 50).	*707
		Musconetcong River	Downstream of corporate limits	*862
			Upstream of Conrail	*871
			Approximately 2,550' upstream of Conrail	*877
		Rockaway River	Downstream corporate limits	*673
			Upstream corporate limits	*675
			Approximately 2,800' upstream of upstream corporate limits.	*686
			Approximately 4,500' upstream of upstream corporate limits.	*689
		Drakes Brook	Downstream corporate limits	*686
			Upstream of Emmans Road	*719
			Upstream of access road	*724
		Succasunna Brook	Confluence with Lamington River	*697
			Upstream side of Eyland Avenue	*700
Maps available for inspection at the Municipal Building, 72 East Eyland Avenue, Succasunna, New Jersey.				
Send comments to Honorable Paul Zignola, Mayor of Roxbury Township, Municipal Building, 72 East Eyland Avenue, Succasunna, New Jersey 07876.				
New Jersey	Somerville, Borough, Somerset County	Raritan River	Upstream corporate limits	*51
			Upstream of of U.S. Route 206	*48
			Downstream corporate limits	*47
		Peters Brook	Downstream corporate limits	*47
			Upstream North Bridge Street	*48
			Upstream corporate limits	*60
		Ross Brook	Confluence with Peters Brook	*47
			Upstream corporate limits	*64
		Mars Brook	Confluence with Peters Brook	*56
			Upstream corporate limits	*62
Maps available for inspection at the Municipal Building, 25 West End Avenue, Somerville, New Jersey.				
Send comments to Honorable Phillip S. Heathcote, Mayor of Somerville, Municipal Building, 25 West End Avenue, Somerville, New Jersey 08876.				
New Jersey	South Toms River, Borough, Ocean County	Toms River	Entire shoreline within community	*6
		Jakes Branch	At the confluence with Toms River	*6
			Parkway Access Road (upstream)	*10
			Double Trouble Road (upstream)	*18
			Approximately 1,950 feet upstream of Double Trouble Road.	*21
Maps available for inspection at the Municipal Building, 144 Mill Street, South Toms River, New Jersey.				
Send comments to Honorable William E. Yannette, Mayor of South Toms River, Municipal Building, 144 Mill Street, South Toms River, New Jersey 08753.				
New Mexico	Town of Bernalillo, Sandoval County	Rio Grande	Just upstream of New Mexico Highway 44	*5,056
Maps available for inspection at Town Hall, 901 Camino Del Pueblo, Bernalillo, New Mexico 87004.				
Send comments to Mayor H. J. Torres or Ruth Lopez, Town Hall, 901 Camino Del Pueblo, Bernalillo, New Mexico 87004				
New Mexico	Unincorporated areas of Chaves County	North Berrendo Creek	Just upstream from Atchison, Topeka & Santa Fe Railway.	*3,543
			Just downstream from U.S. Highways 285 and 70	*3,582
		South Berrendo Creek	Just upstream from Berrendo Road	*3,555
			Approximately 100 feet upstream from Main Street (U.S. Highways 285 and 70).	*3,589
		Rio Hondo	Approximately 400 feet upstream from confluence with South Berrendo Creek.	*3,510
			Just upstream from State Highway 253	*3,514
		Pecos River	Just downstream of State Highway 31	*3,390
			Just downstream of confluence of Rio Felix	*3,403
		Rio Felix	Just downstream of Atchison, Topeka & Santa Fe Railway.	*3,411
			Just downstream from U.S. Highway 285 Alternate and State Highway 2.	*3,420
			Just upstream from State Highway 339	*3,451
		North Spring River	South of College Boulevard at the eastern corporate limits of the City of Roswell.	#2
		South Spring River	Just downstream of U.S. Highway 285 Bypass and State Highway 2.	*3,560
		Thirteen Mile Draw	Just upstream of U.S. Highway 285	*3,571

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Tumbleweed Draw	Approximately 400 feet downstream of State Highway 2.	*3,552
			Just upstream of State Highway 285 Alternate	*3,568

Maps available for inspection at the office of the Chaves County Manager, County Courthouse, Roswell, New Mexico 88201.

Send comments to Mr. Curtis Woolf, Chaves County Manager or Mr. Jerry Smith, Flood Control Commissioner, County Courthouse, P.O. Box 1817, Roswell, New Mexico 88201

New Mexico	Village of Corrales, Bernalillo County	Rio Grande	Just upstream of Corrales Bridge—New Mexico State Highway 46.	*4,997
		Arroyo de los Montoyos	Just upstream of confluence of Unnamed Arroyo No. 4.	*5,071

Maps available for inspection at Village Hall, Corrales, New Mexico 87048.

Send comments to Mayor Anne Dunlap or Mary Ellen Hennessy, Planning and Zoning Administration, Village Hall, P.O. Box 707, Corrales, New Mexico 87048.

New Mexico	Village of Tijeras, Bernalillo County	Tijeras Arroyo	Just upstream of State Highway 14 South Bridge	*6,275
			Just upstream of Primera Agua Bridge	*6,341
			Just upstream of U.S. Highway 66	*6,421

Maps available for inspection at Village Hall, Tijeras, New Mexico 87059.

Send comments to Major Felix Garcia or Theresa Jaramillo, Village Clerk, Village Hall, P.O. Box 9, Tijeras, New Mexico 87059

New York	Amherst, Town, Erie County	Black Creek	At confluence with Ransom Creek	*583
			At upstream corporate limits	*586
		Ellicott Creek	At downstream corporate limits	*574
			Upstream of North Forest Road	*598
			At 1st crossing of corporate limits	*608
			At 2nd crossing of upstream corporate limits	*675
			Downstream of Youngs Road	*690
			Ponding area west of Sweet Home Road between the old railroad grade, Niagara Falls Boulevard and Sunset Court.	*576
			Ponding area north of the old railroad grade between Sweet Home Road, Tonawanda Creek Road and Campbell Boulevard.	*578
		Got Creek	At confluence with Ransom Creek	*583
			At upstream corporate limits	*591
		Ransom Creek	At confluence with Tonawanda Creek	*576
			At upstream corporate limits	*584
			Ponding area south of Scholles Road between Hopkins Road, French Road and Campbell Boulevard.	*580
			Ponding area south of French Road between Dodge and Hopkins Roads.	*582
		Tonawanda Creek	Approximately 1,900 feet downstream of confluence of Bull Creek.	*573
			At upstream corporate limits	*582

Maps available for inspection at the offices of the Town Clerk and the Town Planner, Town Hall, Williamsville, New York, the Town Engineering Department, 1100 North Forest Road, Amherst, New York, and at the Town Highway Department, 1042 North Forest Road, Amherst, New York.

Send comments to Honorable John R. Sharpe, Town Supervisor of Amherst, Town Hall, 5583 Main Street, Williamsville, New York 14221.

New York	Colesville, Town, Broome County	Susquehanna River	Approximately 700 feet downstream of Ouaquaga Bridge.	*931
			Welton Street (extended)	*936
			Thorn Hill Road (extended)	*947
			Approximately 400 feet downstream of Center Village Bridge.	*958
			Delaware and Hudson Railroad	*958
			Approximately 100 feet upstream of Interstate Route 88.	*960
			Approximately 800 feet upstream of Nineveh Bridge	*963

Maps available for inspection at the Colesville Town Hall, Harpersville, New York.

Send comments to Honorable Richard Finch, Box 27, Harpersville, New York 13787.

New York	Guilderland, Town, Albany County	Black Creek	Confluence with Bozen Kill	*284
			Upstream of Depot Road	*314
			Upstream corporate limits	*326
		Bozen Kill	Confluence with Watervliet Reservoir	*265
			Upstream of confluence of Black Creek	*284
		Normans Kill	Downstream corporate limits	*126
			Downstream of Grant Hill Road	*153
			Upstream of State Route 146	*192
			Upstream of Conrail High Level Bridge	*238
			Upstream of State Route 158	*266
			Upstream corporate limits	*277
		Altamont Tributary 2	Confluence with Bozen Kill	*342
			Upstream of Gun Club Road	*387
		Vly Creek	Confluence with Normans Kill	*127
			Upstream corporate limits	*127

Maps available for inspection at the Town Hall, Route 20, Guilderland, New York.

Send comments to Honorable Kevin Moss, Supervisor of Guilderland, Town Hall, Route 20, Guilderland, New York 12084.

New York	Laurel Hollow, Village, Nassau County	Cold Spring Harbor	From the Village of Laurel Hollow-Village of Cove Neck corporate limits to a point approximately 4,000 feet south along the Cold Spring Harbor shoreline.	*15

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			From a point approximately 4,000 feet south along the Cold Spring Harbor shoreline from the Village of Laurel Hollow corporate limits to the eastern end of the sand spit.	*14
		Inner Harbor	The entire Inner Harbor shoreline within the community.	*14

Maps available for inspection at the Village Hall, Moores Hill Road, Syosset, New York.

Send comments to Honorable William Smoot, Mayor of Laurel Hollow, Box 1209, Moores Hill Road, Syosset, New York 11791.

New York	Massapequa Park, Village, Nassau County	Jones Creek	Shoreline from northern corporate limits to approximately 50 feet south of extended Wall Court.	*7
			Shoreline from approximately 50 feet south of extended Wall Court to confluence with South Oyster Bay.	*8
		South Oyster Bay	Shoreline from confluence with South Oyster Bay to approximately 230 feet south of extended Sue Drive.	*8
			Shoreline from approximately 230 feet south of extended Sue Drive to northern corporate limits.	*7

Maps available for inspection at the the Village Hall, 151 Front Street, Massapequa, New York.

Send comments to Honorable Robert Thompson, Mayor of Massapequa Park, Village Hall, 151 Front Street, Massapequa, New York 11758.

New York	New Rochelle, City, Westchester County	Long Island Sound	Davids Island	*18
			From southern corporate limits to a point .71 mile north along shoreline.	*16
			From a point .71 mile north along shoreline to Echo Island.	*18
			From Echo Island to Beafort Point	*17
			From Beafort Point along shoreline of Echo Bay to northern corporate limits.	*16

Maps available for inspection at the Department of Public Works, City Hall, 515 North Avenue, New Rochelle, New York.

Send comments to Honorable C. Samuel Kissinger, City Manager of New Rochelle, City Hall, 515 North Avenue, New Rochelle, New York 10801.

New York	Stockport, Town, Columbia County	Claverack Creek	Confluence with Kinderhook Creek and Stockport Creek.	*27
			Upstream of County Route 25	*38
			Downstream of Dam	*70
			Downstream of State Route 401	*99
			Upstream Corporate Limits	*121
		Fitting Creek	Confluence with Claverack Creek	*39
			Downstream of Fitting Road	*76
			Upstream Corporate Limits	*93
		Hudson River	Entire shoreline within community	*13
		Kinderhook Creek	Confluence with Claverack Creek and Stockport Creek	*27
			Upstream of Rossman Road	*41
			Upstream of Rossman Falls	*69
			Upstream Corporate Limits	*88
		Stockport Creek	Downstream of U.S. Route 9	*13
			Confluence with Claverack Creek and Stockport Creek	*27

Maps available for inspection at the the Town Hall, Stottsville, New York.

Send comments to Honorable William F. Kosnick, Supervisor of Stockport, R. D. 1, Stuyvesant, New York 12173.

North Carolina	Unincorporated Areas of Greene County	Contentnea Creek	Just downstream of State Route 1004	*31
			Just downstream of State Highway 123	*38
			Just upstream of U.S. Highway 13	*49
			Just upstream of State Route 1222	*52
			Just downstream of State Route 1225	*59
		Little Contentnea Creek	Just upstream of State Highway 903	*34
			Just upstream of State Route 1343	*43
			Just upstream of State Route 1306	*84
			Just downstream of State Route 1308, at the County Limits.	*88
		Middle Swamp	Just upstream of State Route 1344	*44
			Just upstream of U.S. Highway 13	*50
			Just upstream of U.S. Highway 258	*64

Maps available for inspection at the County Finance Office, Greene County Office Complex, 229 Kingold Boulevard, Snow Hill, North Carolina 28580.

Send comments to Mr. Frank Walston, Jr., Chairman of Board of County Commissioners, Route 2, Walstonberg, North Carolina 27888, or Mr. George L. Newborn, County Finance Officer, P.O. Box 5, Snow Hill, North Carolina 28580.

North Carolina	Town of Hazelwood, Haywood County	Richland Creek	Just upstream of Elysinia Street	*2,696
			Approximately 80 feet downstream of West Main Street.	*2,703
		Browning Branch	Approximately 80 feet downstream of Scates Street	*2,735

Maps available for inspection at the Town Hall, Hazelwood, North Carolina 28738.

Send comments to Mayor Lester Poteate or Mr. Lawerence D. Davis, Town Clerk, Town Hall, P.O. Box 295, Hazelwood, North Carolina 28738.

North Carolina	Unincorporated Areas of Lenoir County	Neuce River	Just downstream of U.S. Highway 55	*28
			At S.R. 1343 Extended (At confluence of Falling Creek).	*39
			Just upstream of County Road 1152	*49
		Contentnea Creek	Just downstream of Southern Railway	*25
			Just downstream of State Highway 11	*27
			Just downstream of County Road 1004	*31

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Eagle Swamp	Just downstream of County Road 1800	*25
			Just downstream of State Highway 11	*31
		Stonyton Creek	Just downstream of S.R. 1721	*51
			Just downstream of State Highway 11	*33
			Just upstream of County Road 1742	*37
			Just downstream of S.R. 1004	*50
		Jerico Run	Just upstream of County Road 1581	*67
		Briery Run	Just downstream of State Highway 55	*30
		Southwest Creek	At confluence with Stonyton Creek	*38
			Just upstream of State Road 1804	*32
			Just upstream of U.S. Highway 258	*59
			Just downstream of County Road 1111	*89
			Just downstream of N.C. 11	*80
			Just upstream of County Road 1143	*108
		Deep Run	Just upstream of County Road 141	*81
			Just downstream of State Highway 11	*85
		Falling Creek	Just upstream of U.S. Highway 70	*48
			Just upstream of County Road 1001	*69
		Falling Creek Tributary	Approximately 150 feet downstream of County Road 1544.	*58
			Approximately 200 feet downstream of a private drive	*73
		Gum Swamp	Just downstream of County Road 1001	*67
			Just upstream of County Road 1001	*70
			Just upstream of County Road 1543	*80
		Jumping Run	Just downstream of County Road 1531	*88
			Just downstream of County Road 1628	*105
		Mosley Creek	Just downstream of County Road 1327	*69
			Just downstream of County Road 1518	*73
			Just upstream of County Road	*82
		Groundnut Creek	Just upstream of County Road 1515	*78
			Just upstream of County Road 1414	*87
			Just downstream of County Road 1504	*90
		Bear Creek	Just downstream of County Road 1366	*58
			Just downstream of U.S. Highway 70 Eastbound	*67
			Just downstream of County Road 1501	*76
		Tuckahoe Swamp	Just upstream of County Road 1105	*92
			Just downstream of County Road 1109	*100

Maps available for inspection at the Countywide Building Inspector's Office, and at the City Planners Office, Kinston City Hall, East King Street, Kinston, North Carolina 28501.

Send comments to Mr. Richard Whaley, Chairman, Lenoir County Commission, Lenior County Courthouse, P.O. Box 3289, or Mr. Ross Hill, Countywide Building Inspector, P.O. Box 339, Kinston, North Carolina 28501.

North Carolina	Pitt County (unincorporated areas)	Tar River	Intersection of secondary roads 1535 and 1536	*19
		Hardee Creek	100 feet upstream from center of secondary road 1726.	*37
		Juniper Branch	60 feet upstream from center of secondary road 1755	*38
		Indian Wells Swamp	100 feet upstream from center of State Highway 43	*47
		Moves Run—Cannon Swamp	Intersection of secondary roads 1523 and 1537	*26
		Baldwin Swamp	Intersection of secondary roads 1534 and 1535	*20
		Baldwin Swamp—North Tributary	100 feet upstream from center of U.S. Highway 264	*22
		Pinelog Branch	50 feet upstream from center of secondary road 1217	*55
		Pinelog Branch—North Tributary	100 feet downstream from center of secondary road 1210.	*71
		Pinelog Branch—South Tributary	50 feet uptream of secondary road 1200	*74

Maps available for inspection at County Auditor's Office, 1717 West 5th Street, Greenville, North Carolina.

Send comments to the Honorable Burney L. Tucker, 1717 West 5th Street, Greenville, North Carolina 27834.

North Caroline	Town of Waynesville, Haywood County	Richland Creek	Just downstream of U.S. Highway 19	*2,568
			Just upstream of Howell Mill Road	*2,594
			Just upstream of Southern Railway	*2,598
			Just upstream of Vance Street	*2,606
			Just upstream of State Road 1247	*2,640
		Racoon Creek	Just upstream of Elysina Street	*2,696
			Just upstream of Southern Railway	*2,581
			Just upstream of State Road 1250	*2,594
			Just downstream of Ratcliffe Cove Road (State Road 1818).	*2,610
		Browning Branch	Just downstream of State Road 1810	*2,641
			Just upstream of U.S. Highway 19A and Business Road 23.	*2,759
			Just upstream of Browning Road	*2,776
			Just downstream of Polk Street	*2,795
		Allen Creek	Just downstream of Camp Branch Road	*2,805
			Just upstream of Southern Railway	*2,758
			Just upstream of U.S. Highway 19A and 23	*2,772
			Just upstream of Hendricks Street	*2,793
			Just upstream of State Road 1148	*2,877

Maps available for inspection at Town Hall, 106 South Main Street, Waynesville, North Carolina 28786.

Send comments to Mayor Henry C. Clayton or Mr. Bill Sutton, Town Manager, Town Hall, 106 South Main Street, Waynesville, North Caroline 28786.

North Carolina	Unincorporated areas of Wilson County	Whiteoak Swamp	Just downstream of State Highway 264	*82
		Whiteoak Swamp Tributary	Just downsteam or State Road 1522	*87
		Toisnot Swamp	Just upstream of U.S. Highway 264	*88
			Just downstream of State Road 1332	*118
			Just upstream of State Road 1332	*122
			Just downstream of Country Club Drive and Dam	*129

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			Just upstream of Wimbledon Drive	*133
			Just upstream of State Highway 58	*135
		Contentnea Creek	Just downstream of State Highway 58	*63
			Just upstream of State Highway 222	*65
			Just upstream of State Road 1628	*70
			Just upstream of Downing Street	*100
			Just downstream of State Road 1144	*135
		Black Creek	Just downstream of U.S. Highway 117	*91
			Just upstream of State Road	*93
		Black Creek Tributary	Just downstream of State Road 1645	*100
		Tributary to Black Creek Tributary	Just downstream of State Road 1649	*118
		Contentnea Creek Tributary	Just upstream of State Road 1613	*90
			Just downstream of State Road 1615	*103
		Horniny Swamp	Just downstream of City of Wilson extraterritorial Jurisdiction Limits.	*85
		Bloomery Swamp	Just downstream of State Highway 42	*101
			Just upstream of State Road 1158	*110
			Just downstream of Interstate 95	*137
		Millstone Creek	Just upstream of State Road 1302	*160
		Shepard Branch	Just downstream of State Road 1136	*124
		Mill Branch	Just downstream of State Road 1160	*130
		Little Swamp	Just upstream of State Highway 42	*128
		Marsh Swamp	Just upstream of State Road 1149	*130
			Just downstream of State Road 1147	*151
			Just downstream of (Dam) State Road 1134	*221
		Marsh Swamp Tributary	Just downstream of State Road 1133	*193

Maps available for inspection at Planning Director's Office, County Courthouse, 115 Eash Nash Street, Wilson, North Carolina 27893.

Send comments to Mr. Garry Mercer, Wilson County Manager or Mr. Ed Phillips, County Planning Director, County Courthouse, P.O. Box 1728, Wilson, North Carolina 27893

Ohio	(C) Canton Stark County	Nimishillen Creek	Just downstream of Mill Street	*1,003
			At confluence of West Branch Nimishillen Creek	*1,009
		East Branch, Nimishillen Creek	Just upstream of Eighth Street, N.E	*1,038
			Just upstream of Conrail (about 2,800 feet upstream of Belden Avenue, N.E.).	*1,050
		West Branch, Nimishillen Creek	Just upstream of Cleveland Avenue, S.W	*1,014
			About 500 feet upstream of Conrail	*1,022
			About 500 feet downstream of confluence of McDowell Ditch.	*1,042
			About 400 feet downstream of Interstate 77	*1,044
			About 150 feet upstream of Thirty-eighth Street, N.W	*1,052
			About 2,500 feet upstream of Vinal Avenue	*1,065
		Sherrick Run	Just downstream of Allen Avenue, S.E	*1,004
			Just upstream of Chessie System	*1,012
			About 100 feet downstream of Cherry Avenue, S.E	*1,022
			About 150 feet upstream of Cherry Avenue, S.E	*1,030
			About 250 feet upstream of Warner Road, S.E	*1,034
		McDowell Ditch	At confluence with West Branch Nimishillen Creek	*1,043
			Just downstream of Thirty-eighth Street, N.W	*1,047
		Middle Branch, Nimishillen Creek	At confluence with East Branch Nimishillen Creek	*1,041
			Just downstream of Spangler Street, N.E	*1,048
			About 2,600 feet upstream of Martindale Road	*1,056
		Tributary No. 1	At confluence with Middle Branch Nimishillen Creek	*1,054
			About 1,200 feet upstream of confluence with Middle Branch Nimishillen Creek.	*1,054
			About 0.7 mile upstream of confluence with Middle Branch Nimishillen Creek.	*1,060
		Fairhope Ditch	About 1,300 feet upstream of Louisville Street	*1,084
			About 1,400 feet downstream of Lesh Street	*1,088

Maps available for inspection at the Department of City Planning and Zoning, City Hall, 218 Cleveland Avenue, S.W., Canton, Ohio. Send comments to Honorable Stanley Cernich, Mayor, City of Canton, City Hall, 218 Cleveland Avenue, S.W., Canton, Ohio 44702.

Ohio	(C) Mingo Junction, Jefferson County	Ohio River	At downstream corporate limits	*668
			About 6,785 feet upstream of Conrail	*669

Maps available for inspection at the Mayor's Office, City Hall, 501 Commercial Street, Mingo Junction, Ohio.

Send comments to Honorable John Lewis, Mayor, City of Mingo Junction, City Hall, 501 Commercial Street, Mingo Junction, Ohio 43938.

Ohio	(C) Steubenville, Jefferson County	Ohio River	About 0.55 mile downstream of Conrail (near Permons Run Culvert).	*669
			At upstream corporate limit	*672

Maps available for inspection at the Mayor's Office, City Hall, 123 South Third Street, Steubenville, Ohio.

Send comments to Honorable William Crabbe, Mayor, City of Steubenville, City Hall, 123 South Third Street, Steubenville, Ohio 43952.

Oklahoma	City of Lindsay, Garvin County	Washita River	Approximately 1,000 feet downstream of Washita River.	*975
		Hybarger Creek	Just upstream of East 4th Street	*971
			Approximately 300 feet downstream of West 7th Street.	*974

Maps available for inspection at City Hall, 308 S.W. Second Street, Lindsay, Oklahoma 73052.

Send comments to Mayor Mike Sommers or Mr. Bill Cowan, City Manager, City Hall, P.O. Box 708, Lindsay, Oklahoma 73052.

Okalhoma	City of Waurika, Jefferson County	Cow Creek	Just upstream of Chicago Rock Island and Pacific Railroad.	*882
			Just upstream of Meridian Street	*888

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Beaver Creek	Just upstream of U.S. Highway 70	*875
			Approximately 300 feet upstream of Chicago Rock Island and Pacific Railroad.	*890
			Just downstream of State Highway 5	*897

Maps available for inspection at City Hall, 107 West Anderson Street, Waurika, Oklahoma 73573.

Send comments to Mayor Seburn Lovett or Mr. Stan Patty, City Manager, City Hall, 107 West Anderson Street, Waurika, Oklahoma 73573.

Texas	City of Anahuac, Chambers County	Lake Anahuac	Approximately 570 feet west of intersection of North Main Street and South Main Road along North Main Street.	*13

Maps available for inspection at City Hall, 501 Miller Street, Anahuac, Texas 77514.

Send comments to Mayor W. L. Strempte, or Mr. Robert Nelson, City Administrator, City Hall, P.O. Box 578, Anahuac, Texas 77514.

Texas	City of Beaumont, Jefferson County	Jones Gully	Just upstream of Langham Road	*19
			Just upstream of Montrose Street	*23
			Just upstream of FM 364 (Major Drive)	*27
		Hillebrandt Bayou	Just upstream of State Highway 124 (Fannett Road)	*10
			Just downstream of Washington Boulevard	*12
			Just upstream of Phelan Boulevard	*19
			Just upstream of Folsom Drive	*27
		Hillebrandt Oxbow	Just downstream of U.S. Highway 90 (College Street)	*11
			Just upstream of 23rd Street	*18
		Walker Branch	Just downstream of Tram Road	*24
			Just upstream of Tram Road	*25
		Walker Branch Tributary	Just upstream of Tram Road	*22
		Neches River	Just upstream of Kansas City Southern Railroad	*10
			Just upstream of Interstate 10 and U.S. Highway 90	*11
		Pine Island Bayou	Just downstream of Atchison Topeka and Santa Fe Railroad.	*16
			Just downstream of U.S. Highway 69, 96 and 287	*17
		Willow March	Just upstream of Tyrrell Park Road	*13
			Just downstream of State Highway 124	*15
			Just upstream of Interstate Highway 10	*16

Maps available for inspection at City Hall, 801 Main Street, Beaumont, Texas 77704.

Send comments to Mayor Maurice Meyers, City Hall, P.O. Box 3827, Beaumont, Texas 77704.

Texas	Town of Bevil Oaks, Jefferson County	Pine Island	Just upstream of eastern corporate limits	*23
			Just downstream of State Highway 105	*27

Maps available for inspection at Town Hall, 7390 Sweet Gum Street, Bevil Oaks, Texas 77706.

Send comments to Mayor Jim Whitmeyer or Mr. Horace Davidson, Mayor Pro-Tem, Bevil Oaks Town Hall, Route 1, Box K2A, Beaumont, Texas 77706.

Texas	City of Bridge City, Orange County	Gulf of Mexico, Sabine Lake	Intersection of Texas Avenue and northeastern corporate limits.	*8
			Intersection of Rosen Street and Farm Drive	*8
			Intersection of Thurman and Young Streets	*8
			Intersection of Gulf States Drive and Joel Street	*8
			Intersection of Texas Avenue and southwestern corporate limits.	*9

Maps available for inspection in Council Chambers, City Hall, 260 Rachal Street, Bridge City, Texas 77611.

Send comments to Mayor Gordon Harvey or Mr. C. R. Nash, City Manager, City Hall, P.O. Box 846, Bridge City, Texas 77611.

Texas	City of Groves, Jefferson County	Shallow flooding area	At intersection of Little John Lane and Sherwood Lane	*4
			Approximately 800 feet southeast along Perry Avenue from the intersection of Perry Avenue and David Street.	*4

Maps available for inspection at Public Works Building, 4925 McKinley Avenue, Groves, Texas 77619.

Send comments to Mayor Sylvester Moorer or Mr. Elmer Lewis, Building Inspector, City Hall, P.O. Box 846, Groves, Texas 77619.

Texas	City of Orange, Orange County	Sabine River	Just upstream of Interstate Highway 10	*11
		Adams Bayou	Approximately 6,000 feet upstream of West Green Avenue.	*8
			Approximately 2,000 feet upstream of Interstate Highway 10.	*9
		Coopers Gully	Just downstream of 10th Street	*8
		Hudson Gully	Just downstream of 37th Street	*11
		Little Cypress Bayou	Just upstream of State Highway 87	*12

Maps available for inspection at Planning Office, Fourth and Main Streets, Orange, Texas 77630.

Send comments to Mayor Major Inman, City Hall, or Mr. Ken Drozd, Planning Office, P.O. Box 520, Orange, Texas 77630.

Texas	Unincorporated areas of Orange County	Anderson Gully	Approximately 200 feet downstream of Russell Street	*19
			Approximately 200 feet downstream of Bailey Street	*22
		Caney Creek	Just downstream of FM 1132	*21
		Coon Bayou	Just downstream of State Highway 87	*8
		Cow Bayou	Approximately 100 feet upstream of confluence of Sandy Creek.	*9
		Gum Gully	Approximately 300 feet upstream of Alley Payne Road	*11
		Little Cypress Bayou	Approximately 1,000 feet upstream of Farm Road	*15
		Neches River	Approximately 1,500 feet upstream of Interstate Highway 10.	*11
			Approximately 2,000 feet below Jasper County/Orange County Line.	*20

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Sabine River	Just downstream of Southern Pacific Railroad	*14
			Approximately 1,500 feet upstream of Southern Pacific Railroad.	*15
		Sandy Creek	Downstream of Southern Pacific Railroad	*9
			Just downstream of J.B. Arrington Road	*10
		Ten Mile Creek	Just downstream of State Road 1131	*17
		Ten Mile Creek West Fork	Just downstream of FM 1131	*17
		Tiger Creek	Approximately 150 feet upstream of State Road 105	*19
		Walnut Run	Just upstream of Shell Drive	*19
		Sabine Lake/Sabine River	At the confluence of Adams Bayou and Sabine River	*9
		Sabine Lake/Neches River	Just upstream of State Highway 87	*9

Maps available for inspection at Orange County Courthouse, Room 207, Corner of Border and Division Streets, Orange, Texas 77630.

Send comments to Judge Joseph L. Runnels, or Mr. Collie Harmon, Flood Plain Administrator, Orange County Courthouse, Orange, Texas 77630.

Texas	City of Pinehurst, Orange County	Adams Bayou	Downstream of West Park Avenue	*8
			Just upstream of Interstate Highway 10	*9

Maps available for inspection at City Hall, 3640 Mockingbird Street, Pinehurst, Texas 77630.

Send comments to Mayor Robert Vaughn or Mr. C. J. Huckaby, City Councilman, Pinehurst City Hall, 3640 Mockingbird Street, Orange, Texas 77630.

Texas	City of Pleasant Valley, Wichita County	East Fork, Pond Creek	Approximately 150 feet downstream of Fort Worth and Denver Railroad.	*968
		Middle Fork, Pond Creek	Just downstream of Pleasant Valley Road	*959
			Just upstream of U.S. Highway 287 Business	*979
		West Fork, Pond Creek	At Corporate Limits	*971

Maps available for inspection at the Midway Fish Farm, Pleasant Valley, Texas 76367.

Send comments to Mayor Leon Little, Route 2, Box 179 or Mr. Glen Miller, City Secretary, Route 2, Box 129, Iowa Park, Texas 76367.

Texas	City of Port Neches, Jefferson County	Sabine Lake/Neches River	MacArthur Drive if extended	*7
			Marion Street if extended	*8
			Pine Street if extended approximately 800 feet from intersection of Old Street.	*7
			Pine Street if extended approximately 1,400 feet from intersection of Old Street.	*8

Maps available for inspection at City Hall, 634 Avenue C, Port Neches, Texas 77651.

Send comments to Mayor Gary Graham or Ms. Renella Babin, City Secretary, City Hall, P.O. Box 758, Port Neches, Texas 77651.

Texas	City of Rose City, Orange County	Neches River	At intersection of Daisy Lane and Sparrow Drive	*11
			At intersection of Primrose City Lane and Camelia Lane.	*9

Maps available for inspection at City Hall, Rose City, Texas 77662.

Send comments to Mayor Layman Frugia, City Hall of Rose City, 370 Rose City Drive, Vidor, Texas 77662.

Texas	City of Vidor, Orange County	Anderson Gully	Just downstream of Orange Street	*22
			Just downstream of Bolivar Street	*22
		Meyers Bayou	Just upstream of Old Spanish Trail	*8
			Just upstream of Taylor Street	*18

Maps available for inspection at City Hall, 170 North Main, Vidor, Texas 77662.

Send comments to Mayor Drew Stephenson, City Hall, 170 North Main, Vidor, Texas 77662.

Texas	City of West Orange, Orange County	Adams Bayou	Just upstream of Western Avenue	*8

The flooding at this location is due to coastal surge from the Gulf of Mexico and Sabine Lake and also from backwater on Sabine River.

Maps available for inspection at City Hall, 2700 Austin Avenue, West Orange, Texas 77630.

Send comments to Mayor Glen F. Seale, or Mr. Walter Schexnyder, Personnel Director, West Orange City Hall, 2700 Austin Avenue, Orange, Texas 77630.

Virginia	Portsmouth, City, Independent City	Hampton Roads Harbor	Hampton Roads shoreline in the northern part of the city; east from the mouth of Hoffler Creek to the mouth of the Elizabeth River.	*12

Maps are available for inspection at City Hall, 801 Crawford Street, Portsmouth, Virginia.

Send comments to G. Robert House, City Manager, City of Portsmouth, City Hall, P.O. Box 820, Portsmouth, Virginia 23705.

Wisconsin	(Uninc.) Oconto County	Oconto River	At City of Oconto corporate limits, about 8,950 feet upstream of U.S. Highway 41.	*590
			Just downstream of County Highway J	*598
			Just downstream of Machickanee Dam	*609
			Just upstream of Machickanee Dam	*623
			About 3,700 feet downstream of Paper Mill Dam	*637
			About 4,200 feet upstream of Power Dam	*733
			About 1,600 feet upstream of County Highway BB	*744
			About 2.2 miles upstream of County Highway BB	*757
			About 2.4 miles downstream of County Highway V	*774
			About 3,000 feet upstream of County Highway H	*784
			About 1.9 miles downstream of State Highway 32	*794
			Confluence of South Branch Oconto River	*797
		South Branch, Oconto River	About 1.1 miles upstream of mouth at Oconto River	*799
		North Branch, Oconto River	Just downstream of Chicago and North Western Railroad (1.4 miles upstream of confluence of South Branch Oconto River).	*798
			About 2.8 miles downstream of North Branch Road	*802
			Just downstream of Logan Road	*817

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			About 1.6 miles downstream of State Highway 32, which is about 1.1 miles downstream of confluence of Waupee Creek.	*835
			Just downstream of Chute Dam	*857
			Just upstream of Chute Dam	*870
			Just downstream of Kingston Road	*873
			About 1.2 miles upstream of Kingston Road	*913
			About 4,200 feet upstream of County Highway W	*926
			About 1.17 miles downstream of State Highway 32 and 64.	*949
			Just upstream of State Highway 32 and 64	*1,027
			Just upstream of Old 32 Road	*1,073
			Just upstream of Tar Dam Road	*1,087
			About 1.1 miles downstream of County Highway F	*1,145
			Just upstream of Riverside Road	*1,152
		McCaslin Brook	About 1.5 miles upstream of Riverside Road	*1,163
			About 900 feet upstream of Old 32 Road	*1,173
			About 2,900 feet upstream of Old 32 Road	*1,196
			Just downstream of North Road	*1,233
			Just upstream of North Road	*1,238
			Just upstream of Chain Lake Road	*1,252
			Just upstream of County Highway T	*1,299
			Just upstream of Old County Highway T	*1,309
		Christie Brook	About 4,150 feet downstream of County Highway BB	*762
			About 300 feet downstream of State Highway 32	*794
			About 700 feet upstream of Klaus Lake Road	*815
		Hayes Creek	Just upstream of Hayes Lane	*830
			Just downstream of Apple Road	*843
		Waupee Creek	About 1.4 miles downstream of County Highway W	*915
			Just upstream of Pritchard Lane	*936
		Pensaukee River	About 100 feet downstream of County Highway S	*585
			About 520 feet upstream of Old Highway 41	*592
			Just downstream of U.S. Highway 41	*596
			About 5,100 feet downstream of confluence of Spring Creek.	*635
			About 150 feet upstream of U.S. Highway 141	*656
			About 175 feet upstream of Chicago, Milwaukee, St. Paul and Pacific Railroad.	*667
			About 2.0 miles upstream of Chicago, Milwaukee, St. Paul and Pacific Railroad.	*677
			About 1,900 feet downstream of Safian Road	*756
			Just downstream of State Highway 32	*773
		Brookside Creek	Mouth at Pensaukee River	*606
			About 250 feet upstream of Moody Road	*609
			About 3,200 feet upstream of U.S. Highway 41	*616
			About 100 feet upstream of Falk Road	*637
			Just upstream of Oak Orchard Road	*655
			About 125 feet upstream of Cross Road	*677
		Spring Creek	Mouth at Pensaukee River	*644
			About 1,700 feet upstream of Nikodem Lane	*674
			About 175 feet upstream of Sandlewood Road	*692
			Just upstream of County Highway E, upstream of confluence of Spring Creek Tributary.	*714
		Spring Creek Tributary	Mouth at Spring Creek	*703
			About 425 feet upstream of Burdosh Road	*713
		Little Suamico River	About 2,800 feet downstream of Chicago and North Western railroad.	*585
			Just upstream of Chicago and North Western railroad	*589
			About 125 feet upstream of U.S. Highways 41 and 141.	*619
			About 100 feet upstream of Chicago, Milwaukee, St. Paul and Pacific Railroad.	*640
			About 200 feet upstream of Cross Road	*643
			Just upstream of Jaworski Road	*769
			About 950 feet upstream of Waste Treatment Plant Road.	*793
		Tibbet Creek	Just downstream of Old Deer Road	*585
			About 750 feet upstream of Chicago and North Western railroad.	*591
			About 800 feet downstream of Geano Beach Road	*625
		Tributary No. 1	Mouth at Green Bay	*585
			About 350 feet upstream of County Highway S	*588
			Just upstream of Pine Avenue	*591
		Tributary No. 2	Just upstream of Maple Avenue	*650
			Just downstream of Landfill Road	*684
		Green Bay	At shoreline	*585
		Shallow flooding	West of U.S. Highway 41, east of South Rangeline Road, north of City of Oconto corporate limits.	*595

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			East of Chicago and North Western railroad, south of County Highway S.	*594

Maps available for inspection at the Zoning Administrator's Office, Courthouse, Oconto, Wisconsin.

Send comments to Honorable Oscar Tachik, County Board Chairman, Oconto County, Courthouse, Oconto, Wisconsin 54153.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director)

Issued: March 22, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-10864 Filed 4-22-82; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 67

[Docket No. FEMA-6243]

National Flood Insurance Program; Proposed Flood Elevation Determinations; Correction

AGENCY: Federal Emergency Management Agency.

ACTION: Proposed rule; correction.

SUMMARY: This document corrects a Notice of Proposed Determinations of base (100-year) flood elevations for selected locations in the City of Cincinnati, Hamilton County, Ohio, previously published at 47 FR 3379 on January 25, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, National Flood Insurance Program, (202) 287–0230, Federal Emergency Management Agency, Washington, D.C. 20472.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency gives notice of the correction to the Notice of Proposed Determinations of base (100-year) flood elevations for selected locations in the City of Cincinnati, Hamilton County, Ohio previously published at 47 FR 3379 on January 25, 1982, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 44 CFR 67.4(a)).

On page 3383, January 25, 1982, make the following corrections. The elevation for the location "within the community" on "Little Miami River" was changed from 502 to 501 in order to reflect the backwater from the Ohio River present on the Little Miami River. In the location "at confluence of East Fork Mill Creek" on "Mill Creek," east replaced west to avoid confusion with a location on the "West Fork". The source of flooding named "West Fork Mill Creek" was changed to "West Fork" to reflect the correct topographic name of the stream. On the "West Fork," the location "at confluence with Mill Creek" added the description "(near Geringer Street)" in order to clarify possible confusion with the confluence of West Fork Mill Creek, which is a different stream. The new location for "Congress Run," "about 700 feet upstream of Ridgeway Avenue" and the new elevation 542, were corrected so that it would be within the corporate limits.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that the (proposed) flood elevation determinations, if promulgated, will not have a significant economic impact on a substantial number of small entities. A flood elevation determination under section 1363 forms the basis for new local ordinances, which, if adopted by a local community will govern future construction within the flood plain area. The elevation determinations, however, impose no restriction unless and until the local community voluntarily adopts flood plain ordinances in accord with these elevations. Even if ordinances are adopted in compliance with Federal standards, the elevations prescribe how high to build in the flood plain and do not proscribe development. Thus, this action only forms the basis for future local actions. It imposes no new requirement; of itself it has no economic impact.

List of Subjects in 44 CFR Part 67

Flood insurance, Flood plains.

The listing appears correctly as follows:

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Ohio	(C) Cincinnati, Hamilton County	Little Miami River	Within community	*501
		Mill Creek	Just upstream of confluence with Ohio River	*497
			At confluence of East Fork Mill Creek	*539
		West Fork	At confluence with Mill Creek (near Geringer Street)	*485
		Clough Creek	At confluence with Little Miami River	*501
		Duck Creek	At confluence with Little Miami River	*501
		Congress Run	At confluence with Mill Creek	*520
			About 700 feet upstream of Ridgeway Avenue	*542

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; (42 U.S.C. 4001–4128); Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director)

Issued: April 5, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-10877 Filed 4-20-82; 8:45 am]

BILLING CODE 6718-03-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 654

Stone Crab Fishery

AGENCY: National Oceanic and Atmospheric Administration, Commerce.

ACTION: Proposed rule.

SUMMARY: The Assistant Administrator for Fisheries, NOAA, has approved an amendment to the Fishery Management Plan for the Stone Crab Fishery of the Gulf of Mexico (FMP). NOAA proposes regulations to implement the FMP amendment and proposes a regulatory amendment to provide for the disposition of stone crab traps remaining in the fishery conservation zone during the closed season. NOAA announces the availability of copies of the FMP amendment, and requests comments on the FMP amendment and rulemaking. These regulations are intended to (1) reduce the reporting burden for stone crab fishermen, dealers, and processors; and (2) protect some stone crabs from being caught in lost or abandoned traps.

DATES: Comments on the FMP amendment and on the proposed regulations must be received in writing on or before June 7, 1982.

ADDRESSES: All comments should be sent to Mr. Jack C. Brawner, Acting Regional Director, Southeast Region, National Marine Fisheries Service, 9450 Koger Blvd., St. Petersburg, Florida 33702. Copies of the amendment and current regulations are available from Mr. Brawner upon request.

FOR FURTHER INFORMATION CONTACT: Mr. Jack C. Brawner, 813–893–3141.

SUPPLEMENTARY INFORMATION: The Magnuson Fishery Conservation and Management Act, (Magnuson Act), 16 U.S.C. 1801 *et seq.*, authorizes the Secretary of Commerce (Secretary) to promulgate regulations implementing approved fishery management plans and amendments to fishery management plans, prepared by the Regional fishery Management Councils for their geographic areas of concern. Under Title III of the Act, the Gulf of Mexico Fishery Management Council (Council) prepared and submitted to the Secretary an amendment to the Fishery Management Plan for the Stone Crab Fishery of the Gulf of Mexico (FMP).

The FMP was approved by the Assistant Administrator for Fisheries, NOAA, on March 19, 1979, and implemented by the Secretary on September 14, 1979 (44 FR 53519). After monitoring the stone crab fishery and reviewing the management measures established in the FMP, the Council concluded that amendment of the FMP was necessary and appropriate, and approved changes to the FMP. The Assistant Administrator approved the FMP amendment on March 31, 1982. The FMP amendment (1) provides a procedure for adjusting the location and effective period for the line of separation between stone crab and shrimp fishing; (2) modifies the statistical reporting procedures by requiring only selected fishermen and processors to report; (3) deletes the provision for the harvesting of bait shrimp within the restricted area shoreward of the line of separation; and (4) provides for editorial changes to the FMP.

The first FMP change provides a mechanism by which the Secretary may modify, by regulatory amendment, the provisions of 50 CFR 654.23, *Area restrictions*. This section specifies a geographic line and prohibits shrimp fishing shoreward of this line from January 1 through May 20. The change requires that the National Marine Fisheries Service (NMFS) collect information on catches and fishing effort of the shrimp and stone crab fisheries in areas inshore and offshore of the separation line, and any other information regarding the location of the line or duration of its effect. This information is to be assessed by the NMFS, the Council, and its stone crab and shrimp advisory panels. Based on this information, the Secretary may change the position of the separation line or the period during which shipping is prohibited inshore of the line by proposing a regulatory amendment.

The second change modifies the reporting requirements of the FMP to require mandatory reporting of only a randomly selected sample of catch, effort, and value information from the fishery. Presently, *all* commercial operators and owners of vessels that fish for stone crabs, and dealers and processors of stone crabs, must provide statistical data on all fishing trips monthly to the Southeast Fisheries Center Director (Center Director). The Council determined that accurate data needed to assess management measures may be collected more cost effectively by requiring mandatory reporting by a randomly selected sample of vessel owners and operators, dealers and processors. The Center Director will determine the number of respondents, and the interval and duration for reporting. Reporting forms for all user groups may be obtained from the Center Director. The primary data-collection effort will be directed toward fishermen most actively involved in the fishery, i.e., "full-time" fishermen. Variability of catch is thought to be greatest within this sector of the fishery; therefore, more intensive reporting is required to minimize sampling error. Full-time fishermen usually sell their catch through dealers or fish houses. Most of these fishermen and dealers and processors will be required to maintain records, but will report only that portion of their data which the Center Director determines essential to meet current management objectives. When required to report, dealers may submit copies of their sales receipts.

Fishermen who obtain fishing permits but do not sell their catch through dealers or fish houses are likely to be part-time fishermen. Approximately 25 percent of these fishermen will be required to report information which the Center Director considers essential. Special statistical surveys will be conducted to estimate the amount of recreational stone crab fishing. No more than 10 percent of these recreational fishermen will be randomly selected to report pertinent catch information.

The third change to the FMP deletes an exception which allowed bait shrimp fishermen to trawl inshore of the geographic line separating shrimp and stone crab fishing. the change makes this FMP consistent with the Gulf of Mexico Shrimp FMP.

The fourth change is an editorial correction to the FMP and regulations,

by inserting "landed" in reporting requirements, to facilitate shoreside enforcement.

The Assistant Administrator also approved on March 31, 1982, an amendment to the regulations for this fishery which provides a mechanism for disposition of lost or abandoned stone crab traps in the fishery conservation zone (FCZ). This amendment authorizes the disposition of the traps by the Secretary of Commerce, or an Authorized Officer, to prevent lost or abandoned traps from continuing to catch stone crabs during the closed season.

The abandonment procedure specified in these regulations supplements the procedures provided for seizure, forfeiture, and disposal, 50 CFR Part 219. Special characteristics of the trap fishery for stone crabs necessitate this additional method of abandonment and disposal of traps remaining in the FCZ during the closed season. First, the traps are heavy and bulky, which makes them difficult to handle without proper equipment. Currently, this equipment is not available to law enforcement officers. Second, during the last closed season, thousands of traps were left in the water. Limited resources, both in terms of time and money, make it impractical, if not impossible, for authorized enforcement officers to haul all the traps to shore and to store them for the one-year time period required by 50 CFR 219.29 before the traps can be destroyed. Finally, many of these traps are not properly marked, and it is difficult to determine ownership. The notification process of Part 219, therefore, cannot be easily applied to the stone crab fishery. The procedure of abandonment and destruction provided in these regulations will discourage fishing during the closed season.

Classification

The Assistant Administrator for Fisheries, NOAA, has determined that the FMP changes, the regulations implementing certain of these changes, and the proposed regulatory amendment comply with the national standards, other provisions of the Magnuson Act, and other applicable law.

Under the National Environmental Policy Act (NEPA) and NOAA Directive 02–10, an environmental assessment was prepared to determine if it was necessary to prepare a supplemental environmental impact statement (SEIS). The environmental assessment concluded that adoption and implementation of the amendment and other proposed regulations are not a major Federal action and will not have a significant impact on the quality of the human environment. If further regulatory action is taken under the provisions of the amendment allowing modification of the separation line, and environmental assessment will be prepared and public hearings held to determine if the change is a major Federal action, having a significant impact on the quality of the human environment. If so, a supplemental EIS will be prepared under the NEPA.

The Administrator, NOAA, has determined that this rule is not a major one requiring the preparation of a regulatory impact analysis (RIA) under Executive Order 12291. The major benefits from this regulation are the reduction of the reporting burden for participants in the fishery, and protection of the stone crab stocks from lost or abandoned traps. If further regulatory action is taken under the provisions of the FMP amendment allowing modification to the separation line, NOAA will determine whether an RIA must be prepared for that action.

The Regulatory Impact Review indicated that potential benefits are significantly greater than expected costs. The original FMP resolved an armed conflict between stone crab trap fishermen and shrimp trawl fishermen. This amendment of the FMP allows both fisheries to operate in an orderly manner. Additional benefits will come when the line of separation between the shrimp trawling area and the stone crab trapping area is modified to meet changes in areas of abundance of shrimp and stone crabs. the proposed reporting requirements reduce the reporting burden on the fishermen by 75 percent through the changes from a census-type to a sample-type reporting system. The regulatory amendment enhances law enforcement by authorizing agents to destroy the traps in the FCZ during the closed season after the first-day grace period and before the start of the trap "soak period."

The General Counsel of the Department of Commerce has certified under the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, that this regulation will not have a significant economic impact on a substantial number of small entities and, therefore, does not require a regulatory flexibility analysis. If future regulatory action is taken under the provisions of the FMP amendment to allow modification of the separation line, NOAA will determine whether a regulatory flexibility analysis must be prepared for that rulemaking.

This amendment does not call for additional information and thus does not increase the Federal paperwork burden, as defined by the Paperwork Reduction Act of 1980 (Pub. L. 96–511) for individuals, small businesses, or other persons. Instead, it reduces the reporting burden on participants through the use of random sampling techniques. Collection requirements contained in this regulation (§ 654.5) have been approved by the Office of Management and Budget under the provisions of the Paperwork Reduction Act and have been assigned OMB control numbers 0648–0016 for reports by owners and operators, and 0648–0013 for reports by dealers and processors.

List of Subjects in 50 CFR Part 654

Fisheries.

Dated: April 20, 1982.

Robert K. Crowell,

Deputy Executive Director, National Marine Fisheries Service.

PART 654—STONE CRAB FISHERY

50 CFR Part 654 is proposed to be amended as follows:

1. The authority citation for Part 654 reads as follows:

Authority: 16 U.S.C. 1801 *et seq.*

§ 654.5 [Amended]

2. Paragraph (a) is amended by removing the first sentence and substituting the following sentence in its place: "The owner or operator of any vessel that fishes for stone crabs or any vessel that lands stone crabs or any portion thereof, and who is selected to report, shall report the information required by this paragraph to the Center Director each month on forms obtained from the Center Director."

3. Paragraph (b) is amended by removing that part of the first sentence which precedes the colon and substituting the following phrase in its place: "Any person who receives stone crab claws by way of purchase, barter, trade, or sale from a fishing vessel subject to this Part, and who is selected to report, shall file a monthly report with the Center Director, on forms obtained from the Center Director, which shall contain the following information:"

4. Paragraph (c) is amended by removing the phrase "were received or harvested" and substituting the following phrase in its place: "were landed, received, or harvested".

5. Section 654.22 is amended by adding paragraph (b) to read as follows:

§ 654.22 Closed season.

* * * * *

(b) Stone crab traps in the management area from 0001 hours May 21 to 2400 hours October 4 will be considered unclaimed or abandoned

property and may be disposed in any manner considered appropriate by the Secretary or an Authorized Officer. Owners of these stone crab traps remain subject to appropriate civil penalties.

6. Section 654.23 is revised to read as follows:

§ 654.23 Area restrictions.

Between January 1 and May 20, it is unlawful to use trawl gear in that part of the FCZ (Figure 1) shoreward of a rhumb line connecting in order points B at 26°16.0′ N. latitude and 81°58.5′ W. longitude, C at 26°00.0′ N. latitude and 82°04.0′ W. longitude, D at 25°09.0′ N. latitude and 81°47.6′ W. longitude, E at 24°54.5′ N. latitude and 81°50.5′ W. longitude, and F at 24°41.9′ N. latitude and 81°40.5′ W. longitude (Snipe Point).

[FR Doc. 82-11208 Filed 4-22-82; 8:45 am]

BILLING CODE 3510-22-M

Notices

Federal Register
Vol. 47, No. 79
Friday, April 23, 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

Office of the Secretary

Section 22 Import Fees; Adjustment of Import Fees on Sugar

AGENCY: Office of the Secretary, USDA.

ACTION: Notice.

SUMMARY: Headnote 4(c) of Part 3 of the Appendix to the Tariff Schedules of the United States (TSUS) requires the Secretary of Agriculture to increase by one cent the amount of the fees which shall be imposed on imports of raw and refined sugar (TSUS items 956.05, 956.15, and 957.15) under the authority of Section 22 of the Agricultural Adjustment Act of 1933, as amended, whenever the average daily spot price quotation for raw sugar for 10 consecutive market days within any calendar quarter, adjusted to a United States delivered basis, plus the fee then in effect, is less than the market stabilization price by more than one cent. This notice announces such adjustment.

EFFECTIVE DATE: 12:01 AM (local time at point of entry.) (See supplementary information.) April 23, 1982.

FOR FURTHER INFORMATION CONTACT: William F. Doering, Foreign Agricultural Service, Department of Agriculture, Washington, D.C. 20250, (202) 447–6723.

SUPPLEMENTARY INFORMATION: By Presidential Proclamation No. 4887, dated December 23, 1981, headnote 4 of Part 3 of the Appendix to the TSUS was amended to provide for quarterly adjusted fees on imports of raw and refined sugar (TSUS items 956.05, 956.15, and 957.15). Paragraph (c)(ii) of headnote 4 provides that the quarterly adjusted fee for item 956.15 shall be the amount by which the average of the daily spot (world) price quotations for raw sugar for the 20 consecutive market days immediately preceding the 20th day of the month preceding the calendar quarter during which the fee shall be applicable (as reported by the New York Coffee, Sugar and Cocoa Exchange or, if such quotations are not being reported, by the International Sugar Organization), expressed in the United States cents per pound, Caribbean ports, in bulk, adjusted to a United States delivered basis by adding the applicable duty and attributed costs, is less than the market stabilization price. However, whenever the average of the daily spot price quotations for 10 consecutive market days within any calendar quarter, adjusted to a United States delivered basis, plus the fee then in effect, (1) exceeds the market stabilization price by more than one cent, the fee then in effect shall be decreased by one cent, or (2) is less than the market stabilization price by more than one cent, the fee then in effect shall be increased by one cent. However, the fee may not be greater than 50 per centum of the average of such daily spot price quotations. Paragraph (c)(i) further provides that the quarterly adjusted fee for items 956.05 and 957.15 shall be the amount of the fee for item 956.15 plus .15 times the amount by which the market stabilization price exceeds the 20 day average of the daily spot (world) price quotation for raw sugar as calculated in paragraph (c)(ii) of headnote 4.

The average of the daily spot price quotations for raw sugar (item 956.15) for the 10 consecutive market day period April 1–April 15, inclusive, within the second calendar quarter of 1982, adjusted as provided in headnote 4(c) to a United States delivered basis, plus the fee of 3.0703 cents per pound now in effect for item 956.15 (14.5647 + 3.0703 = 17.6350 cents), is more than one cent less than the market stabilization price of 19.08 cents. Accordingly, the fee of 3.0703 cents per pound for item 956.15 is required to be increased by one cent, resulting in a fee for item 956.15 of 4.0703 cents per pound and a fee for items 956.05 and 957.15 of 5.1782 cents per pound.

Headnote 4(c) requires the Secretary of Agriculture to determine and announce any adjustment in the fees made within a calendar quarter, certify such adjusted fees to the Secretary of the Treasury, and file notice thereof with the **Federal Register** within 3 market days of such determination. This notice is therefore being issued in order to comply with the requirements of headnote 4(c).

Effective Date

In accordance with headnote 4(c)(vii) of part 3 of the Appendix to the Tariff Schedules of the United States, the adjustment in fees made herein shall not apply to the entry or withdrawal from warehouse for consumption of sugar exported (as defined in § 152.1 of the Customs regulations) on a through bill of lading to the United States from the country of origin before the effective date of the adjustment.

Notice

Notice is hereby given that, in accordance with the requirements of headnote 4(c) of Part 3 of the Appendix to the Tariff Schedules of the United States, it is determined that the fees for raw and refined sugar (TSUS items 956.05, 956.15, and 957.15) for the remainder of the second calendar quarter of 1982 shall be as follows:

Item	Fee
956.05	5.1782 cents per lb.
956.15	4.0703 cents per lb.
957.15	5.1782 cents per lb.

The amounts of such fees have been certified to the Secretary of the Treasury in accordance with paragraph (c)(v) of headnote 4.

Signed at Washington, D.C. on April 20, 1982.

John R. Block,

Secretary of Agriculture.

[FR Doc. 82-11175 Filed 4-22-82; 8:45 am]

BILLING CODE 3410-10-M

Soil Conservation Service

Big Cedar Creek Watershed, GA.

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council of Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives

notice that an environmental impact statement is being prepared for the Big Cedar Creek Watershed, Polk and Floyd Counties, Georgia.

FOR FURTHER INFORMATION CONTACT:
Dwight M. Treadway, State Conservationist, Soil Conservation Service, 355 East Hancock Avenue (P.O. Box 832), Athens, Georgia 30613, telephone 404–546–2273.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project may cause significant local, regional, or national impacts on the environment. As a result of these findings, Dwight M. Treadway, State Conservationist, has determined that the preparation and review of an environmental impact statement are needed for this project.

The project concerns a plan for watershed protection and flood prevention on agricultural and urban areas located in the flood plains of Big Cedar Creek and its tributaries. Alternatives under consideration to reach these objectives include systems of conservation land treatment, nonstructural measures, earth dams, channel improvement, earth dikes, floodwater storage basins, floodwater pumping stations, and fish and wildlife mitigation measures.

A draft environmental impact statement will be prepared and circulated for review by agencies and the public. The Soil Conservation Service has invited participation and consultation of agencies and individuals that have special expertise, legal jurisdiction, or interest in the preparation of the draft environmental impact statement. A scoping meeting was held at 11 a.m., Tuesday, March 31, 1981, in the field office of the Soil Conservation Service in Cedartown, Georgia, and a public meeting was held at 7:30 p.m., Tuesday, June 9, 1981, in the conference room of the Cedartown City Hall, Cedartown, Georgia to determine the scope and the evaluation of the proposed action.

Further information on proposed action, or the meetings may be obtained from Dwight M. Treadway, State Conservationist, at the above address, or telephone 404–546–2273.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program. Office of Management and Budget Circular A–95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable)

Dated: April 13, 1982.

Dwight M. Treadway,

State Conservationist.

[FR Doc. 82–10836 Filed 4–22–82; 8:45 am]

BILLING CODE 3410–16–M

Bunker R–3 School Critical Area Treatment R.C. & D. Measure, Missouri

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of Finding of No Significant Impact.

FOR FURTHER INFORMATION CONTACT:
Mr. Paul F. Larson, State Conservationist, Soil Conservation Service, 555 Vandiver Drive, Columbia, Missouri 65202, telephone 314–875–5214.

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 Bunker R–3 School Critical Area Treatment R.C. & D. Measure, Reynolds County, Missouri.

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, Paul F. Larson, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for critical area treatment. The planned works of improvement include critical area planting and heavy use area protection.

The Notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and 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. Basic data developed during the environmental evalution are on file and may be reviewed by contacting the Soil Conservation Service, 555 Vandiver Drive, Columbia, Missouri 65202.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register**. (May 24, 1982).

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development 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: April 14, 1982.

Paul F. Larson,

State Conservationist.

[FR Doc. 82–10998 Filed 4–22–82; 8:45 am]

BILLING CODE 3410–16–M

Red Bud River Front Park R.C. & D. Measure, Michigan

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 Red Bud River Front Park R.C. & D. Measure, Berrien 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 measures for critical area treatment and public water-based recreation. Critical area treatment measures will include: three erosion control structures, a diversion and barrier erosion control. Public water-based recreation will include two picnic areas with one picnic shelter, two walkways, two parking lots, stairs and restrooms. Total construction cost is estimated to be $103,700; $58,100 R.C. & D. funds and $45,600 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** (May 24, 1982).

(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: April 13, 1982.

Homer R. Hilner,

State Conservationist.

[FR Doc. 82-10999 Filed 4-22-82; 8:45 am]

BILLING CODE 3410-16-M

Temple Landing Park R.C. & D. Measure; Georgia

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of a Finding of No Significant Impact.

SUMMARY: 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 Temple Landing Park R.C. & D. Measure, Camden County, Georgia.

FOR FURTHER INFORMATION CONTACT:

Dwight M. Treadway, State Conservationist, Soil Conservation Service, 355 East Hancock Avenue (P.O. Box 832), Athens, Georgia 30613, telephone 404-546-2273.

SUPPLEMENTARY INFORMATION: 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, Dwight M. Treadway, State Conservationist has determined that the preparation and review of an environmental impact statement are not needed for this project.

The objectives of the sponsors are to provide a park and access for water-based recreation. The planned works of improvement include picnic facilities landscaping, boat ramp, comfort station, and a parking area. Conservation practices include preservation of native vegetation and immediate stabilization of exposed areas.

The Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various Federal, State, and local agenices and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental evaluation are on file and may be reviewed by contacting Dwight M. Treadway.

No administrative action on implementation of the proposal will be taken until May 24, 1982.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development 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: April 13, 1982.

Dwight M. Treadway,

State Conservationist.

[FR Doc. 82-10837 Filed 4-22-82; 8:45 am]

BILLING CODE 3410-16-M

CIVIL AERONAUTICS BOARD

Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q of the Board's Procedural Regulations; Week Ended April 16, 1982

Subpart Q Applications

The due date for answers, conforming application, or motions to modify scope are set forth below for each application. Following the answer period the board may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings. (See 14 CFR 302.1701 et seq.)

Date filed	Docket No.	Description
Apr. 12, 1982	40610	British Airtours Limited, c/o Thomas J. Whalen, Condon & Forsyth, 1030 Fifteenth Street, N.W., Washington, D.C. 20005. Application of British Airtours Limited pursuant to Section 402 of the Act and Subpart Q of the Board's Procedural Regulations, request that its current permit be amended to authorize it to engage in the scheduled foreign air transportation of persons, property and mail between London-Gatwick and Newark, New Jersey. Answers may be filed by May 10, 1982.
Apr. 14, 1982	40611	Transamerica Airlines, Inc., c/o Jeffrey A. Manley, Burwell, Hansen, Manley & Peters, 1706 New Hampshire Avenue, N.W., Washington, D.C. 20009. Application of Transamerica Airlines, Inc. pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations requests issuance of a certificate of public convenience and necessity for "back-up" authority in the Baltimore-London (Gatwick) Market. Conforming Applications, motions to modify scope, and Answers may be filed by May 12, 1982.
Apr. 14, 1982	40614	American World Airways, Inc., c/o Edwin O. Bailey, Kirkland & Ellis, 1776 K Street, N.W., Washington, D.C. 20006. Application of American World Airways, Inc. pursuant to Section 401(d)(3) of the Act and Subpart Q of the Board's Procedural Regulations requests permanent authority to provide charter foreign air transportation of persons, property, and mail as follows: Between any point in any State of the United States, or the District of Columbia, or any United States territory or possession and (a) points in Canada; (b) points in Mexico; (c) points in Jamaica, the Bahama Islands, Bermuda, Haiti, the Dominican Republic, Trinidad, Aruba, the Leeward and Windward Islands, and any other foreign place located in the Gulf of Mexico or the Caribbean Sea; (d) points in Central and South America; (e) points in Australasia, Indonesia, and Asia as far west as longitude 70 east via a transpacific routing; and (f) points in Greenland, Iceland, the Azores, Europe, Africa, and Asia as far east as (and including) India. Conforming Applications, motions to modify scope, and Answers may be filed by May 12, 1982.
Apr. 14, 1982	40613	American World Airways, Inc., c/o Edwin O. Bailey, Kirkland & Ellis, 1776 K Street N.W., Washington, D.C. 20006. Application of American World Airways, Inc. pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations requests permanent authority to engage in interstate and overseas air transportation of persons, property, and mail: Between any point in any State of the United States or the District of Columbia or any territory or possession of the United States, and any other point in any State of the United States or the District of Columbia or any territory or possession of the United States. Conforming Applications, motions to modify scope, and Answers may be filed by May 12, 1982.
Apr. 15, 1982	40619	Arctic Circle Air Service, Inc., c/o Joseph M. Chomski, Birch, Horton, Bittner, Monroe, Pestinger and Anderson, Suite 1100, 1140 Connecticut Avenue, N.W., Washington, D.C. 20036.

Date filed	Docket No.	Description
Apr. 16, 1982	40623	Application of Arctic Circle Air Service, Inc. pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations requests authority to engage in the transportation of persons between all points in the interstate and overseas air transportation of persons and in the interstate and overseas air transportation of property and mail between all points in the United States, its territories and possession. The applicant also seeks authority to engage in air transportation of property and mail between the following points wholly within the State of Alaska: Between, to and among the terminal point Allakaket, Alaska, the intermediate points Anaktuvuk Pass, Arctic Village, Beaver, Bettles, Birch Creek, Central, Chalkyitsik, Circle, Circle Hot Springs, Delta Junction (Big Delta), Eagle, Fairbanks, Fort Yukon, Galena, Hughes, Huslia, Kaktovik (Barter Island), Kotzebue, Manley Hot Springs, McGrath, Minchumina, Minto, Nenana, Nome, Rampart, Ruby, Stevens Village, Tanana, Tanacross, Umiat and the terminal point Venetie. Conforming Applications, motions to modify scope, and Answers may be filed by May 13, 1982. Capital Air, Inc., P.O. Box 325, Smyrna, Tennessee 37167. Application of Capital Air, Inc. pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations requests issuance or amendment of a certificate of public convenience and necessity to engage in scheduled foreign air transportation of persons, property and mail between a point or points in the United States, on the one hand, and: 1. Shannon, Ireland, on the other hand; and 2. a point or points in Antigua and Barbuda, Aruba, The Bahamas, Barbados, Belize, Chile, Curacao, Dominican Republic, El Salvador, Grenada, Guadeloupe, Guatemala, Guyana, Haiti, Honduras, Jamaica, Martinique, Nicaragua, Panama, St. Kitts, St. Martin, and Trinidad and Tobago, on the other hand. Conforming Applications, motions to modify scope, and Answers may be filed by May 14, 1982.

Phyllis T. Kayor,

Secretary.

[FR Doc. 82-11207 Filed 4-22-82; 8:45 am]

BILLING CODE 6320-01-M

Commuter Fitness Determination

The Board is proposing to find the following carriers fit willing and able to provide commuter air carrier service under section 419 (c)(2) of the Federal Aviation Act, as amended, and that aircraft used in this service conform to conform to applicable safety standards.

Order	Applicant	Response date
82-4-77	American Central Airlines, Inc.	May 6, 1982.
82-4-78	Sun West Airlines Corporation d.b.a. Sun West Airlines.	May 6, 1982.
82-4-79	Air Chico Corporation	May 6, 1982.
82-4-80	Jack E. Seele d.b.a. Sedona Air Center.	May 6, 1982.
82-4-81	Virgin Islands Seaplane Shuttle, Inc.	May 6, 1982.
82-4-82	Bankair, Inc. d.b.a. Bankair Commuter Airline.	May 6, 1982.
82-4-83	Air Priority Airways, Inc.	May 6, 1982.

All interested persons wishing to respond to the Board's tentative fitness determination shall serve their responses on all persons listed in Attachment A of the respective orders and file response or additional data for Orders 82-4-78 and 82-4-77 Essential Air Services Division, and for Orders 82-4-79, -80, -81, 82, -83 with the Special Authorities Division, Room 915; 1825 Connecticut Avenue NW., Washington, D.C. 20428.

The complete text of the orders is available from the Distribution Section, Room 100, 1825 Connecticut Avenue, Washington, D.C. 20428. Persons outside the metropolitan area may send a postcard request to the above address.

FOR FURTHER INFORMATION CONTACT: For Orders 82-4-77 and -79: Ms. Terri Smith, (202) 673-5005; for Orders 82-4-79,-80,-81: Ms. Patti Szrom, (202) 673-5088; and for Orders 82-4-82, and -83: Mr. Jim Lawyer, (202) 673-5088, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, Washington, D.C. 20428.

By the Civil Aeronautics Board: April 20, 1982.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 82-11206 Filed 4-22-82; 8:45 am]

BILLING CODE 6320-01-M

[Docket 40379]

Northeastern International Airways, Inc., Fitness Investigation; Postponement of Prehearing Conference

Notice is hereby given that the prehearing conference in the above-entitled matter scheduled to be held on April 20, 1982 (42 FR 14929, April 7, 1982) is hereby postponed until May 10, 1982 at 10:00 a.m. (local time) in Room 1012 in the Universal Building, 1825 Connecticut Avenue, N.W., Washington, D.C.

Dated at Washington, D.C., April 19, 1982.

John M. Vittone,

Administrative Law Judge.

[FR Doc. 82-11205 Filed 4-22-82; 8:45 am]

BILLING CODE 6320-01-M

Order Concerning Mail Rates

Order 82-4-105, April 20, 1982, Docket 37294, establishes final domestic service mail rates for the first half of calendar year 1982 and temporary rates effective July 1, 1982.

Copies of the order are available from the C.A.B. Distribution Section, Room 100, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428. Persons outside the Washington metropolitan area may send a postcard request.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 82-11204 Filed 4-22-82; 8:45 am]

BILLING CODE 6320-01-M

CIVIL RIGHTS COMMISSION

California Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the California Advisory Committee to the Commission will convene at 6:00 p.m., and will end at 8:00 p.m., on May 19, 1982, at the Law Offices of Stanley Fleishman, 433 North Camden Drive, in Room 900, Beverly Hills, California 90210. At this meeting the Handicap Subcommittee will discuss projects on the handicap and aged.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Maurice B. Mitchell, 260 Eucalyptus Hill, Santa Barbara, California 93103, (303) 444-3541 or the Western Regional Office, 3660 Wilshire Boulevard, Suite 810, Los Angeles, California 90010, (213) 688-3437.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., April 20, 1982.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 82-11192 Filed 4-22-82; 8:45 am]

BILLING CODE 6335-01-M

Colorado Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Colorado Advisory

Committee to the Commission will convene at 9:00 a.m. and will end at 1:00 p.m. on May 22, 1982, at the Executive Tower Inn, 1405 Curtis, in the Gold Room, Denver, Colorado, 80202. The purpose of this meeting will be to review the Police-Community Relations project and discuss program plans and activities for the remainder of Fiscal Year 1982.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Minoru Yasui, 1150 South Williams, Denver, Colorado, 80210, (303) 575-2621 or the Rocky Mountain Regional Office, Brook Towers, 1020 Fifteenth Street, Suite 2235, Denver, Colorado, 80202, (303) 837-2211.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., April 19, 1982.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 82-11191 Filed 4-22-82; 8:45 am]

BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

National Bureau of Standards

Change Pertaining to the Interface Standards Exclusion List

In a notice published in the **Federal Register** on December 15, 1981 (46 FR 61161), the National Bureau of Standards (NBS) announced proposed changes to the exclusion list pertaining to Federal Information Processing Standards Publication 60-1, I/O Channel Interface; Federal Information Processing Standards Publication 61, Channel Level Power Control Interface; Federal Information Processing Standards Publication 62, Operational Specifications for Magnetic Tape Subsystems; and Federal Information Processing Standards Publication 63, Operational Specifications for rotating Mass Storage Subsystems. Interested parties were allowed until January 29, 1982, to submit written comments regarding the proposed changes to the exclusion list.

As a result of a review and analysis of comments received, NBS has made a determination that the following addition will be made to the exclusion list:

Manufacturer	Model
Burroughs	B5930

Interested parties are invited to submit written comments or recommendations identifying candidate systems which should be added or removed from the exclusion list to the Director, Institute for Computer Sciences and Technology, Attention: Interface Standards Exclusion List, National Bureau of Standards, Washington, D.C. 20234. Comments should include information supporting any proposed additions (or removals) to that list according to the criteria described in the **Federal Register** notice of March 19, 1979 (44 FR 16466), which announced the availability of a proposed initial exclusion list. Any comments submitted which are deemed by the sender to contain confidential or proprietary information should be appropriately designated and marked.

NBS maintains a mailing list of vendors, Federal agencies, and other interested parties to whom copies of the current exclusion list are sent on a regular basis. Parties on the mailing list will also be sent copies of the proposed changes and the announcement of the determination on the proposed changes. Those who wish to be included on the mailing list should send a written request to the address noted above for submission of comments or recommendations regarding the exclusion list.

The exclusion list will be used in conjunction with the applicability provisions of the Federal I/O Channel level interface standards. This list and the exclusion criteria are not a part of the standards themselves, but are provided for in the standards.

Dated: April 19, 1982.

Ernest Ambler,

Director.

[FR Doc. 82-11091 Filed 4-22-82; 8:45 am]

BILLING CODE 3510-CN-M

Changes Pertaining to the Interface Standards Exclusion List

In a notice published in the **Federal Register** on September 2, 1981 (46 FR 44027), the National Bureau of Standards (NBS) announced proposed changes to the exclusion list pertaining to Federal Information Processing Standards Publication 60-1, I/O Channel Interface; Federal Information Processing Standards Publication 61, Channel Level Power Control Interface; Federal Information Processing Standards Publication 62, Operational Specifications for Magnetic Tape Subsystems; and Federal Information Processing Standards Publication 63, Operational Specifications for Rotating Mass Storage Subsystems. Interested parties were allowed until March 12, 1982, to submit written comments regarding the proposed changes to the exclusion list.

As a result of a review and analysis of comments received, NBS has made a determination that the following additions will be made to the exclusion list:

Manufacturer	Model (system)
Four-Phase Systems, Inc.	311
Four-Phase Systems, Inc.	312
Zilog	8000

Interested parties are invited to submit written comments or recommendations regarding the exclusion list to the Director, Institute for Computer Sciences and Technology, Attention: Interface Standards Exclusion List, National Bureau of Standards, Washington, D.C. 20234. Comments specifically identifying candidate systems which should be added or removed from the exclusion list are especially encouraged. Comments should also include information supporting any proposed additions (or removals) to that list according to the criteria described in the **Federal Register** notice of March 19, 1979 (44 FR 16466), which announced the availability of a proposed initial exclusion list. Any comments submitted which are deemed by the sender to contain confidential or proprietary information should be appropriately designated and marked.

NBS maintains a mailing list of vendors, Federal agencies, and other interested parties to whom copies of the current exclusion list are sent on a regular basis. Parties on the mailing list will also be sent copies of the proposed changes and the announcement of the determination on the proposed changes. Those who wish to be included on the mailing list should send a written request to the address noted above for submission of comments or recommendations regarding the exclusion list.

The exclusion list will be used in conjunction with the applicability provisions of the Federal I/O channel level interface standards. This list and the exclusion criteria are not a part of the standards themselves, but are provided for in the standards.

Dated: April 19, 1982.

Ernest Ambler,

Director.

[FR Doc. 82-11092 Filed 4-22-82; 8:45 am]

BILLING CODE 3510-CN-M

National Oceanic and Atmospheric Administration National Marine Fisheries Service; Issuance of Permit

On March 9, 1982, Notice was published in the **Federal Register** (46 FR 10071) that an application has been filed with the National Marine Fisheries Service by Marineland Amusements Corporation, 6610 Palos Verdes Drive South, Rancho Palos Verdes, California 90274, for a permit to take four (4) Pacific pilot whales (*Globicephala macrorhynchus*) and six (6) Pacific white-sided dolphins (*Lagenorhynchus obliquidens*) for the purpose of public display.

Notice is hereby given that on April 19, 1982, and as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), the National Marine Fisheries Service issued a Public Display Permit for the above taking subject to certain conditions set forth therein.

The Permit is available for review in the following offices:

Assistant Administration for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, N.W., Washington, D.C.; and

Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, California 90731.

Dated: April 19, 1982.

Richard B. Roe,

Acting Director, Office of Marine Mammals and Endangered Species, National Marine Fisheries Service.

[FR Doc. 82–11234 Filed 4–22–82; 8:45 am]

BILLING CODE 3510–22–M

National Marine Fisheries Service; Receipt of Application for Permit

Notice is hereby given that an Applicant has applied in due form for a Permit to take marine mammals as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR 216).

1. Applicant:

a. Name: Dinnes Memorial Veterinary Hospital (P303).

b. Address: 16133 Ventura Boulevard, Encino, California 91436.

2. Type of Permit: Public Display.

3. Name and Number of Animals: Atlantic bottlenose dolphins *(Tursiops truncatus)*, 10.

4. Type of Take: Live capture.

5. Location of Activity: Southeast Texas Coast.

6. Period of Activity: 2 years.

The arrangements and facilities for transporting and maintaining the marine mammals requested in the above described application have been inspected by a licensed veterinarian, who has certified that such arrangements and facilities are adequate to provide for the well-being of the marine mammals involved.

Concurrent with the publication of this notice in the **Federal Register**, the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this application should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, U.S. Department of Commerce, Washington, D.C. 20235, on or before May 24, 1982. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries.

All statements and opinions contained in this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Documents submitted in connection with the above application are available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, N.W., Washington, D.C.;

Regional Director, National Marine Fisheries Service, Southeast Region, 9450 Koger Boulevard, St. Petersburg, Florida 33702;

Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, California 90731; and

Regional Director, National Marine Fisheries Service, Northeast Region, Federal Building, 14 Elm Street, Gloucester, Massachusetts 01930.

Dated: April 20, 1982.

Richard B. Roe,

Acting Director, Office of Marine Mammals and Endangered Species, National Marine Fisheries Service.

[FR Doc. 82–11235 Filed 4–22–82; 8:45 am]

BILLING CODE 3510–22–M

National Technical Information Service

Government-Owned Inventions; Notice of Availability for Licensing

The inventions listed below are owned by agencies of the U.S. Government and are available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally funded research and development. Foreign patents are filed on selected inventions to extend market coverage for U.S. companies and may also be available for licensing.

Technical and licensing information on specific inventions may be obtained by writing to: Office of Government Inventions and Patents, U.S. Department of Commerce, P.O. Box 1423, Springfield, Virginia 22151.

Please cite the number and title of inventions of interest.

Douglas J. Campion,

Office of Government Inventions and Patents, National Technical Information Service, Department of Commerce.

SN 6–364,944 Rotating Tool Wear Monitoring Appartus. Filed 4/2/82 by Dept. of Commerce. Inventor: Kenneth W. Yee et al.

SN 6–037,242 Laboratory Pesticide Spray Chamber. Filed 9 May 79 by Dept. of Agriculture. Patent 4,318,363, issued 3/9/82. Inventor: Emanuel Moellman et al.

SN 6–078,745 Method Increasing the Yield of Hydrocarbons from Plants. Filed 25 Sep 79 by Dept. of Agriculture. Patent 4,322,242 issued 3/30/82. Inventor: Henry Yokoyama et al.

SN 6–105,079 Detection of Malignant Lesions of the Oral Cavity Utilizing Toluidine Blue Rinse. Filed 12/19/79 by DHHS. Patent 4,321,251 Iss. 2/23/82. Inventor: Dr. Arthur Mashberg.

SN 6–132,027 Direction Finding System. Filed 3/20/80 by FCC. Patent 4,318,106 issued 3/2/82. Inventor: Arthur Luedtke.

SN 6–132,583 Vacuum-Operated Produce Handling Systems. Filed 3/21/80 by Dept. of Agriculture. Patent 4,320,995 issued 3/23/82. Inventor: Bernard Tennes et al.

SN 6–175,594 Method for the Use of Orally Administered 13-Cis-Retinoic Acid in the Treatment of Acne. Filed 5 Aug 80 by Dept. of HHS. Patent 4,322,438 issued 3/30/82. Inventor: Gary L. Peck.

SN 6–187,380 Apparatus for Removing Corn from Cob. Filed 9/15/80 by Dept. of Agriculture. Patent 4,318,415 issued 3/9/82. Inventor: George H. Robertson et al.

SN 6–217,143 Everting Tube Device with Relative Advance Control. Filed 12/16/80 by DHHS. Patent 4,321,915 issued 3/30/82. Inventor: Stephen Leighton et al.

SN 6–230,498 Method and Apparatus for Preparation Countercurrent Chromatography Employing a Rotating Column Assembly. Filed 2/2/81 by HHS. Patent 4,321,138 issued 3/23/82. Inventor: Yoichiro Ito.

SN 6–263,823 Conversion of Cyclopropenoids to Conjugated Diene and Saturated Derivatvies. Filed 5/15/81 by Dept. of Agriculture. Patent 4,321,210 issued 3/23/82. Inventor: Yoshinori Kai et al.

SN 6-325,730 Hydrocephalic Antenatal Vent for Intrauterine Treatment. Filed 11/30/81 by Dept. of HHS. Inventor: Wellner et al.

[FR Doc. 82-11079 Filed 4-22-82; 8:45 am]

BILLING CODE 3510-04-M

Office of the Secretary

Advisory Committee for International Legal Metrology; Renewal

In accordance with the provisions of the Federal Advisory Committee Act, 5 U.S.C. App. (1976) and Office of Management and Budget Circular A-63 of March 1974, as amended, and after consultation with the General Services Administration, the Secretary of Commerce has determined that the renewal of the Advisory Committee for International Legal Metrology is in the public interest in connection with the performance of duties imposed on the Department by law.

The Committee, first established in March 1974 and renewed in March 1976, 1978, and 1980 was to terminate on March 18, 1982. Its purpose was to advise the Department through the Director, National Bureau of Standards (NBS), on technical and policy matters relating th NBS' assigned general responsibility for the development of U.S. positions on technical issues arising in the International Organization of Legal Metrology (OIML). This objective was achieved. Its advice and recommendations—all of which were accepted and implemented by NBS—have meaningfully contributed to the Administration's program for increased export trade by ensuring that International Recommendations proposed by OIML do not contain restrictive technical requirements which act as non-tariff trade barriers.

In renewing the Committee, the Secretary has not changed its objective. The trade implications of OIML and the ambitious work program envisioned by the Organization mandate continued active participation by the U.S. and the continued need for timely action by Government and industry to assess the trade impact of proposed OIML actions. The Committee is uniquely suited to assist NBS in this task and its function cannot be acomplished by any organizational element or other committee of the Department.

As initially established (39 FR 6136 2-19-74) the Committee will continue with a balanced representation, presently of approximately 40 members, chaired by the United States representative to the International Committee of Legal Metrology (CIML). Membership on the Commmitteee is balanced through repreentation from four major interest groups: (1) Federal agencies which use and/or regulate measurement instruments in commerce, or in the field of public health and safety; (2) State and local weights and measures jurisdictions which establish metrological requirements for instruments and which regulate the accuracy of these instruments in intrastate commerce; (3) Industry trade associations, professional metrologists and private standards bodies which manufacture, use and/or write private voluntary standards incorporating, or referencing, measurement devices or methods; and (4) Consumers. Additionally, Committee membership is open at any time to any interest group who demonstrates a desire to participate.

The Committee will function solely as an advisory body, and in compliance with the provisions of the Federal Advisory Committee Act.

Copies of the Committee's revised charter will be filed with appropriate committees of the Congress and with the Library of Congress.

Inquiries or comments may be addressed to the Committee Control Officer, Mr. David Edgerly, Chief, Office of Domestic and International Measurement Standards, Building 221, Room A353, National Bureau of Standards, U.S. Department of Commerce, Washington, D.C. 20234, telephone 301-921-3307, or Mrs. Yvonne Barnes, Committee Management Analyst, U.S. Department of Commerce, Washington, D.C. 20230, telephone 202-377-4217.

Dennis C. Boyd,

Executive Director, Information Resources Management.

[FR Doc 82-11190 Filed 4-22-82; 8:45 am]

BILLING CODE 3510-CW-M

Advisory Panels for the Pacific and Gulf of Mexico Fishery Management Councils; Renewal

In accordance with the provisions of the Federal Advisory Committee Act, 5 U.S.C. App. (1976) and Office of Management and Budget Circular A-63 of March 1974 (as revised), and after consultation with GSA, the Department has determined that the renewal of the charters for the Advisory Panels (APs) for the Pacific and Gulf of Mexico Fishery Management Councils (FMCs) are in the public interest in connection with the performance of duties imposed on the Department by law.

The President signed the Magnuson Fishery conservation and Management Act, as amended, into law on April 13, 1976. The Act mandated the establishment of eight Regional Fishery Management Councils to serve as the instruments of Federal-State-private interaction in the conduct of fishery management in the U.S. Fishery Conservation Zone (FCZ). The Act also authorized the establishment of such APs as are deemed by the Councils to be necessary or appropriate to assist them in carrying out their functions under the Act.

The APs for the Pacific and the Gulf of Mexico FMCs were established on May 18, 1978 and April 20, 1978, respectively. These panels are expected to continue with a balanced representation of members, who are appointed by the parent Councils. The purpose of each Panel is to advise the respective Council on the assessments and specifications contained in the fishery management plans (FMPs) for fisheries within the Council's geographical area of concern, with particular regard to (1) the extent to which the fishing vessels of the U.S. will harvest resources considered in the FMPs; (2) the effect of such FMPs on local economies and social structures; (3) potential conflicts between user groups of a given fishery resource; and (4) enforcement problems peculiar to each fishery with emphasis on the expected need for enforcement resources. Research indicates that the functions of these Panels cannot be accomplished by any other organization element or other committee of the Department.

These Panels have produced several oral and written reports on the topics listed above. The AP for the Pacific FMC is currently addressing four fishery management units selected by the Council for management plan development; and the AP for the Gulf of Mexico FMC is currently addressing five fishery management units also selected by the Council. The management plans for each Panel are in the developmental state.

These APs will continue to operate in compliance with the provisions of the Federal Advisory Committee Act (FACA). Copies of each AP charter will be filed with the appropriate committees of the Congress and with the Library of Congress. Inquiries regarding this notice may be addressed to the Committee Liaison Officer, National Oceanic and Atmospheric Administration, U.S. Department of Commerce, Rockville, Maryland 20852, or Mrs. Yvonne Barnes, Committee Management Analyst, U.S. Department of Commerce, Washington, D.C. 20230.

Dated: April 19, 1982.

Dennis C. Boyd,

Executive Director, Information Resources Management.

[FR Doc. 82-11189 Filed 4-22-82; 8:45 am]

BILLING CODE 3510-CW-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcing Levels of Restraint for Certain Cotton and Man-Made Fiber Textile Products From the Federative Republic of Brazil

April 19, 1982.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Establishing import restraint levels for certain cotton and man-made fiber textile products, produced or manufactured in Brazil and exported during the twelve-month period which began on April 1, 1982 and extends through March 31, 1983 under a new bilateral agreement.

SUMMARY: On March 31, 1982, the Governments of the United States and the Federative Republic of Brazil signed a new Bilateral Cotton and Man-Made Fiber Textile Agreement which establishes an aggregate and group ceilings and within those ceilings specific ceilings for Categories 313, 317, and 319 during the agreement year which began on April 1, 1982. It also provides consultation levels for certain other categories, such as Categories 300/301, 314, 318, 320, 334, 335, 369pt. (floor coverings), and 614, which are not subject to specific ceilings and which may be adjusted during the agreement year. In the letter published below the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs, in accordance with the terms of the new bilateral agreement, to prohibit entry into the United States for consumption and withdrawal from warehouse for consumption of cotton and man-made fiber textile products in Categories 300/301, 313, 314, 317, 318, 319, 320, 334, 335, 369pt. (floor coverings), and 614, produced or manufactured in Brazil and exported during the twelve-month period which began on April 1, 1982 and extends through March 31, 1983, in excess of the designated levels of restraint.

(A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on February 28, 1980 (45 FR 13172), as amended on April 23, 1980 (45 FR 27463), August 12, 1980 (45 FR 53506), December 24, 1980 (45 FR 85142), May 5, 1981 (46 FR 25121), October 5, 1981 (46 FR 48963), October 27, 1981 (46 FR 52409), and February 9, 1982 (47 FR 5926))

EFFECTIVE DATE: May 3, 1982.

FOR FURTHER INFORMATION CONTACT: Ronald Sorini, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, Washington, D.C. 20230 (202/377-4212).

This letter and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

Sincerely,

Paul T. O'Day,

Chairman, Committee for the Implementation of Textile Agreements.

United States Department of Commerce, International Trade Administration

April 19, 1982.

Committee for the Implementation of Textile Agreements

Commissioner of Customs, Department of the Treasury, Washington, D.C. 20229.

Dear Mr. Commissioner: Under the terms of the Arrangements Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977 and December 22, 1982; pursuant to the Bilateral Cotton and Man-Made Fiber Textile Agreement of March 31, 1982, between the Governments of the United States and the Federative Republic of Brazil; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed to prohibit, effective on May 3, 1982 and for the twelve-month period which began on April 1, 1982 and extends through March 31, 1983, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton and man-made fiber textile products in Categories 300/301, 313, 314, 317, 318, 319, 320, 334, 335, 369pt. and 614, in excess of the following levels of restraint:

Category	12-Month level of restraint [1]
300/301	7,173,913 pounds.
313	24,500,000 square yards.
314	1,500,000 square yards.
317	9,100,000 square yards.
318	1,500,000 square yards.
319	7,000,000 square yards.
320	4,000,000 square yards.
334	48,426 dozen.
335	48,426 dozen.
369 pt. [2]	739,130 pounds.
614	3,000,000 square yards.

[1] The levels of restraint have not been adjusted to reflect any imports after March 31, 1982.

[2] In Category 369, only T.S.U.S.A. numbers 360.2000, 360.2500, 360.3000, 360.7600, 360.8100, 361.0510, 361.1820, 361.5000, 361.5420 and 361.5630.

In carrying out this directive, entries of textile products in the foregoing categories, except Categories 317, 319, 320, 334, 335 and 614, produced or manufactured in Brazil, which have been exported to the United States on and after April 1, 1981, shall, to the extent of any unfilled balances, be charged against the levels of restraint established for such goods during the twelve-month period which began on April 1, 1981 and extended through March 31, 1982. In the event the levels of restraint established for that period have been exhausted by previous entries, such goods shall be subject to the levels set forth in this letter. Textile products in Categories 317, 319, 320, 334, 335 and 614 which have been exported before April 1, 1982 shall not be subject to this directive.

Textile products in Category 317, 319, 320, 334, 335 and 614 which have been released from the custody of the U.S. Customs Service under the provisions of 19 U.S.C. 1448(b) or 1484(a)(1)(A) prior to the effective date of this directive shall not be denied entry under this directive.

The levels of restraint set forth above are subject to adjustment pursuant to the provisions of the bilateral agreement of March 31, 1982 between the Governments of the United States and the Federative Republic of Brazil which provide, in part, that: (1) Within the aggregate and group limits, specific limits may be exceeded by designated percentages; (2) specific ceilings may be increased for carryover and carryforward up to 11 percent of the applicable category limit; and (3) administrative arrangements or adjustments may be made to resolve minor problems arising in the implementation of the agreement. Any appropriate future adjustments under the foregoing provisions of the bilateral agreement will be made to you by letter.

A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on February 28, 1980 (45 FR 13172), as amended on April 23, 1980 (45 FR 27463), August 12, 1980 (45 FR 53506), December 24, 1980 (45 FR 85142), May 5, 1981 (46 FR 25121), October 5, 1981 (46 FR 48963), October 27, 1981 (46 FR 52409), and February 9, 1982 (47 FR 5926).

The actions taken with respect to the Government of the Federative Republic of Brazil and with respect to imports of cotton and man-made fiber textile products from Brazil have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, these directions to the Commissioner of Customs, which are necessary for the implementation of such action, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the **Federal Register.**

Sincerely,

Paul T. O'Day,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc.82-11186 Filed 4-22-82; 8:45 am]

BILLING CODE 3510-25-M

COMMODITY FUTURES TRADING COMMISSION

Advisory Committee on State Jurisdiction and Responsibilities Under the Commodity Exchange Act; Third Renewal

The Commodity Futures Trading Commission has determined to renew again for a period of two years its advisory committee designated as the "Commodity Futures Trading Commission Advisory Committee on State Jurisdiction and Responsibilities under the Commodity Act" ("Advisory Committee on State Jurisdiction and Responsibiilities"). As required by Section 14(a)(2)(A) of the Federal Advisory Committee Act, 5 U.S.C. App. I, section 14(a)(2)(A), and the guidelines thereunder, the Commission has consulted with the Committee Management Secretariart of the General Services Administration, and the Commission certifies that the renewal of the advisory committee is in the pubic interest in connection with duties imposed on the Commission by the Commodity Exchange Act, 7 U.S.C. 1, *et seq.*, as amended.

The objectives and scopes of activities of the Advisory Committee on State Jurisdiction and Responsibilities are to conduct public meetings and submit reports and recommendations on matters of joint concern to the states and the Commission arising under the Commodity Exchange Act regarding regulation of commodity transactions and related activities, including the following:

(1) Enforcement by the states, in coordination with the Commission, of the provisions of the Commodity Exchange Act, as amended;

(2) The continued enforceability of general state civil and criminal antifraud laws and similar statutes of general applicability with respect to commodity transactions; and

(3) The nature of instruments and transactions subject to:

(a) Exclusive federal jurisdiction under the Commodity Exchange Act, as amended; and

(b) Concurrent state law jurisdiction.

The General Counsel and the Director of the Office of Governmental Affairs of the Commission serve as Co-Chairmen of the Advisory Committee on State Jurisdiction and Responsibilities. State officials, who have had experience in the commodities and consumer protection fields, serve as members, along with one other person knowledgeable about commodities law. In addition, the Commission's Enforcement Division Director and the Trading and Markets Division Director are members.

Interested persons may obtain information or make comments by writing to the Commodity Futures Trading Commission, 2033 K Street NW., Washington, D.C. 20581.

Issued in Washington, D.C., this 19th day of April 1982 by the Commission.

Jane K. Stuckey,

Secretary of the Commission.

[FR Doc. 82-11118 Filed 4-22-82; 8:45 am]

BILLING CODE 6351-01-M

Coffee, Sugar, and Cocoa Exchange, Inc.: Proposed Amendments Relating to the Coffee "C" Contract

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of proposed contract market rule change.

SUMMARY: The Coffee, Sugar, and Cocoa Exchange, Inc. ("CSCE" or "Exchange") has submitted a proposal to amend the differentials for nine growths of coffee in its coffee "C" contract. The Commodity Futures Trading Commission ("Commission") has determined that the proposal is of major economic significance and that, accordingly, publication of the proposal 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 May 24, 1982.

ADDRESS: Interested persons should submit their views and comments to Jane K. Stuckey, Secretary, Commodity Futures Trading Commission, 2033 K Street NW., Washington, D.C. 20581. Reference should be made to the Coffee, Sugar, and Cocoa Exchange, Inc., Rule 8.23.

FOR FURTHER INFORMATION CONTACT: Nichols Memoli, Division of Economics and Education, Commodity Futures Trading Commission, 2033 K Street NW., Washington, D.C., (202) 254-6990.

SUPPLEMENTARY INFORMATION: The Coffee, Sugar, and Cocoa Exchange, Inc. is proposing to amend Rule 8.23, Schedule C-2 of its coffee "C" futures contract. The Exchange proposes to readjust the differentials for nine growths of coffee deliverable on the contract. The CSCE has determined that the differentials should be readjusted to reflect changed circumstances in the spot market. The new differentials would be applied to delivery months following the last month in which an open position exists at the time of Commission approval.

In accordance with Section 5a(12) of the Commodity Exchange Act, 7 U.S.C. 7a(12) (Supp. IV 1980), the Commission has determined that the proposed amendments to the coffee "C" contract are of major economic significance. Accordingly, the proposed differentials as contained in Schedule C-2 of Rule 8.23 are printed below:

DIFFERENCE IN VALUE BETWEEN GRADES AND GROWTHS

Growth	Present differential	Proposed differential
New Guinea	—100 points (1 cent)	0.
Peru, Venezuela	—400 points	—300 points.
Dominican Republic, Burundi, Ecuador, India, Rwanda	—550 points	—400 points
Ethiopian	—800 points	—700 points.

Other materials submitted by the CSCE in support of the proposed rule change 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, NW., Washington, D.C. 20581, by May 24, 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 19, 1982.

Jane K. Stuckey,

Secretary of the Commission

[FR Doc. 82-11117 Filed 4-22-82; 8:45 am]

BILLING CODE 6351-01-M

DEPARTMENT OF DEFENSE

Department of the Army

Army Science Board; Closed Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (P.L. 92–463), announcement is made of the following Committee Meeting:

Name of the committee: Army Science Board (ASB)
Date of meeting: Tuesday, 11 May 1982
Time: 0900–1600 hours (Closed)
Place: The Pentagon, Washington, D.C. (Exact location to be determined.)

Agenda: The Army Science Board Specialty Subgroup on Weapons will meet to receive briefings and hold discussions in that specific area of Army research, development, and acquisition with respect to the major issues, developments, and opportunities. This meeting will be closed to the public in accordance with Section 552b(c) of Title 5, U.S.C., specifically subparagraph (1) thereof, and Title 5, U.S.C., App. 1, subsection 10(d). The classified and nonclassified matters to be discussed are so inextricably intertwined so as to preclude opening any portion of the meeting. The ASB Administrative Officer, Helen M. Bowen, may be contacted for further information at (202) 697–9703 or 695–3039.

Helen M. Bowen,
Administrative Officer.

[FR Doc. 82–11155 Filed 4–22–82; 8:45 am]
BILLING CODE 3710–08–M

Army Science Board; Closed Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Committee Meeting:

Name of the committee: Army Science Board (ASB)
Dates of meeting: Tuesday, 18 May 1982; Wednesday, 19 May 1982
Times: 0830–1700 hours, 18 May 1982 (Closed); 0830–1600 hours, 19 May 1982 (Closed)
Place: U.S. Army Materiel Development and Readiness Command, Alexandria, VA

Agenda: The Army Science Board 1982 Summer Study Group on Chemical Warfare will meet to receive classified briefings and hold discussions on the Army Chemical Research, Development, Test and Evaluation (RDTE) Program. This meeting will be closed to the public in accordance with Section 552b(c) of Title 5, U.S.C., specifically subparagraph (1) thereof, and Title 5, U.S.C. App. I, subsection 10(d). The classified and non-classified matters to be discussed are so inextricably intertwined so as to preclude opening any portion of the meeting. The ASB Administrative Officer, Helen M. Bowen, may be contacted for further information at (202) 697–9703 or 695–3039.

Helen M. Bowen,
Administrative Officer.

[FR Doc. 82–11156 Filed 4–22–82; 8:45 am]
BILLING CODE 3710–08–M

Corps of Engineers, Department of the Army

Intent To Prepare a Draft Supplement II to the Final Environmental Impact Statement for the Proposed Manteo (Shallowbag) Bay Project, Dare County, North Carolina

AGENCY: Army Corps of Engineers, DOD.

ACTION: Notice of intent to prepare a draft supplement II to a final environmental impact statement (FEIS).

SUMMARY: 1. The proposed action includes the deepening of the ocean bar channel at Oregon Inlet to 20 feet over a width of 400 feet; deepening and widening the Manteo-Oregon Inlet Channel (mile 0 to mile 8.2) and a side channel to Wanchese to 14 feet deep with a width of 120 feet; enlarging the basin at Wanchese to 15 acres and deepening it to 14 feet; stabilizing Oregon Inlet with a dual rubblemound jetty system; providing for bottom protection for the Bonner Bridge; and providing for a means for sand transfer across the inlet to the downdrift beach. The portion of the project involving the Wanchese Basin has already been completed by the State of North Carolina.

2. The alternatives to the proposed action include: maintaining the existing project with improvements to Wanchese Harbor (no action); abandoning the existing project; and maintaining the Oregon Inlet ocean bar channel by dredging with nearshore disposal of dredged material.

3. a. Participation and public involvement of affected Federal, State, and local agencies, private organizations, and individuals are invited and encouraged.

b. The Wilmington District is completing an evaluation of a dredging alternative as proposed by the Department of the Interior. If that alternative proves feasible, the draft Supplement II will cover primarily that new direction for project implementation. If the dredging alternative proves infeasible, there are still changes in the project design that would be covered in the draft Supplement II. The design changes include: changes in jetty spacing from 2,500 feet to as much as 5,000 feet; changes in the jetty structural design; and changes in shore anchorage locations.

c. The National Park Service, U.S. Fish and Wildlife Service, and the National Marine Fisheries Service will be requested to furnish input to the draft Supplement II as cooperating agencies.

4. A meeting to begin the scoping process will be held 11 May 1982, at 10 a.m., Room S302, Cape Fear Technical Institute, 411 N. Front Street, Wilmington, North Carolina, to discuss the jetty design changes and present available dredging alternative evaluation information.

5. The estimated date the draft Supplement II will be made available to the public is November 1982.

ADDRESS: Questions about the proposed action and draft Supplement II can be answered by: District Engineer, U.S. Army Engineer District, Wilmington, Attn.: Richard M. Jackson, P.O. Box 1890, Wilmington, NC 28402.

Dated: April 13, 1982.

Robert K. Hughes,
Colonel, Corps of Engineers, District Engineer.

[FR Doc. 82–11080 Filed 4–22–82; 8:45 am]
BILLING CODE 3710–GN–M

Defense Logistics Agency

Draft Environmental Impact Statement Addressing Proposed Construction and Relocation of Fuel Pier to Terminal Island Mole at Naval Station Long Beach, Calif.

AGENCY: Defense Logistics Agency, DOD.

ACTION: Notice of Availability of Draft Environmental Impact Statement and Public Hearing.

SUMMARY: The Defense Logistics Agency (DLA) announces the availability of a draft Environmental Impact Statement (EIS) addressing the proposal to construct a fuel pier at the Navy Mole on Terminal Island at Naval Station Long Beach, CA. A public hearing on the proposal will be held at the date and location specified below. A public notice of the availability of draft EISs and hearings is required under regulations of the Council on Environmental Quality [40 CFR 1506.6].

DATES: All comments on the draft EIS must be received on or before 1 July 1982. Comments may also be presented at the public hearing on 25 May 1982. Public Hearing: DLA will conduct a public hearing on the draft EIS on Tuesday, 25 May 1982, 1:00–5:00 PM and

7:00–10:00 PM at the location specified below.

ADDRESSES: Written comments on the draft EIS should be sent to: Mr. Chuck Williams, Environmental Impact Officer, Defense Fuel Supply Center, DFSC–AE, Building 8, Room 8C427, Cameron Station, Alexandria, VA, 22314; telephone: (202) 274–6989. A limited number of copies of the draft EIS are available from the above address and from Mr. Doug Moore, U.S. Department of Navy, Naval Facilities Engineering Command, Western Division, ATTN: Code 201, P.O. Box 727, San Bruno, CA, 94066; telephone: (415) 877–7546. In addition, copies are available for review at the following public libraries:

Los Angeles Main Library, 630 West 5th Street, Los Angeles, CA
Long Beach Main Library, 101 Pacific Avenue, Long Beach, CA
Los Angeles Library, San Pedro Branch, 931 S. Gaffey Street, San Pedro, CA

The public hearing will be held at Bixby Park Recreation Center, 130 Cherry St., Long Beach, CA.

Afternoon Session: 1:00–5:00 PM—Activity Room.

Evening Session: 7:00–10:00 PM—Social Hall.

FOR FURTHER INFORMATION CONTACT: Mr. Chuck Williams, Environmental Impact Officer, Defense Fuel Supply Center, DFSC–AE, Cameron Station, Alexandria, VA, 22314; telephone: (202) 274–6989.

SUPPLEMENTARY INFORMATION: DLA has prepared a draft EIS addressing the proposal to construct a fuel pier at the Navy Mole on Terminal Island. This proposal will include a pipeline system to deliver fuels to and from the fuel farm depot on Gaffey Street in San Pedro to the new fuel pier at the Navy Mole. This proposal is in connection with the relocation of the fuel terminal from the San Pedro Harbor, West Channel, to the Navy Mole on Terminal Island.

Those persons wishing to speak at the public hearing may be scheduled on the program in advance by telephoning Mr. Doug Moore in San Bruno, CA, at (415) 877–7546. Individual testimony at the hearing will be limited to 15 minutes.

The hearing will be transcribed. Filing of a written statement at the time of giving oral testimony will be helpful and will facilitate the job of the court reporter. The public hearing will commence at the times identified above and will continue until all persons scheduled to speak have been heard. Persons in the audience who have not been scheduled to speak and who wish to do so will be heard at the end of the scheduled speakers. Persons not scheduled to testify, but wishing to do so, assume the risk of having the public hearing adjourned unless they are present in the audience at the time all scheduled speakers have been heard.

DLA encourages the public to comment on the scope and content of this draft EIS. Whenever possible, public comments should be supported by technical data or other source material. All comments from the public on the draft EIS will be considered and responses to timely comments will be prepared for inclusion in the final EIS. All comments will be on file and available for inspection by contacting Mr. Chuck Williams at the address provided above.

Dated: April 12, 1982.

Christ F. Potamos,

Colonel, USA, Staff Director, Installation Services and Environmental Protection.

[FR Doc. 82–10425 Filed 4–22–82; 8:45 am]

BILLING CODE 3620–01–M

Office of the Secretary of Defense

Defense Intelligence Agency Advisory Committee; Closed Meeting

Pursuant to the provisions of subsection (d) of section 10 of Pub. L. 92–463, as amended by Section 5 of Pub. L. 94–409, notice is hereby given that a closed meeting of a Panel of the DIA Advisory Committee has been scheduled as follows: Wednesday, 26 May 1982, Plaza West, Rosslyn, Virginia.

The entire meeting, commencing at 0900 hours, is devoted to the discussion of classified information as defined in section 552b(c)(1), Title 5 of the U.S. Code and therefore will be closed to the public. Subject matter will be used in a special study on the REIS program.

Dated: April 20, 1982.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 82–11176 Filed 4–22–82; 8:45 am]

BILLING CODE 3810–01–M

DEPARTMENT OF EDUCATION

Compensatory Education Programs for Educationally Deprived Children—Neglected or Delinquent

AGENCY: Department of Education.

ACTION: Application notice for grants to state and local educational agencies to support projects to facilitate the transition of children from state-operated institutions for neglected or delinquent children into locally-operated programs; closing date for transmittal of applications for Fiscal Year 1982.

Applications are invited for grants to provide services that will facilitate the transition of neglected or delinquent (N or D) children from State-operated institutions to locally-operated educational programs. The authority for these grants is contained in Section 153 of Title I of the Elementary and Secondary Education Act (ESEA), as amended by Pub. L. 95–561. The available funds were appropriated in the Fiscal Year (FY) 1981 annual appropriation act for Department of Education programs. Certain additional funds may also become available for these programs from the Department's FY 1982 appropriation. (20 U.S.C. 2783)

Eligible applicants are State educational agencies (SEAs) and local educational agencies (LEAs).

Section 153 of Title I recognizes the special needs of N or D children who, after leaving an institution, attempt to resume their education in local schools. A recent study showed that only one-half of the children returned to school and that almost 80 percent of those children dropped out within six months of their release from the institutions.

Because the Department has not issued any specific regulations for this program, and because the program is being funded for the first time, the award of grants is governed by the regulations in 34 CFR Part 75 for programs without specific regulations. (45 FR 84058 (Dec. 22, 1980))

Closing date for transmittal of applications: To be assured of consideration for funding, an application for a grant must be mailed or hand-delivered to the Department of Education by June 7, 1982.

Applications delivered by mail: An application sent by mail must be addressed to the U.S. Department of Education, Application Control Center, Attention: 84.152, Washington, D.C. 20202–3651.

An applicant must show proof of mailing consisting of one of the following:

(1) A legibly-dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the U.S. Secretary of Education.

If an application is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing:

(1) A private metered postmark.

(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. A late application will be notified that its application will not be considered.

Applications delivered by hand: An application that is hand-delivered must be taken to the U.S. Department of Education, Application Control Center, Room 5673, Regional Office Building 3, Seventh and D Streets, S.W., Washington, D.C.

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: Grants under Section 153 of Title I, ESEA, are made to SEAs and LEAs serving substantial numbers of N or D children who have been released from State-operated institutions. The Secretary interprets Section 153 to require that grants be used to develop and implement special projects to facilitate the transition of these children from the institutions to locally operated elementary and secondary education programs, not beyond grade 12. For these purposes, project participants must be persons under 21 years of age who have been released from a State-operated institution. A list of State-operated institutions may be obtained from the Title I Coordinator in the SEA or from the Compensatory Education Programs office in the U.S. Department of Education.

The services to be provided for children under this grant program may include, but are not limited to—

(a) Compensatory education;

(b) Counseling—educational and individual;

(c) The services of persons with special responsibilities to act on behalf of individual children (Ombudspersons);

(d) Peer tutors; and

(e) Re-entry orientation programs.

Services may be provided through resource and vocational centers designed specifically for children who have been released from institutions.

Grants under this section shall be used to provide special educational services for N or D children in schools other than State-operated institutions. The Secretary interprets Section 153 to require that the projects be designed to meet the special educational needs of the eligible children who are selected to participate in the project.

Available funds: An amount of $900,000 has been appropriated in FY 1981 for Section 153 transition services grants. The funds remain available for obligation by the Department to grantees from July 1, 1981 to September 30, 1982. The Secretary estimates that these funds will support up to ten projects which the U.S. Department of Education may use as demonstration models for other SEAs and LEAs. This estimate, however, does not bind the Department of Education to a specific number of grants or the amount of any grant.

In addition, an amount of $864,000 may be available under the Department's FY 1982 appropriation. Until an FY 1982 appropriation bill is passed in final for Department of Education programs, it will not be known whether funds will actually be appropriated. If they are, they would be available for obligation by the Department to grantees from July 1, 1982 through September 30, 1983, and will be awarded under this application notice on the same basis as the FY 1981 funds.

Application forms: Application forms and instructions have been mailed to all SEAs. They may be obtained from the appropriate SEA or by writing to the U.S. Department of Education, Office of Elementary and Secondary Education, Compensatory Education Programs, 400 Maryland Avenue, SW., (ROB–3, Room 3616), Washington, D.C. 20202–3321.

Applications must be prepared and submitted in accordance with the forms and instructions included in the grant application package. The Secretary requests that project applications not exceed 20 pages in length.

Applicable regulations: The following regulations are applicable to this program:

The Education Department General Administrative Regulations (34 CFR Parts 74, 75, 77, and 78).

How the Secretary Makes a Grant Under Section 153 of Title I of ESEA.

1. *How does the Secretary evaluate an application?*

(a) The Secretary evaluates an application under 34 CFR Part 75 on the basis of the selection criteria listed in § 75.210. These selection criteria are contained in paragraphs 2 (a) through (g) of this notice.

(b) The Secretary awards up to 100 possible points for meeting these criteria.

(c) The maximum number of points possible for meeting each individual criterion is indicated in parentheses after the heading for that criterion.

2. *What selection criteria does the Secretary use to evaluate an application?*

(a) *Meeting the purposes of the authorizing statute.* (30 points)

(1) The Secretary reviews each application for information that shows how well the project will meet the purposes of the statute that authorizes the program.

(2) In conducting this review, the Secretary looks for information that describes—

(A) The objectives of the project; and

(B) How the objectives of the project further the purposes of the authorizing statute.

(b) *Extent of need for the project.* (20 points)

(1) The Secretary reviews each application for information that shows the project meets specific needs recognized in the statute that authorized the program.

(2) In conducting this review, the Secretary looks for information that—

(i) Describes the needs addressed by the project;

(ii) Describes how the applicant identified those needs;

(iii) Describes how those nees will be met by the project; and

(iv) Describes the benefits to be gained by meeting those needs.

(c) *Plan of operation.* (20 points)

(1) The Secretary reviews each application for information that shows the quality of the plan of operation for the project.

(2) The Secretary looks for information that shows—

(i) High quality in the design of the project;

(ii) An effective plan of management that insures proper and efficient administration of the project;

(iii) A clear description of how the objectives of the project relate to the purpose of the program;

(iv) The way the applicant plans to use its resources and personnel to achieve each objective;

(v) A clear description of how the applicant will provide equal access and treatment for eligible project participants who are members of groups that have been traditionally under-represented, such as—

(A) Members of racial or ethnic minority groups;

(B) Women; and

(C) Handicapped persons.

(d) *Quality of key personnel.* (12 points)

(1) The Secretary reviews each application for information that shows the qualifications of the key personnel the applicant plans to use on the project.

(2) The Secretary looks for information that shows—

(i) The qualifications of the project director (if one is to be used);

(ii) The qualifications of each of the other key personnel to be used in the project;

(iii) The time that each person referred to in paragraphs (d)(2) (i) and (ii) of this section will commit to the project; and

(iv) The extent to which the applicant, as part of its nondiscriminatory employment practices, encourages applications from persons who are members of groups that have been traditionally under-represented, such as—

(A) Members of racial or ethnic minority groups;

(B) Women;
(C) Handicapped persons; and
(D) The elderly.
(3) To determine personnel qualifications, the Secretary considers experience and training, in fields related to the objectives of the project, as well as other information the applicant provides.
(e) *Budget and cost-effectiveness.* (5 points)
(1) The Secretary reviews each application for information that shows that the project has an adequate budget and is cost effective.
(2) The Secretary looks for information that shows—
(i) The budget for the project is adequate to support the project activities; and
(ii) Costs are reasonable in relation to the objectives of the project.
(f) *Evaluation plan.* (10 points)
(1) The Secretary reviews each application for information that shows the quality of the evaluation plan for the project.
(2) The Secretary looks for information that shows methods of evaluation that are appropriate for the project and, to the extent possible, are objective and produce data that are quantifiable.
(g) *Adequacy of resources.* (3 points)
(1) The Secretary reviews each application for information that shows that the applicant plans to devote adequate resources to the project.
(2) The Secretary looks for information that shows—
(i) The facilities that the applicant plans to use are adequate; and
(ii) The equipment and supplies that the applicant plans to use are adequate.

Further Information: For further information contact Mr. Thomas W. Fagan, Director, Division of Grants, Policy, and Administration, Compensatory Education Programs, U.S. Department of Education, 400 Maryland Avenue SW., (ROB–3, Room 3616), Washington, D.C. 20202–3321. Telephone (202) 245–2722.

(20 U.S.C. 2783)

(Catalog of Federal Domestic Assistance No. 84.152; Title I, ESEA, Neglected or Delinquent Transition Services)

Dated: April 13, 1982.

Daniel Oliver,

Acting Secretary of Education.

[FR Doc. 82-11027 Filed 4-22-82; 8:45 am]
BILLING CODE 4000-01-M

Publication of Sample Cases and Expected Parental Contributions Under National Direct Student Loan; College Work-Study; Supplemental Educational Opportunity Grant Programs

AGENCY: Department of Education.

ACTION: Notice of publication of sample cases and the expected parental contributions for the approval of need analysis systems and notice of closing date for transmittal of information.

The Secretary gives notice that the sample cases and the expected parental contributions provided in the table below will be used in approving separate systems of need analysis for academic year 1982–83 for the Campus-Based Programs National Direct Student Loan (NDSL), College Work-Study (CWS), and supplemental Educational Opportunity Grant (SEOG). The Secretary takes this action under the authority of Section 124(3) of the continuing resolution for fiscal year 1982, Pub. L. 97–92.

Institutions of higher education are required to use these approved systems of need analysis in determining the financial need of dependent and independent students under the respective Campus-Based Programs.

Closing Date for Transmittal of Information: An individual or organization wishing to have a system of need analysis approved must submit to the Secretary on or before (insert date 30 days from date of publication, a complete description of the system of need analysis, the expected parental contributions produced by the system using the sample cases provided below, and a calculation of how each expected parental contribution was derived, including enough information to allow the Secretary to duplicate these calculations and results. The Secretary will not accept this information after the closing date and will return information received after the closing date to the sender.

Documents Delivered by Mail: Descriptions of systems, expected parental contributions, and calculations of how each expected parental contribution was derived which are sent by mail must be addressed to Paula Husselmann, Department of Education, Office of Student Financial Assistance, 400 Maryland Avenue, S.W., (Room 4018, Regional Office Building 3), Washington, D.C. 20202–3454.

An individual or organization must show proof of mailing these documents. Proof of mailing consists of one of the following: (1) a legible mail receipt with the date of mailing stamped by the U.S. Postal Service; (2) a legibly dated U.S. Postal Service postmark; or (3) any other poof of mailing acceptable to the Secretary of Education.

If these documents are 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 individual or organization should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, and individual or organization should check with its local post office. An individual or organization is encouraged to use certified or at least first-class mail.

Documents Delivered by Hand: Descriptions of systems, expected parental contributions, and calculations of how each expected parental contribution was derived which are hand-delivered must be taken to Paula Husselmann, Department of Education, Office of Student Financial Assistance, Campus and State Grant Branch, 7th & D Streets, SW., Room 4018, Regional Office Building 3, Washington, D.C. The Campus and State Grant Branch will accept these hand-delivered documents between 8:00 a.m. and 4:30 p.m. daily (Washington, D.C. time), except Saturdays, Sundays, and Federal holidays.

These documents will not be accepted after 4:30 p.m., May 24, 1982.

Program Information: This notice provides the sample cases and the expected parental contributions that the Secretary will use to approve need analysis systems for academic year 1982–83 under the Campus-Based Programs. In order to be approved a system must meet the requirements provided in this notice.

An individual or organization must submit to the Secretary expected parental contributions for dependent students which: increase incrementally as the parents' financial strength, measured in constant dollars, increases; are equal for families of equal financial strength; and are within $50 of the expected parental contributions in 75 percent of the sample cases supplied by the Secretary. An individual or organization that wishes to have its system of need analysis approved for dependent students must also submit its system of need analysis for independent students. The Secretary will also approve a need analysis system for independent undergraduate, graduate, and professional students if the Secretary approves the system for dependent students.

The expected parental contributions in this notice are based on the following assumptions: a 10 percent inflation rate for 1981; families of varying sizes with two parents and one dependent undergraduate student; adjusted gross income of the older parent who is age 45; the other parent is not gainfully employed, and asset protection allowance of $28,100 and use of 1981 U.S. income tax schedules for a joint return with standard deductions. No assumptions were made for: business or farm assets; nontaxable income, including social security benefits for

education; unusual medical or dental expenses; other unusual expenses; or elementary and secondary tuition expenses.

SAMPLE CASES AND EXPECTED PARENTAL CONTRIBUTIONS FOR THE NDSL, CWS AND SEOG PROGRAM—ACADEMIC YEAR 1982-83

Net assets	$30,000				$40,000				$50,000				$60,000			
Family size	3	4	5	6	3	4	5	6	3	4	5	6	3	4	5	6
Adjusted gross income:																
$12,000	200	0	0	0	460	50	0	0	730	320	0	0	990	580	190	0
16,000	790	380	0	0	1050	650	260	0	1320	910	530	90	1610	1180	790	360
20,000	1350	950	570	150	1650	1220	840	410	1980	1500	1100	670	2340	1800	1370	940
24,000	1990	1510	1120	700	2350	1820	1390	970	2760	2170	1690	1230	3240	2570	2030	1510
28,000	2720	2140	1680	1230	3200	2540	2010	1510	3720	2980	2380	1620	4290	3470	2800	2170

The table above contains the Sample Cases and the Expected Parental Contributions that are effective immediately for use in determining the approval of need analysis systems for dependent students under the Campus-Based Programs. The approved systems will be used for making awards to students under the Campus-Based Programs for academic year 1982–83.

For Further Information Contact: Paula M. Husselmann, Telephone Number: (202) 245–9720.

(Catalog of Federal Domestic Assistance No. 84.038, National Direct Student Loan Program; 84.033, College Work-Study Program; and 84.007, Supplemental Educational Opportunity Grant Program)

Dated: April 16, 1982.

T. H. Bell,

Secretary of Education.

[FR Doc. 82-10997 Filed 4-22-82; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Environmental Protection, Safety and Emergency Preparedness; Implementation of EP-739, "Weekly Crude Watch Report"

AGENCY: Environmental Protection, Safety and Emergency Preparedness.

ACTION: Notice of Office of Management and Budget Approval of EP-739.

SUMMARY: The U.S. Department of Energy recently obtained approval from the Office of Management and Budget (OMB) to gather data on imports of crude oil by 30 of the largest refiners. These refiners account for 90 percent of all crude oil imported into the U.S.

EFFECTIVE DATE: Immediately.

ADDRESSES: As with all studies conducted by the Department of Energy (DOE), comments on possible improvements are always welcome. Any comments should be directed to John Wells, U.S. Department of Energy, Environmental Protection, Safety and Emergency Preparedness (EP-40), Washington, D.C. 20585; or call (202) 252–2878.

FOR FURTHER INFORMATION CONTACT: Mrs. Dale Bodzer, Energy Information Administration, Department of Energy, Washington, D.C. 20585, (202) 252–5996.

SUPPLEMENTARY INFORMATION: The collection will be carried out by telephone by the Energy Information Administration for Office of the Assistant Secretary, Environmental Protection, Safety and Emergency Preparedness of the U.S. Department of Energy. The reporting format, EP–739, "Weekly Crude Watch Report," was approved by the Office of Management and Budget February 26, 1982. The following information will be collected for each cargo acquired for import into the U.S. during the previous week: Country/code/crude type, quantity, F.O.B. price, date acquired, port code, seller code, and seller name.

The OMB number is 1905–0132 and approval for use has been granted through February 29, 1985, (SIC) in accordance with the Paperwork Reduction Act, Pub. L. 96–511. This survey is authorized by the Federal Energy Administration Act of 1974, Pub. L. 93–275, and response is voluntary.

This study will provide the only timely source of cost and volume loading data for crude oil purchases destined for the U.S. The information is required to assist DOE in monitoring trends in the world energy market. The Crude Watch study will be used to provide non-company specific information to the Defense Fuel Supply Center of the Department of Defense, the purchasing agent for the Strategic Petroleum Reserve. The data requested on this form were previously provided to the Office of Special Counsel of the Economic Regulatory Administration. Because of its importance for a number of international and emergency preparedness programs, collection and sponsorship is being formally established and transferred to the Assistant Secretary for Environmental Protection, Safety and Emergency Preparedness. It has been approved by OMB as a *Voluntary* report, which will be collected by telephone on a weekly basis. Making this a voluntary report represents another step in the continuing effort by the DOE to work cooperatively with the private sector on energy emergency preparedness activities. DOE encourages suggestions and other comments as to how this program might be improved.

Issued in Washington, D.C., April 15, 1982.

William A. Vaughan,

Assistant Secretary, Environmental Protection, Safety and Emergency Preparedness.

[FR Doc. 82-11181 Filed 4-22-82; 8:45 am]

BILLING CODE 6450-01-M

Economic Regulatory Administration

Inexco Oil Co.; Proposed Consent Order

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of proposed Consent Order and opportunity for comment.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces a proposed Consent Order with Inexco Oil Company and provides an opportunity for public comment on the proposed Consent Order.

DATE: COMMENTS BY: May 24, 1982.

ADDRESS: Send comments to: David H. Jackson, Director, Kansas City Office, Economic Regulatory Administration, 324 East 11th Street, Kansas City, Missouri 64106–2466.

FOR FURTHER INFORMATION CONTACT: David H. Jackson, Director, Kansas City Office, Economic Regulatory Administation, 324 East 11th Street, Kansas City, Missouri 64106–2466, telephone number (816) 374–2092. Copies of the Consent Order may be obtained free of charge by writing or calling this office.

SUPPLEMENTARY INFORMATION: On March 25, 1982, the ERA executed a proposed Consent Order with Inexco Oil Company of Houston, Texas. Under 10 CFR 205.199J(b), a proposed Consent Order which involves a sum of $500,000 or more excluding interest and penalties, becomes effective no sooner than thirty days after publication in the **Federal Register** requesting comments concerning the proposed Consent Order.

Although the ERA has signed and tentatively accepted the proposed Consent Order, the ERA may, after consideration of the comments it receives, withdraw its acceptance and, if appropriate, attempt to negotiate an alternative Consent Order.

I. The Consent Order

Inexco Oil Company, with its home office located in Houston, Texas, is a firm engaged in the sale of natural gas liquids and natural gas liquid products, and was subject to the Mandatory Petroleum Price and Allocation Regulations at 10 CFR Parts 210, 211, and 212 during the period covered by this Consent Order (September 1, 1973 through January 28, 1981). To resolve certain potential civil liability arising out of the Mandatory Petroleum Allocation and Price Regulations and related regulations, 10 CFR Parts 205, 210, 211, and 212, in connection with Inexco Oil Company's transactions involving natural gas liquids (NGL's) and natural gas liquid products (NGLP's) during the period September 1, 1973 through January 28, 1981, the ERA, and Inexco Oil Company entered into a Consent Order, the significant terms of which are as follows:

A. *Facts:* DOE alleges that during the period September 1, 1973, through January 28, 1981, Inexco Oil Company sold products at prices in excess of the applicable ceiling or maximum lawful selling prices in violation of 6 CFR 150.355 and 150.358 and 10 CFR 212.82, 212.83, 212.143 and 212.163.

B. The execution of this Consent Order by Inexco Oil Company constitutes neither an admission by the company nor a finding by the DOE of any violation by the company of any statute or regulation.

II. Refunds and Civil Penalty

A. *Disposition of Refunds.* Under this Consent Order, Inexco Oil Company will pay the sum of $982,000, including interest, in twelve equal monthly installments commencing within thirty (30) days after the effective date of this Consent Order plus installment interest. Upon full satisfaction of the terms and conditions of this Consent Order by Inexco Oil Company, the DOE releases Inexco Oil Company from any civil claims that the DOE may have arising out of the specified transactions during the period covered by this Consent Order. Payments shall be made to the DOE for deposit in the U.S. Treasury as miscellaneous receipts. The provision for payment of the refund amount to DOE for deposit in the U.S. Treasury was decided upon because DOE determined that it could not identify the parties, if any, injured by Inexco's alleged violations. Inexco sold the NGL's, NGLP's, and condensate that are covered by this Consent Order to refiners and resellers. Some of the NGL's, NGLP's and condensate Inexco sold were used as refinery blendstock while the remainder was sold as specific products, such as propane or butane. Because the sales were to refiners and resellers that were able to pass on the alleged overcharges to subsequent purchasers, we were unable to identify specific parties, if any, ultimately injured. The inability to identify injured parties is compounded by DOE's inability to determine on the basis of its audit how the alleged overcharges were apportioned between those products that were used as refinery blendstock and those that were not. Consequently, the DOE determined that deposit of the refund amount in the U.S. Treasury is an appropriate remedy under the circumstances of this case.

B. *Civil Penalty.* In addition, Inexco Oil Company agrees to pay the sum of $15,000 in compromise of civil penalties relating to the above-described transactions during the period covered by this Consent Order.

III. Submission of Written Comments

Interested persons are invited to submit written comments concerning the terms and conditions of this Consent Order to the address given above. Comments should be identified on the outside of the envelope and on the documents submitted with the designation, "Comments on Inexco Oil Company Consent Order." The ERA will consider all comments it receives by 4:30 p.m., local time, on May 24, 1982. Any information or data considered confidential by the persons submitting it must be identified as such in accordance with the procedures in 10 CFR 205.9(f).

Issued in Kansas City, Mo., on the 5th day of April 1982.

Thomas A. Elliott,

Deputy Director, Kansas City Office, Economic Regulatory Administration.

[FR Doc. 82-11113 Filed 4-22-82; 8:45 am]

BILLING CODE 6450-01-M

Energy Information Administration

Solicitation of Comments and Notice of Public Hearing

AGENCY: Energy Information Administration, DOE.

ACTION: Solicitation of comments and notice of public hearing.

SUMMARY: The Energy Information Administration (EIA) of the Department of Energy solicits comments concerning proposed changes to the Petroleum Supply Data Collection forms. In an effort to maximize public participation in the revision of these forms, EIA will conduct a public hearing on Thursday, May 27, 1982, and continued on Friday, May 28, 1982, if necessary, in the Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585, beginning at 9 a.m. (e.s.t.)

DATES: Those wishing to provide oral testimony at the public hearing must request to speak at the hearing latest by 4:30 p.m. Friday, May 7, 1982 and must submit a copy of their presentation to the Energy Information Administration latest by 4:30 p.m. Monday, May 16, 1982.

Those wishing to provide written comments only must submit a copy of their comments to the Energy Information Administration latest by 4:30 p.m. Friday, May 21, 1982.

ADDRESS: Send comments, requests to speak at the hearing, and written presentation to: Special Projects Manager, EI-422, Mail Stop 2H-058, Office of Oil and Gas, Energy Information Administration, Washington, D.C. 20585.

FOR FURTHER INFORMATION OR COPIES OF REVISED FORMS AND INSTRUCTIONS CONTACT:

Jatinder N. D. Gupta or Paul Chapman, EI-422, Mail Stop 2H-058, Office of Oil and Gas, Energy Information Administration, Washington, D.C. 20585, Telephone: 202-252-9884.

SUPPLEMENTARY INFORMATION:

I. Background.

II. Comments and Public Hearing Procedures.

I. Background

In accordance with provisions of the Department of Energy (DOE) Organization Act (Pub. L. No. 95-91), the Energy Information Administration (EIA) is responsible for carrying out comprehensive, national energy data programs including the compilation and dissemination of economic and statistical information. In keeping with DOE's mandated responsibilities and in an effort to minimize respondent burden, the EIA proposes changes in the following petroleum supply data collection forms:

Monthly Refinery Report—(Form EIA-87)

Weekly Refinery Report—(Form EIA-161)

Annual Refinery Capacity Report—(Form EIA-177)

Monthly Bulk Terminal Stocks Report—(Form EIA-88)

Weekly Bulk Terminal Stocks Report—(Form EIA–162)
Monthly Products Pipeline Report—(Form EIA–89)
Weekly Pipeline Product Stock Report—(Form EIA–163)
Monthly Crude Oil Stocks Report—(Form EIA–90)
Weekly Crude Oil Stocks Report—(Form EIA–164)
Monthly Tanker and Barge Shipments of Crude Oil & Petroleum Products Between PAD Districts—(Form EIA–170)
Monthly Natural Gas Liquids Operations Report—(Form EIA–64)
Monthly Report of Oil Imports into the United States and Puerto Rico—(Form ERA–60)
Monthly Shipments of Refined Petroleum Products from Puerto Rico into the United States—(Form FEA–P–133)
Weekly Imports Report—(Form EIA–165)

The proposed changes and modifications are designed to reduce respondent burden, to increase the consistency between the weekly, monthly and related petroleum supply publications and to eliminate definitional ambiguity in instructions. Only minor changes are proposed to the Form ERA–60 since all DOE import forms are scheduled for a thorough review and consolidation during the upcoming year.

The proposed changes are summarized below:

1. Monthly Refinery Report (Form EIA–87)—

• Section 1, "Refinery Receipts of Crude Oil During Month By Method of Transportation," section 7, "Fuel, Electric Energy, and Steam Consumed for All Purposes At the Refinery," are eliminated from the monthly form and moved to the annual form EIA–177.

• In section 2, "Refinery Production During The Month and End-of-Month Stocks of No. 4 and Residual Fuel Oil by Sulfur Content," No. 4 fuel oil is eliminated and the five categories of sulfur content are reduced to three categories corresponding to low, medium and high sulfur residual fuel oil.

• The detailed categories under section 4, "Gross Input to Crude Oil Distillation Unit During the Month", are eliminated and only the "Total Gross Input to Crude Oil Distillation Units" will be collected.

• In section 6, "Refinery Stocks, Receipts, Inputs, Production, Shipments and Refinery Fuel Use and Losses", several data elements are combined:

—"Normal Butane" (code 235), "Other Butanes" (code 236) and "Isobutane" (code 233) are combined into a single category, "Butane".

—The three subcategories of lubricating oils, Bright Stock (code 853), Neutral (code 855) and Other (code 859) are combined into a single category, "Lubricating Oils".

—The three subcategories of waxes, Miscrocrystalline (code 061), Crystalline-Fully Refined (code 071), and Crystalline-Other (code 081), are combined into a single category, "Petroleum Waxes".

—Asphalt (code 900) and Road Oil (code 031) are combined into a single category, "Asphalt and Road oil".

—No. 4 fuel oil (code 414) is combined with Distillate Fuel oil (code 412) into a single category, "Distillate Fuel Oil".

• In section 8, "End-of-Month Stocks of Unfinished Oils by Category/Degree End-Point", the four petroleum product categories are combined. "Naphthas and Lighter Oils" is combined with "Kerosene and Lighter Gas Oils"; Heavy Gas Oils" is combined with "Residuum".

2. Weekly Refinery Report (Form EIA–161)—

• The distinction between domestic and foreign crude oil (including lease condensate) is eliminated.

• The two categories of gasoline are increased to four corresponding to those collected by the monthly form, EIA–87.

• "Kerosene (including range oil)" is eliminated as an individual item.

• A "Total" category is added to the form to account for all petroleum products.

• Refinery crude oil stocks are collected on the EIA–161 to be comparable with those collected on the monthly EIA–87. Weekly refinery crude oil stocks will no longer be reported on form EIA–164.

• Unfinished oils input and production at refineries will be added to the EIA–161 to allow the calculation of a reclassified value comparable to that calculated in the EIA–87.

• Inputs data for each product will be collected to allow calculation of weekly net production for each product.

3. Annual Refinery Capacity Report (Form EIA–177)—

• In section I, "Crude Oil and Other Feedstock: Product Yield":

—The projected second year column is eliminated for both the input and output items.

—The distinction between light and heavy API gravity for the input items is eliminated.

—Gasoline blending components are added to the input items.

—Lease condensate is combined with crude oil.

—No. 4 fuel oil is combined with Distillate Fuel oil in the output items.

• In section III, "Operable Capacity," the projected second year column is eliminated.

• Also in section III, "Operable Capacity," the "Catalytic Hydrorefining" category is merged with the "Catalytic Hydrotreating" category.

• Form EIA–87, section 1, "Refinery Receipts of Crude Oil by Method of Transporation" and section 7 "Fuel, Electric Energy and Steam Consumed for All Purposes at the Refinery" are added to the annual form and eliminated from the monthly. Annual data will be collected for the preceding year.

4. Monthly Bulk Terminal Stocks Report (Form EIA–88)—

• All states which are currently split (e.g. TX Gulf and TX Inland) are combined to result in 53 geographical reporting categories, the 50 states, D.C., Puerto Rico and the Virgin Islands.

• No. 4 fuel oil will be included with distillate fuel oil. Sulfur categories of No. 4 fuel oil are eliminated as on the monthly refinery report EIA–87.

• The five categories of sulfur levels for residual fuel oil are condensed to three as on the monthly refinery report EIA–87.

• Isobutane (Code 233) is combined with Butane (code 232) into a single category "Butane".

• The category "Miscellaneous Finished Oils" is changed to "All Other Finished Products".

• Asphalt product category will include road oil.

5. Weekly Bulk Terminal Stocks Report (Form EIA–162)—

• The two categories of motor gasoline, total motor and motor unleaded, are changed to four categories: finished leaded, finished unleaded, blending components and gasohol.

• The product category, kerosene, is eliminated.

• The refinery district level of aggregation is consolidated to a PADD level basis, except that PADD 1 is divided into the three sub-PADD geographic areas of New England, Central Atlantic and Lower Atlantic.

• A total stocks column is added.

6. Monthly Products Pipeline Report (Form EIA–89)—

• Petroleum product stock information within pipelines and working tanks are reported by PADD level (with three subcategories for PADD–1) instead of by Refining District.

• No. 4 fuel oil will be included with distillate fuel oil.

7. Weekly Pipeline Product Stock Report (Form EIA–163)—

• Changes are made to the Weekly Pipeline Product Stocks Report identical to the changes on the Weekly Bulk Terminal Stocks Report: Changes in motor gasoline categories, elimination of kerosene, changes to PADD categories, and addition of a "Total Stocks" category.

8. Monthly Crude Oil Stock Report (EIA–90)—

• Crude oil stocks are collected at the PADD level instead of the state level on the proposed form.

• The titles of the columns "Distillate Fuel Oil Consumed on Leases/Pipelines" and "Residual Fuel Oil Consumed on Leases/Pipelines" are changed to "Crude Oil Consumed as Distillate Fuel Oil" and "Crude Oil Consumed as Residual Fuel Oil" respectively.

9. Weekly Crude Oil Stock Report (Form EIA–164)—

• The domestic and foreign origin breakdown is eliminated.

• Refinery crude oil stocks currently reported on form EIA–164 will be reported on form EIA–161.

10. Monthly Tanker and Barge Shipments of Crude Oil & Petroleum Products Between PAD Districts (Form EIA–170)—

• Inter-PADD movements of crude oil and petroleum products are collected instead of inter-PADD by state movements.

• No. 4 fuel oil will be included with distillate fuel oil. The sulfur level breakdown of No. 4 fuel oil is eliminated.

• The five sulfur levels of residual fuel oil are reduced to three.

• Gasoline is divided into the standard four motor gasoline categories and the two categories of aviation gasoline, finished avaition and aviation blending components.

• Petrochemical feedstocks are divided into Naphtha-less than 400 degrees end-point and Other oils-over 400 degrees end-point.

11. Monthly Natural Gas Liquids Operations Report (Form EIA–64)—

• In section 1, "Natural Gas Processing Plants and Fractionator Operations," the five column breakout for shipment destination by facility type is combined into one column.

• Also in section 1, plant fuel use and losses are combined into a single reporting category.

• Isopentane, and the two subcategories of natural gasoline, 14 # and less RVP and over 14 # RVP, are combined into one product category, "Natural gasoline and isopentane". Normal butane, isobutane, and other butanes are combined to form one product category called "Butanes".

• The overage (inputs) or shortage (production) rows are eliminated.

• In section 2, "Storage Facility Operations" all data columns are eliminated. End of Months stocks will still be reported by storage facility operations, but in section 1 of the report.

• On form EIA–64, the unit "barrels" is changed to "thousands of barrels".

12. Monthly Report of Oil Imports into the United States and Puerto Rico (Form ERA–60)—

Only minor changes are proposed to the Form ERA–60 since all DOE import forms are scheduled for a thorough review and consolidation during the upcoming year. These proposed changes are:

• Section II, part A of Schedule A, the requirement to indicate if no imports are made during the report month is eliminated. However, to maintain accuracy a sample selected to provide 95 percent coverage of monthly imports of each product will identify specific respondents required to file a report for all months including months with no imports.

• Product definitions for liquefied petroleum gases are revised.

• Schedule K, "Finished Petroleum Products," and Schedule T, "Residual Fuel Oil (Including Crude Oil to be Burned as Fuel)," are combined into one new schedule K.

• The "License Number" column is eliminated from Schedules B, C and K. All crude oil, unfinished oils and finished petroleum products reported on Schedules B, C, and K, respectively, will be aggregated by Port of Entry and Country of Origin (for all license numbers).

• The "viscosity" column is eliminated from the new Schedule K.

13. Shipments of Refined Petroleum Products from Puerto Rico to the United States (Form FEA–P–133)—

• Since the monthly "Shipments of Refined Petroleum Products (Including Unfinished Oils) from Puerto Rico to the United States" (Form FEA–P133–M–0) is essentially the same form as the ERA–60, the changes listed above for the ERA–60 are also proposed for incorporation into the FEA–P133.

14. Weekly Imports Report (Form EIA–165)—

• The two columns on section 1, "Imports of Petroleum Products", "Total Motor Gasoline", and "Unleaded Motor Gasoline", are changed to the new standard four categories: Finished Leaded, Finished Unleaded, Blending Components, and Gasohol.

• The petroleum product, kerosene, is eliminated.

• Section 2 of the existing form showing crude oil imports by PADD and country of origin is eliminated. The collection of crude oil imports aggregated by PADD is retained by adding a column labeled "Crude Oil" to section A and relabeling section 1, "Imports of Petroleum". Section 2 is reduced to the collection of aggregate volumes of crude oil by country of origin (not further divided by PADD). The countries of origin in section 2 will be chosen on a ranking basis.

• A "total" column is added to section 1.

II. Comments and Public Hearing Procedures

A. *Written Comments.* EIA invites the public to comment on these forms and provides the following guidelines to assist in preparation of responses.

If you are a possible data provider:

(1) Are the instructions and definitions clear and sufficient?

(2) Can the data be submitted in accordance with the response time specified in the instructions?

(3) How many hours, including time for research, computation, preparation and administrative review, will it take your firm to complete and submit these forms for the first year of reporting?

(4) How many hours will it take your firm for subsequent years of reporting?

(5) Estimate the annual cost of completing the forms, including direct and indirect costs associated with the data collection. Direct costs should include all one-time and recurring costs, such as development, assembly, equipment, ADP and other administrative costs.

(6) How can the forms be improved?

If you are a data user:

(1) Do you need data at the disaggregated levels indicated on the forms; that is: Do the products, frequency, market categories and geography reflect your needs?

(2) For what purposes would you use these data?

(3) How could the form be improved to better meet your specific data needs?

Comments will be summarized and provided in EIA's submission to the Office of Management and Budget and will become a matter of public record.

B. *Public Hearings.* 1. *Procedures for Request to Make Oral Presentation.* The time and place for the hearing are indicated in the "Dates" and "Addresses" sections above.

EIA invites any interested person wishing to provide oral testimony on these forms to request to speak at the hearing no later than 4:30 p.m. Friday, May 7, 1982 and to provide a copy of the presentation to EIA latest by 4:30 p.m. Monday, May 17, 1982. Such a

presentation should include the interest concerned, if appropriate, a statement indicating why the individual is a proper representative of a class of persons that has such an interest, and a telephone number where this individual may be contacted during the day. The EIA will notify each person selected to speak at the hearing latest by Tuesday, May 18, 1982. Persons selected should bring 25 copies of their written presentations to the hearing.

2. *Conduct of the Hearing.* The EIA will schedule the presentations and establish the procedures governing the conduct of the hearing. Any person desiring to present oral testimony will be allowed to do so, time permitting. Although time constraints may limit the number of persons who will be allowed to speak, EIA will consider all comments submitted. Likewise, the length of each presentation may be limited based on the number of persons requesting to be heard. An EIA official will preside at the hearing. This will not be a judicial or evidentiary-type hearing. Questions immediately following a presentation may be asked only at the discretion of those conducting the hearing, and there will be no cross-examination of persons presenting statements.

Any other procedural rules needed for the proper conduct of the hearing will be announced by the presiding officer.

A transcript of the hearing will be made and the entire record of the hearing, including the transcript, will be retained in the EIA and made available for inspection at the DOE Freedom of Information Office, Room 1E-190, 1000 Independence Avenue, S.W., Washington, D.C. 20585, between the hours of 8:30 a.m. and 4:30 p.m., Monday through Friday. Any person may purchase a copy of the transcript from the reporter.

Issued in Washington, D.C., on April 19, 1982.

J. Erich Evered,

Administrator, Energy Information Administration.

[FR Doc. 82-11112 Filed 4-22-82; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Project No. 5952-000]

Stephen E. and George S. Austin; Application for Preliminary Permit

April 20, 1982.

Take notice that Stephen E. and George S. Austin (Applicant) filed on February 8, 1982, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825 (r)] for Project No. 5952 to be known as the Grist Mill Project located on the Moose River in Essex County, Vermont. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Stephen E. or George S. Austin, Box 20, Concord, Vermont 05824.

Project Description—The proposed project would consist of: (1) a newly constructed 15-foot high concrete dam; (2) a proposed reservoir with a surface elevation of 878 feet NGVD with an estimated storage of 50 acre-feet; (3) a 200-foot long tailrace; (4) a new powerhouse containing one generating unit with a rated capacity of 80 kW; (5) a new transmission line; and (6) appurtenant facilities. The Applicant estimates that the average annual energy output would be 350,000 to 400,000 kWh. The most likely market for the energy derived at the proposed project would be the Central Vermont Public Service Corporation. The lands affected by the proposed project are owned by Willard Baker of Concord, Vermont, Willard and Myrtle McPherson of Lunenburg, Vermont, and the town of Concord.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit is 36 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 $15,738.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before July 1, 1982, the competing application itself, or a notice of intent to file such an application [see: 18 CFR 4.30 et seq. (1981); and Docket No. RM 81-15, issued October 29, 1981, 46 FR 55245, November 9, 1981.]

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 July 1, 1982, and should specify the type of application forthcoming. Any application for license 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].

Submission of a timely notice of intent to file an application for preliminary permit, allows an interested person to file an acceptable competing application for preliminary permit no later than August 30, 1982.

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 etition 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 July 1, 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. 82-11094 Filed 4-22-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6062-000]

Mr. N. Burgess and Ms. M. Burgess; Application for Exemption for Small Hydroelectric Power Project Under 5 MW Capacity

April 20, 1982.

Take notice that on March 8, 1982, Mr. N. Burgess and Ms. M. Burgess (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. 6062) would be located on Bluford Creek, Trinity County, California. Correspondence with the Applicant should be directed to: Mr. N. Burgess, P.O. Box 200, Willits, California 95490.

Projected Description—The proposed project would consist of : (1) a 6-foot high, 15-foot long diversion structure; (2) a 24-inch diameter, 6,440-foot long penstock; (3) a powerhouse containing a turbine-generating unit with a rated capacity of 1,250 kW; and (4) appurtenant facilities. Applicant estimates a 3,585 MWh average annual energy production.

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. Project energy would be sold to Pacific Gas and Electric Company.

Agency Comments—The U.S. Fish and Wildlife Service, The National Marine Fisheries Service, and the California Department of Fish & 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 Application—Any qualified license applicant desiring to file a competing application must submit to the Commission, on or before June 14, 1982, either the competing license application that proposes to develop at least 7.5 megawatts in that project, or notice of intent to file such a license application. Submission of a timely notice of intent allows an interested person to file the competing license application no later than 120 days from the date that comments, protests, etc. are due. Applications for preliminary permit will not be accepted.

A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c) (1980). A competing license application must conform with the requirements of 18 CFR 4.33 (a) and (d) (1980).

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intrevene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the apppropriate action to take, the Commission will consider all protests or other comments filed, but ony 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 14, 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, N.E., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-11095 Filed 4-22-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-267-000]

Colorado Interstate Gas Co.; Application

April 16, 1982.

Take notice that on April 1, 1982, Colorado Interstate Gas Company (Applicant), P.O. Box 1087, Colorado Springs, Colorado 80933, filed in Docket No. CP82-267-000 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 observation well at the Boehm Storage Field, Morton County, Kansas, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to drill and equip one observation well on the western flank of the Keyes Sand Structure to the Boehm Storage Field in Section 16, Township 33 South, Range 42 West, Morton Country, Kansas. Applicant explains that the purpose of this facility is to provide improved control and monitoring of the field.

Applicant estimates the cost of the proposed facility to be $322,100 which would be financed from current funds on hand, funds from operations, short-term borrowings, or long term financing.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 7, 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. 82-11122 Filed 4-22-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP82-64-000]

Consolidated Gas Supply Corp.; Proposed Changes in FERC Gas Tariff

April 15, 1982.

Take notice that Consolidated Gas Supply Corporation (Consolidated) filed on April 1, 1982, revised tariff sheets pursuant to the Natural Gas Act, the Natural Gas Policy Act and Section 12 (PGA Clause) of the General Terms & Conditions of its Tariff. The revisions, shown on Substitute Twenty-Eighth Revised Sheet No. 16 and Substitute Twenty-Ninth Revised Sheet No. 16 proposed to be made effective on January 1, 1982 and March 1, 1982, respectively, would implement the order of the United States Court of Appeals for the Fifth Circuit in *Mid-Louisiana Gas Co.* v. *FERC*, issued December 23, 1981, in Nos. 80-3804, *et al.*

Consolidated states that the proposed change would increase by 4.66¢ Dt the "Base Cost of Gas From Producer Suppliers," as defined in the PGA clause of Consolidated's tariff and as shown on the bottom of Sheet No. 16. This change would allow Consolidated to defer each month to Account No. 191, Unrecovered Purchased Gas Costs, the difference between the unit amount per Dt (4.66¢) now included on a cost-of-service basis in base rates for "old" pipeline production (i.e. production from wells drilled prior to January 1, 1973, or leases acquired prior to October 8, 1969) and the amount permitted under the NGPA as found by the court in *Mid-Louisiana*. This additional deferral would be included in Consolidated's sales rates as part of its PGA surcharge beginning with the effective date of Consolidated's next regularly scheduled PGA filing, September 1, 1982.

Consolidated does not propose in this filing to change its currently effective sales rates.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before May 5, 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 proceedings. Any persons wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

FR Doc. 82-11123 Filed 4-22-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA82-1-12-002]

Distrigas of Massachusetts Corp.; Revised Purchased LNG Cost Adjustment

April 15, 1982.

Take notice that on March 31, 1982, Distrigas Corporation (Distrigas) tendered for filing Tenth Revised Sheet No. 1 to its FERC Gas Tariff. This tariff sheet was filed to reflect the correct interest calculation for the surcharge credit. The revised rate proposed is $4.930966 per MMBtu, reflecting an increase in the surcharge credit of $.000012.

Concurrently, Distrigas of Massachusetts Corporation (DOMAC) tendered for filing Tenth Revised Sheet No. 3A to its FERC Gas Tariff. This tariff sheet was filed to reflect the addition of the Gas Research Institute Surcharge and to reflect the correct interest calculation for the surcharge credit. The revised rate proposed is $5.181409 per MMBtu, reflecting an increase in the surcharge credit of $.000001 to correct the interest calculation and the proper addition of the Gas Research Institute Surcharge.

Distrigas and DOMAC state that on November 30, 1981, Distrigas tendered for filing Eighth Revised Sheet No. 1 to its FERC Gas Tariff and, concurrently, DOMAC tendered for filing Eighth Revised Sheet No. 3A. These tariff sheets were filed pursuant to Distrigas' and DOMAC's purchased LNG cost adjustment provision set forth in their respective tariffs.

By suspension order issued December 31, 1981, the Commission accepted the above-referenced tariff sheets for filing, effective January 1, 1982, subject to refund and conditions.

On March 16, 1982, Distrigas and DOMAC concurrently submitted for filing revised tariff sheets in compliance with the conditions specified in the Commission's suspension order.

However, on March 25, 1982, Distrigas and DOMAC became aware that an inadvertent error was made in the calculation of DOMAC's proposed rate. The Gas Research Institute surcharge had been subtracted and not added. Furthermore, the carrying charge for the months of July, August and September was 18.21% instead of 18.27%. In October, 20.13% was used instead of 20.31%

Accordingly, Distrigas and DOMAC submitted these revised rates which are to supersede the rates previously proposed and placed into effect subject to refund and conditions. The proposed effective date for these revised tariff sheets is January 1, 1982.

Copies of this filing were served upon Distrigas' and DOMAC's customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 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 May 5, 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. 82-11124 Filed 4-22-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP82-66-000]

East Tennessee Natural Gas Co.; Change in FERC Gas Tariff

April 15, 1982.

Take notice that on April 8, 1982, East Tennessee Natural Gas Company (East Tennessee) tendered for filing First Revised Sheet No. 122 to Original

Volume No. 1 of East Tennessee's FERC Gas Tariff to be effective May 9, 1982.

East Tennessee states that the subject tariff change is being made pursuant to a FERC auditor's request that East Tennessee conform the PGA provision in its tariff with the actual computational methodology utilized by East Tennessee.

East Tennessee also states that copies of the filing have been mailed to all affected customers and affected state regulatory commissions and is available for public inspection during regular business hours in a convenient form and place at East Tennessee's offices at 8200 Kingston Pike in Knoxville, Tennessee.

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, NW., 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 May 5, 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. 82-11125 Filed 4-22-82; 8:45 am]

BILLING CODE 6718-01-M

[Docket No. CP82-246-000]

El Paso Natural Gas Co.; Application

April 21, 1982.

Take notice that on March 19, 1982, El Paso Natural Gas Company (Applicant), P.O. Box 1492, El Paso, Texas 79978, filed in Docket No. CP82-246-000 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 minor facilities and the transportation and delivery of natural gas to Minco Oil and Gas Co. (Minco), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that pursuant to an agreement dated October 1, 1979, between Applicant and Minco Applicant has acquired a source of supply in Hemphill County, Texas. It is asserted that under the purchase agreement Minco has reserved the right to receive in kind up to 25 percent of its combined production from said wells in addition to any future production which may be produced on Minco's properties for use by Minco in the operation of its irrigation facilities located on its ranching properties situated in Wheeler County, Texas. Minco has advised Applicant that Minco would require approximately 50 Mcf of natural gas per day for operating its irrigation facilities. Applicant explains that in order to assist Minco in making such quantities of natural gas available to its ranching properties Applicant has agreed to construct and operate certain minor facilities located on its existing 20-inch O.D. South Zybach pipeline and then to transport and deliver natural gas to Minco.

It is further stated that on November 23, 1981, Applicant and Minco entered into an agreement whereby Applicant would receive and transport for the account of Minco for a period coterminous with the gas purchase agreement such quantities of natural gas as Minco should cause to be tendered to Applicant from the Flowers No. 1-1 and McMordie No. 1-8 wells not to exceed 25 percent of Minco's gas otherwise available for sale to Applicant under the gas purchase agreement. Applicant has agreed to transport and deliver equivalent quantities of natural gas on a volumetric basis, less fuel shrinkage and gas lost and otherwise unaccounted for, to Minco at a proposed point of delivery located on Applicant's existing 20-inch O.D. South Zybach pipeline in Wheeler County, Texas (EPNG Delivery Point). For each Mcf of Natural gas delivered by Applicant to Minco, it is asserted, the transportation agreement provides that Minco should pay Applicant the appropriate "Field Transmission Charge" as set forth on Sheet No. 1-D.2 of Applicant's FERC Gas Tariff, Third Revised Volume No. 2 or superseding sheet or tariff. The currently effective rate is 15.31 cents per Mcf, it is submitted.

It is stated that on any day when the quantity of natural gas made available to Applicant by Minco for transportation exceeds Minco's need for operating its irrigation facilities the parties have agreed that Applicant should have the right but not the obligation to purchase that volume of natural gas if any designated by Minco as being excess pursuant to the terms of the purchase agreement.

Applicant asserts that in order to effectuate the deliveries by Applicant of natural gas to Minco, Minco would construct at its own expense, own, operate, and maintain the pipeline facilities necessary to connect its pipeline system with Applicant's pipeline system facilities. Applicant would be required to construct, own, operate, and maintain the necessary measurement facilities and a tap and valve assembly with appurtenances on its 20-inch O.D. South Zybach pipeline. The estimated total cost of the minor facilities to be constructed and operated by Applicant is $2,950. Minco would reimburse Applicant for the actual cost incurred by Applicant in the construction of such facilities.

Applicant further requests that the authorization sought herein specifically permit the transportation of natural gas from additional receipt points and the addition of such delivery points as may be required provided that such gas to be delivered by Applicant to Minco would be used as fuel for its irrigation operations located on Minco's ranching properties in Wheeler County, Texas. Applicant further requests blanket authorization for the deletion by mutual consent of receipt points and/or delivery points from the transportation arrangement. Applicant proposes that commencing one year from the last day of the month in which the requested authorization is issued and on a yearly basis thereafter all additions and deletions of receipt points and/or delivery points under the transportation arrangement that have occurred during the preceding year shall be executed and filed with the Commission. In the event facilities subject to the jurisdiction of the Commission are required to be installed by Applicant, Applicant proposes to do so under its budget-type authorization.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 10, 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. 82-11098 Filed 4-22-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-247-000]

El Paso Natural Gas Co., Application

April 21, 1982.

Take notice that on March 19, 1982, El Paso Natural Gas Company (Applicant), P.O. Box 1492, El Paso, Texas 79978, filed in Docket No. CP82-247-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing (1) the transportation of natural gas in interstate commerce for the account of Western Gas Interstate Company (WGI) and the delivery of such gas to Southern Union Gas Company (Southern Union) for WGI's account at certain existing points of delivery on Applicant's interstate transmission pipeline system in Arizona, New Mexico and Texas; and (2) the retention, in place and operaton of certain tap facilities installed to facilitate a transportation service pursuant to section 311 of the Natural Gas Policy Act of 1978 (NGPA) and which would continue to be utilized under the proposed transportation arrangement with WGI, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Pursuant to a gas transportation agreement with WGI Applicant proposes to receive, transport, and deliver for the account of WGI such volumes of natural gas as WGI may tender to Applicant on any day during the term of the transportation agreement which commences with the date of initial deliveries and extends for a primary term of twenty years. It is stated that under such agreement Applicant would not be obligated to accept on any day volumes in excess of the contract quantity of 100,000 Mcf of gas per day as set forth in the agreement. It is further stated that Applicant's obligation to accept and transport natural gas for WGI under the agreement would be limited to that volume of natural gas that Applicant determines, in it sole discretion, it has available existing capacity to accept, transport and redeliver after moving supplies of natural gas for service to its sales customers and allocating remaining capacity between WGI and other shippers under arrangements with similar transportation services.

Applicant states that it would accept the volumes of natural gas to be tendered by WGI for transportation at the existing points of receipt in Eddy, Lea, San Juan, and Valencia Counties, New Mexico, and would concurrently deliver equivalent volumes, on a volumetric basis, less five percent representing gas lost and unaccounted for as well as mainline fuel requirements at the delivery points in Arizona, Texas and New Mexico as set forth in Exhibit B of the transportation agreement.

For such service, it is asserted, WGI would pay Applicant for each Mcf of natural gas transported by forward haul over a distance of one hundered miles or more a weightier average rate equal to the sum of the products of the percentages of the total volume delivered in Arizona, New Mexico and Texas, multiplied by applicant's mainline transmission charge applicable to each such state as such charges may be in effect from time to time and set forth on Sheet No. 1-D.2 of Applicant's Tariff Volume No. 2 or superseding tariff. It is further asserted that WGI would pay Application for each Mcf of natural gas transported, upon Applicant's prior agreement, by forward haul over a distance of less than 100 miles at the rate in effect and refleted from time to time as the "Short Haul Charge" set forth on Sheet N. 1-D.2 of Applicant's Tariff Volume No. 2 and that, as compensation for the use, upon Applicant's prior agreement, of Appliant's mainline transmission facilities in the back haul transmission of natural gas under the transportation agreement, WGI would pay Applicant the rate in effect and reflected from time to time as the "Back Haul Charge" set forth on Sheet No. 1-D.2 of Applicant's Tariff Volume No. 2.

It is further stated that Applicant and WGI have agreed to utilize two meter stations, the Rio Puerco and MAPCO meter stations, which would be installed under the Commission's Regulations governing transportation arrangements under Section 311(a) of the NGPA as receipt and delivery points under the subject transportation agreement. In order to utilize such meter station facilities under the proposed arrangement with WGI Applicant requests Commission authorization to retain in place and continue the operation of its tap and valve assemblies that would be installed at the Rio Puerco and MAPCO meter station locations. Specifically, Applicant proposes to retain in place and operate two 8⅝-inch O.D. tap and valve asssembles with appurtenances at the Rio Puerco meter station, Valencia County, New Mexico, and two 2⅜-inch O.D. tap and valve assemblies with appurtenances at th MAPCO meter station, Chaves County, New Mexico.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 10, 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. 82-11097 Filed 4-22-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-245-000]

El Paso Natural Gas Co.; Application

April 16, 1982.

Take notice that on March 19, 1982, El Paso Natural Gas Company (Applicant), P.O. Box 1492, El Paso, Texas 79978, filed in Docket No. CP82-245-000 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 minor tap facilities and the sale of natural gas to 4 existing distribution customers, Southern Union Gas Company, a Division of Southern Union Company (Southern Union), Gas Company of New Mexico, a Division of Southern Union Company [Gas Company), West Texas Gas, Inc. (West Texas) and Southwest Gas Corporation (Southwest) for resale to 7 right-of-way grantors on Applicant's interstate pipeline transmission system, 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 minor facilities to provide a total of 7 taps in order to provide natural gas service to 7 right-of-way grantors. Applicant asserts that natural gas would be sold and delivered by Applicant for residential and irrigation pumping uses to Southern Union, Gas Company, West Texas and Southwest for resale and delivery to the following right-of-way grantors:

Southern Union

1. *William O. Hintze Tap*

A 1-inch O.D. tap and valve assembly with appurtenances located at a point on Applicant's existing 20-inch O.D. Maricopa County pipeline in Yavapai County, Arizona.

2. *Phillip E. Pitrat Tap*

A 1-inch O.D. tap and valve assembly with appurtenances located at a point on Applicant's existing 30-inch O.D. San Juan Crossover pipeline in Mohave County, Arizona.

Gas Company

1. *Mrs. Tony M. Atencio Tap*

A 1-inch O.D. tap and valve assembly with appurtenances located at a point on the existing 4½-inch O.D. Amoco Production Company-Sammons Gas Com. "E" No. 1 well-tie pipeline in San Juan County, New Mexico.

2. *Pat Montoya Tap*

A 1-inch O.D. tap and valve assembly with appurtenances located at a point the existing 4½-inch O.D. Amoco Production Company-Chavez Gas Com. "D" No. 1E well-tie pipeline in San Juan County, New Mexico.

3. *Jay Christensen Tap*

A 1-inch O.D. tap and valve assembly with appurtenances located at a point on applicant's existing 30-inch O.D. Permian-San Juan pipeline in Socorro County, New Mexico.

West Texas

1. *Longfellow Corporation Tap*

A 1-inch O.D. tap and valve assembly with appurtenances located at a point on Applicant's existing 36-inch O.D. Waha-Ehrenberg pipeline in Culberson County, Texas.

Southwest

1. *Barkley Roy McLaughlin Tap*

A 1-inch O.D. tap and valve assembly with appurtenances located at a point on Applicant's 8⅝-inch O.D. San Manuel Crossover pipeline in Pinal County, Arizona.

Applicant asserts that the rates which would apply to such sales for resale would be the rates in effect under the applicable rate schedules contained in Applicant's FERC Gas Tariff, Original Volume No. 1, or superseding tariff.

Applicant estimates the cost of the proposed facilities to be $20,289 which cost would be financed by internally generated funds.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 7, 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. 82-11126 Filed 4-22-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6131-000]

Energenics Systems, Inc.; Application for Preliminary Permit

April 20, 1982.

Take notice that Energenics Systems, Inc. (Applicant) filed on March 29, 1982, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)-825(r)] for Project No. 6131 to be known as the Mansfield Hollow Project located on the Natchaug River in Tolland County, Connecticut. 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, N.W., Suite 706, Washington, D.C. 20006.

Project Description—The proposed project would utilize the existing U.S. Army Corps of Engineers' Mansfield Hollow Dam and Reservoir and would consist of: (1) a new penstock utilizing the existing outlet works in the right section of the dam; (2) a new powerhouse containing turbine-generator units having a total rated capacity of 2,210 kW; (3) a tailrace, approximately 40 feet long; (4) a new transmission line, one half mile long, connecting to existing 115-kV transmission lines; and (5) appurtenant facilities. The Applicant estimates that the average annual energy output would be 7,800,000 kWh. Project energy would be sold to the Connecticut Light and Power Company or to nearby public institutions and industrial users.

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 prepare studies of the hydraulic, construction, economic, environmental, historic and recreational aspects of the project. Depending on the outcome of the studies, Applicant would prepare an application for an FERC license. Applicant estimates the cost of the studies under the permit would be $35,000.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before August 2, 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 July 1, 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 July 1, 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. 82-11099 Filed 4-22-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF82-103-000]

Energenics Systems Inc.; Application for Commission Certification of Qualifying Status of a Small Power Production Facility

April 15, 1982.

On March 30, 1982 Energenics Systems Inc., 1717 K Street, N.W., Suite 706, Washington, D.C. 20006 filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facilitary as a qualifying small power production facility pursuant to §292.207 of the Commission's rules.

The hydroelectric facility will be located in Leadville, Lake County, Colorado. The electric power production capacity of the facility will be 2,803 kilowatts. There are no other small power production facilities located within one mile of the site which are owned by the Applicant. 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 or 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 within 30 days after the date of publication of this notice 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. 82-11137 Filed 4-22-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF82-102-000]

Energenics Systems Inc.; Application for Commission Certification of Qualifying Status of a Small Power Production Facility

April 15, 1982.

On March 30, 1982 Energenics Systems Inc., 1717 K Street, N.W., Suite 706, Washington, DC 20006 filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's rules.

The hydroelectric facility will be located in Lyons, Boulder County, Colorado. The electric power production of the facility will be 1,650 kilowatts. There are no other small power production facilities within one mile of the site which are owned by the Applicant. 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 within 30 days after the date of publication of this notice 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. 82-11138 Filed 4-22-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6065-000]

Energenics Systems, Inc.; Application for Preliminary Permit

April 19, 1982.

Take notice that Energenics Systems, Inc. (Applicant) filed on March 8, 1982, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)-825(r)] for Project No. 6065 to be known as the Thomaston Hydro Project located on the Naugatuck River in Litchfield County, Connecticut. 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, N.W., Suite 706, Washington, D.C. 20006.

Project Description—The proposed project would utilize the existing U.S. Army Corps of Engineers' Thomaston Dam and Reservoir and would consist of: (1) a new penstock utilizing the existing outlet works; (2) a new powerhouse containing two turbine-generator units having a total rated capacity of 2,750 kW; (3) a tailrace, 85 feet long; (4) a new transmission line, approximately 5 miles long, connecting to existing 115-kV transmission lines; and (5) appurtenant facilities. The Applicant estimates that the average annual energy output would be 9,700,000 KWH. Project energy would be sold to the Hartford Electric Light Company and the Connecticut Light and Power Company, or to nearby public institutions and industrial users.

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 prepare studies of the hydraulic, construction, economic, environmental, historic and recreational aspects of the project. Depending on the outcome of the studies, Applicant would prepare an application for an FERC license. Applicant estimates the cost of the studies under the permit would be $35,000.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before August 2, 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 July 1, 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 August 2, 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. 82-11139 filed 4-22-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6130-000]

Energenics Systems, Inc.; Application for Preliminary Permit

April 19, 1982.

Take notice that Energenics Systems, Inc. (Applicant) filed on March 29, 1982, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)-825)r)] for Project No. 6130 to be known as the Neshonoc Dam Hydroelectric Project located on the La Crosse River, near Hamilton in La Crosse County, Wisconsin. 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, N.W., Suite 706, Washington, D.C. 20006.

Project Description—The proposed project would utilize the existing U.S. Army Corps of Engineers' Neshonoc Dam and would consist of: (1) a proposed powerhouse with generating units having an estimated installed capacity of 49,000 kW and producing an average annual energy output of 2.0 GWh; (2) a proposed 50-foot-long penstock; (3) a proposed 30-foot-long tailrace; (4) a proposed 1-mile 115-kV transmission line to connect to an existing Northern States Power Company line; and (5) appurtenant facilities. The proposed market for the power is Northern States Power Company and Dairyland Power Cooperative.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. The Applicant has requested a 36-month permit to prepare a project report including preliminary designs, and results of hydrological, environmental, and economic feasibility studies. The cost of the these activities along with obtaining agreements with the public utilities, consulting Federal, State, and local agencies, and preparing a license application is estimated by the Applicant at $30,000.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before August 2, 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 July 1, 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 al 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 July 1, 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. 82-11140 Filed 4-22-82; 8:45 am]

BILLING CODE 6717-01-M

Project No. 6116-000

Town of Hillsborough, New Hampshire; Application for Exemption for Small Hydroelectric Power Project Under 5 MW Capacity

April 21, 1982.

Take notice that on March 22, 1982, Town of Hillsborough, New Hampshire (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 hyudroelectric project (Project No. 6116) would be located on the Coontoocook River in Hillsborough County, New Hampshire. Correspondence with the Applicant should be directed to: Mr. Robert J. Johnson, Chairman, Hydropower Study Committee, Hillsborough, New Hampshire 03244.

Project Description—The proposed run-of-the-river project would consist of: (1) an existing concrete dam with a maximum height of 15 feet, a total length of 396 feet, a spillway crest length of 239 feet and equipped with 3-foot flashboards; (2) an impoundment covering 2.0 acres with a usable storage of 6.0 acre-feet at a surface elevation of 571.6 feet msl; (3) a new reinforced concrete powerhouse measuring 25 by 78 feet, having an integral intake structure with a 10 by 10-foot hydraulically-operated gate and containing one 1.0-MW turbine/generator unit operating under a head of 19 feet; (4) a newly-excavated tailrace canal 210 feet long and 22 feet wide; (5) a new switchyard; (6) a new 110-foot long, 34.5-kV transmission line; and (7) appurtenant facilities. The average annual generation of 4.01 million kWh would be used for municipal purposes.

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 New Hampshire Fish and Game Department are requested, for the purposes set forth in Section 408 of the Act to submit within 60 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or to otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide any comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 60 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Competing Application—Any qualified license applicant desiring to file a competing application must submit to the Commission, on or before June 9, 1982 either the competing license application that proposes to develop at least 7.5 megawatts in that project, or notice of intent to file such a license application. Submission of a timely notice of intent allows an interested person to file the competing license application no later than 120 days from the date that comments, protests, etc. are due. Applications for preliminary permit will not be accepted.

A notice of intent must conform with the requirements of 18 CFR 4.33(b) and (c) (1980). A competing license application must conform with the requirements of 18 CFR 4.33(a) and (d) (1980).

Comments, 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 9, 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, N.E., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-11106 Filed 4-22-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF82-99-000]

Great American Federal Savings & Loan Association; Application for Commission Certification of Qualifying Status of a Cogeneration Facility

April 15, 1982.

On March 29, 1982, Great American Federal Savings and Loan Assoc., 600 B Street, San Diego, California 92183 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 topping-cycle cogeneration facility will be located in National City, California. The primary energy source of the facility will be natural gas. The electric power production capacity of the facility will be 1.95 megawatts, provided by three 650 kilowatt reciprocating engine generators with heat recovery equipment on each engine. Useful steam output will drive two 300 ton absorption chillers to provide space conditioning within the facility. Installation of the facility began in January 1981. 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 within 30 days after the date of publication of this notice 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. 82-11127 Filed 4-22-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6138-000]

Cyril M. and Blenda H. Jones; Application for Preliminary Permit

April 19, 1982.

Take notice that Cyril M. and Blenda H. Jones (Applicant) filed on March 29, 1982, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for Project No. 6138 to be known as the Pine Creek Project located on Pine Creek, near Troy, in Lincoln County, Montana. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Cyril M. Jones, St. Route 2, EM Kayan Village, Libby, Montana 59923.

Project Description—The proposed project would consist of: (1) a 3-foot high diversion structure; (2) a 300-foot long earthen canal; (3) a 3-acre sump; (4) a 1,900-foot long, 10-inch diameter steel penstock; (5) a powerhouse containing one generating unit rated at 350 kW; and (6) a 1,500-foot long transmission line. The average annual energy generation is estimated to be 1.2 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 under the preliminary permit is estimated to be $3,800.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before June 28, 1982, the competing application itself, or a notice of intent to file such an application [see: 18 CFR 4.30 et seq. (1981); and Docket No. RM81–15, issued October 29, 1981, 46 FR 55245, November 9, 1981].

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 28, 1982, and should specify the type of application forthcoming. Any application for license 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].

Submission of a timely notice of intent to file an application for preliminary permit, allows an interested person to file an acceptable competing application for preliminary permit no later than August 27, 1982.

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 28, 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. 82-11141 Filed 4-22-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-268-000]

Kansas Power & Light Co.; Application

April 16, 1982.

Take notice that on April 1, 1982, Kansas Power and Light Company (Applicant), P.O. Box 889, Topeka, Kansas 66601, filed in Docket No. CP82–268–000 an applicaiton pursuant to Section 7(c) of the Natural Gas Act and § 284.222 of the Commission's Regulations for a certificate of public convenience and necessity for blanket authorization to transport, sell, and assign natural gas in interstate commerce as if Applicant were in intrastate pipeline as defined in

Subparts C, D, and E of Part 284 thereof, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it received 8,241,298 Mcf of natural gas within or at the boundary of Kansas from interstate suppliers during the 12-month period ending December 31, 1981. It is asserted that during the same period Applicant received 62,818,058 Mcf of natural gas from all sources. It is also submitted that all of Applicant's existing operations are conducted in Kansas and that applicant is currently applying for an exemption pursuant to Section 1(c) of the Natural Gas Act.

Applicant asserts that it would comply with the conditions set forth in § 284.222(e) of the Commission's Regulations.

In the application Applicant provides a statement of the methodology to be used in calculating rates for services to be rendered.

Any person desiring to be heard or to make any protests with reference to said application should on or before May 7, 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 this application if no petition to intervene if 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 ifd 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 othewise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-11128 Filed 4-77-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF82-98-000]

Kimberly-Clark Corp., Application for Commission Certification of Qualifying Status of a Cogeneration Facility

April 15, 1982.

On March 26, 1982, Kimberly-Clark Corp., 401 North Lake St., Neenah, Wisconsin 54956 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 topping-cycle cogeneration facility will be located in Fullerton, California. The primary energy source to be used by the facility will be natural gas. The net electric power production capacity of the facility will be 23.2 megawatts. Exhaust heat from a 20 megawatt turbine generator will be recovered in a waste heat recovery boiler and steam produced will drive a 3.5 megawatt steam turbine generator. Extraction steam from the steam turbine will be used in the mill plant production process at a rate of 30,300 lbs per hour. Installation of the facility will begin in 1983. 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 within 30 days after the date of publication of this notice 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 be become a party must file a petition to intervene. Copies of this filling are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-11129 Filed 4-22-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6095-000]

Bruce J. Massey; Application for Preliminary Permit

April 21, 1982.

Take notice that Bruce J. Massey (Applicant) filed on March 15, 1982, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)-825(r)] for Project No. 6095 to be known as the Massey Icard Hydro Project located on the Upper Little River near Hickory in Alexander and Caldwell Counties, North Carolina. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Bruce J. Massey, Route 1, Box 249, Hiddenite, North Carolina 28636.

Project Description—The proposed project would consist of: (1) an existing 550-foot long, 52-foot high concrete ogee dam; (2) an existing reservoir with a storage capacity of 3,200 acre-feet; (3) an existing powerhouse and intake gates at one end of the dam; (4) a proposed 100-foot transmission line; and (5) appurtenant facilities. Applicant estimates the capacity of the proposed project to be 500 kW, and the annual energy output to be 2,628,000 kWh. Energy produced at the project would be sold to Duke Power Company.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. Applicant has requested a 36-month permit to prepare a project report including preliminary designs, and results of hydrological, environmental and economic feasibility studies. The cost of these activities along with obtaining agreements with Duke Power Company and other Federal, State and local agencies; conducting final field surveys, and preparing a license application is estimated by the Applicant to approximate $8,000.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before August 2, 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 July 6, 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 July 6, 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. 82-11100 Filed 4-22-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP81-40-001]

Michigan Wisconsin Pipe Line Co. and Transcontinental Gas Pipe Line Corp.; Petition To Amend

April 21, 1982.

Take notice that on March 22, 1982, Michigan Wisconsin Pipe Line Company (Mich Wis), One Woodward Avenue, Detroit, Michigan 48226, and Transcontinental Gas Pipe Line Corporation (Transco), P.O. Box 1396, Houston, Texas 77251, filed in Docket No. CP81-40-001 a joint petition to amend the order issued July 2, 1981, in the instant docket pursuant to Section 7(c) of the Natural Gas Act so as to authorize Mich Wis jointly to own and operate with Transco the offshore pipeline and related facilities which Transco was authorized to construct and operate, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Petitioners state that by order issued July 2, 1981, Transco was authorized to construct and operate 12.91 miles of 24-inch pipeline and appurtenant metering, regulating and connecting facilitiess necessary to attach a new source of gas supply in Block A-85, Mustang Island area, offshore Texas. It is asserted that the proposed facilities would constitute an extension of the offshore portion of Transco's Central Texas Gathering System which presently extends from Transco's main line at Compressor Station 30 in Wharton County, Texas, to producing fields in the Brazos and Matagorda Island areas, offshore Texas.

Petitioners submit that ANR Production Company (ANR) owns a 33.33 percent interest in the Block A-85 reserves and Mich Wis has acquired the right to purchase the gas reserves attributable to the aforementioned interest of ANR. It is stated that in orders to assist Mich Wis in effectuating receipt of the gas supplies in Block A-85 Transco has agreed pursuant to an ownership agreement dated December 8, 1981, to permit Mich Wis to share in the ownership and operation of the lateral pipeline facilities which Transco was authorized to construct in the instant docket. Petitioners further state that in accordance with the said ownership agreement the individual ownership percentage in the facilities of Transco would be 66.67 percent and that of Mich Wis would be 33.33 percent.

It is explained that the instant proposal would enable Mich Wis to move it gas supplies to its own transmission system.

Any person desiring to be heard or to make any protest with reference to said application should, on or before May 10, 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. 82-11101 Filed 4-22-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP82-67-000]

Natural Gas Pipeline Co. of America; Petition for Advance approval of Accounting and Rate Treatment for Research, Development and Demonstration Expenditures

April 15, 1982.

Take notice that on April 12, 1982, Natural Gas Pipeline Company of America (Natural), 122 South Michigan Avenue, Chicago, Illinois, 60603, filed in Docket No.RP- -000 a petition pursuant to Section 1.7 of the commission's rules of Practice and Procedure (18 CFR 1.7) for advance approval of rate base treatment for certain research, development and demonstration expenditures under § 154.38(d)(5)(i) of the Commission's Regulations, all as more fully set forth in the petition which is on file with the Commission and open for public inspection.

Natural proposes to implement a demonstration project to recover and utilize waste heat from the exhaust gas of reciprocating engines. Specifically, Natural is proposing the installation of a Rankine bottoming cycle system at its Compressor Station 106 near Beatrice in Gage County, Nebraska, to utilize waste heat from the exhaust of two 4,000 horsepower Clark TCV-12 engine compressors. This proposed facility will provide approximately 1,000 horsepower to drive an additional gas compressor in parallel with existing compression equipment.

The purpose of the proposed demonstration is to assess the Rankine cycle system's potential for reducing fuel gas use and compression costs at Natural's compressor stations. Since the goal of the deonstration will be to reduce overall fuel use at Station 106, horsepower generated through the Rankine cycle will displace rather than supplement existing fuel-fired horsepower. Therefore, the demonstration will not result in additional flow capacity on Natural's system. The knowledge gained through this demonstration will be used to project the technical and economic

viability of future commercial waste heat recovery installations at natural's other mainline compressor stations.

It is estimated that this demonstration project will be installed aby September, 1983. The total installed cost for a 1000 horsepower bottoming cycle system is estimated to be approximately $2,600,000. Once the system is in service, a demonstration period of approximately twenty-four months would probably be necessary to prove the effectiveness of the technology.

Pursuant to § 154.38(d)(5)(i) of the Commission's Regulations under the Natural Gas Act, Natural requests avance approval from the Commission to adust its rates without refund liability for funds expended to implement a demonstration project at its Station 106 to convert waste heat into mechanical energy to provide shaft horsepower for additional gasa compression. The capital costs associated waith the project would be charged to Account No. 188, Research and Development Expenditures. Pursuant to the terms and provisions of Section 24 of Natural's F.P.C. Gas Tariff, Third Revised Volume No. 1, Natural would file forty-five (45) days before the project was ready for testing to include in rates the RD & D costs incurred under the project. These costs would include return and income taxes on the unamortized project plant and amortization of the project oer a five (5) year period. At the conclusion of the first year and each year thereafter, fNatural waould file to reflect the amortization effect on the remaining unamortized capital costs in Account No. 188.

Any person desiring to be heard or to make any protest with reference to said petition should on or before May 6, 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 Aact (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this petition 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 petition is required by the public convenience and necessity. If a petition forleave 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 Natural to appear or be represented at the hearing.

Kenneth F. Plumb, Secretary.

[FR Doc. 82-1130 Filed 4-22-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6099-000]

Northern Colorado Water Conservancy District; Application for Preliminary Permit

April 20, 1982.

Take notice that Northern Colorado Water Conservancy District (Applicant) filed on March 18, 1982, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for Project No. 6099 to be known as the Horsetooth Dam Project located on Cache la Poudre River in Larimer County, Colorado. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Larry D. Simpson, P.O. Box 679, Loveland, Colorado 80539.

Project Description—The proposed project would utilize the existing Bureau of Reclamation's Horsetooth Dam and would consist of: (1) a new powerhouse containing two generating units having a total rated capacity of 5.2 MW; (2) an existing 44-kV transmission line; and (3) appurtenant facilities. The Applicant estimates that the average annual energy output would be 7 million kWh. the most likely market for the energy derived at the proposed project would be the Public Service Company of Colorado.

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 $40,000.

Competing Applications—This application was filed as a competing application to Energenics Systems, Inc.'s application for Project No. 5644 filed on November 13, 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 June 10, 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 Hydropower 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. 82-11102 Filed 4-22-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-248-000]

Northern Natural Gas Company, Division of InterNorth, Inc.; Application

April 16, 1982.

Take notice that on March 19, 1982, Northern Natural Gas Company, Division of InterNorth, Inc. (Applicant), 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CP82-248-000 an application pursuant to Section 7(b) of the Natural Gas Act for permission and approval to abandon the transportation of natural gas in interstate commerce for Peoples Natural Gas Company, Division of InterNorth, Inc. (Peoples), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that Northern States Power Company (NSP) agreed to store certain volumes of propane for Peoples which were subsequently converted to propane-air at NSP's peak shaving plants in St. Paul, Minnesota. Applicant asserts that it is now authorized to displace and transport at the direction of NSP volumes of propane-air at a daily rate of up to 15,000 Mcf to certain designated Peoples delivery points. It is submitted that Peoples no longer requires the supplemental peak shaving capability and has since terminated its propane air gas agreement with NSP and its transportation agreement with Applicant.

Applicant submits that the proposed abandonment would be implemented without detriment or termination of gas service to any of Applicant's customers.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 7, 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 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 be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-11131 Filed 4-22-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-249-000]

Northern Natural Gas Company, Division of InterNorth, Inc.; Application

April 16, 1982.

Take notice that on March 19, 1982, Northern Natural Gas Company, Division of InterNorth, Inc. (Applicant), 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CP82-249-000 an application pursuant to Section 7(b) of the Natural Gas Act for permission and approval to abandon certain gas measuring facilities identified as the Eveleth town border station No. 2 and the Oakland town border station No. 2 located in Cloquet, Minnesota, and Oakland, Nebraska, respectively, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is asserted that the Eveleth town border station No. 2 was placed in service to serve the Wiinanen dairy which has ceased operations and would not be reactivated. Applicant submits that no gas has been sold through this facility since April 1980.

Applicant further stated that the Oakland town border station No. 2 was placed in service to facilitate delivery of natural gas to the Dehydrated Products Company for use in alfalfa and corn dehydration. It is stated that dehydration operations have terminated.

Applicant, therefore, requests permission and approval to abandon and remove the Eveleth town border station No. 2 and the Oakland town border station No. 2.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 7, 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 Commisson'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 permission 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 be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-11132 Filed 4-22-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 2088-006]

Oroville-Wyandotte Irrigation District; Application for Amendment of License

April 19, 1982.

Take notice that on February 22, 1982, the Oroville-Wyandotte Irrigation District (Applicant) filed [pursuant to

the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for an amendment to its license for the South Fork Power Project No. 2088–006. Applicant proposes to construct the Kelly Ridge II Power Plant on the Feather River in Butte County, California. Correspondence with the Applicant should be directed to: Mr. Francis R. Drake, President, Oroville-Wyandotte Irrigation District, P.O. Box 229, Oroville, California 95965.

Project Description—The proposed Kelly Ridge II Power Plant would consist of: (1) a bifurcation installed on the existing Kelly Ridge Power Plant penstock; (2) approximately 50 feet of new 36-inch diameter penstock; (3) a powerhouse constructed adjacent to the existing plant housing a single 2,300-kW generating unit; and (4) a switchyard located adjacent to the powerhouse. The Kelly Ridge II Power Plant would make use of up to 50 cfs of flows now spilled at Ponderosa Dam because of the limited capacity of the existing Kelly Ridge Power Plant.

The Kelly Ridge II Power Plant would add to the project an average annual generation of 20,000 MWh at a cost of $3,240,000 in 1983 dollars. Project power will probably be sold to the Pacific Gas and Electric Company.

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 7, 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 Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82–11142 Filed 4–22–82; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ST80–242–001]

Panhandle Eastern Pipe Line Co.; Extension Reports

April 14, 1982.

The companies listed below have filed extension reports pursuant to Section 311 of the Natural Gas Policy Act of 1978 (NGPA) and Part 284 of the Commission's regulations giving notice of their intention to continue transportation and sales of natural gas for an additional term of up to 2 years. These transactions commenced on a self-implementing basis without case-by-case Commission authorization. The Commission's regulations provide that the transportation or sales may continue for an additional term if the Commission does not act to disapprove or modify the proposed extension during the 90 days preceding the effective date of the requested extension.

The table below lists the name and addresses of each company selling or transporting pursuant to Part 284; the party receiving the gas; the date that the extension report was filed; and the effective date of the extension. A letter "B" in the Part 284 column indicates a transportation by an interstate pipeline which is extended under § 284.105. A letter "C" indicates transportation by an intrastate pipeline extended under § 284.125. A "D" indicates a sale by an intrastate pipeline extended under § 284.146.

Any person desiring to be heard or to make any protest with reference to said extension report should on or before May 10, 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 party to a 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.

Docket No.	Transporter/seller	Recipient	Date filed	Part 284, subpart	Effective date
ST80–242–001	Panhandle Eastern Pipe Line Line Co., P.O. Box 1642, Houston, TX 77001	Columbia Gas Transmission Corp	3/26/82	G	6/20/82
ST80–253–001	United Texas Transmission Co., P.O. Box 1478, Houston, TX 77001	United Gas Pipe Line Co	3/19/82	D	6/23/82
ST80–263–001	Delhi Gas Pipeline Corp., Fidelity Union Tower, Dallas, TX 75201	Transwestern Pipeline Co	3/30/82	C	7/09/82
ST80–303–001	Northern Natural Gas Co., 2223 Dodge Street, Omaha, NE 68102	Delhi Gas Pipeline Corp	3/22/82	B	8/15/82
ST81–69–001	Mountain Fuel Supply Co., P.O. Box 11368, Salt Lake City, UT 84139	Colorado Interstate Gas Co	3/22/82	G	11/10/82

[FR Doc. 82–11133 Filed 4–22–82; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP80–6–001]

Panhandle Eastern Pipe Line Co.; Petition To Amend

April 16, 1982.

Take notice that on March 8, 1982,[1] Panhandle Eastern Pipe Line Company (Petitioner), P.O. Box 1642, Houston, Texas 77001, filed in Docket No. CP80–6–001 a petition to amend the order issued January 31, 1980, in the instant docket pursuant to Section 7(c) of the Natural Gas Act and Section 157.7(b) of the Commission's regulations (18 CFR 157.7(b)) so as to waive the annual cost limitation for the construction of gas supply facilities prescribed by § 157.7(b)(1)(i) of the Regulations for the calendar year 1981, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

[1] The application was initially tendered for filing on March 8, 1982, however the fee required by § 159.1 of the Regulations under the Natural Gas Act (18 CFR 159.1) was not paid until April 2, 1982; thus filing was not completed until the latter date.

It is stated that by order issued January 31, 1980, in the instant docket Petitioner was authorized to construct gas supply facilities to enable it to add new sources of supply to its system.

Petitioner requests waiver of the total cost limitation of $20,000,000 and proposes to increase the total project limitation for calendar year 1981 to $21,000,000. It is stated that the proposed increase is commensurate with the proposed construction taking into account the increases in the cost of equipment and expenses incident to the proposed facilities due to inflation.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before May 7, 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. 82-11134 Filed 4-22-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 2498-000]

Potsdam Paper Corp.; Application for Small Hydroelectric Power Project Under 5 MW Capacity

April 21, 1982.

Take notice that on March 11, 1982, the Potsdam Paper Corporation (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. 2498) would be located on the Raquette River in St. Lawrence County, New York. Correspondence with the Applicant should be directed to: Mr. W. W. Krueger, President, P.O. Box 191, Potsdam, New York 13676.

Project Description—The proposed run-of-the-river project would consist of: (1) an existing rehabilitated concrete gravity dam, 615 feet long and 12 feet high, with a 240-foot long overflow spillway; (2) a small impoundment covering 90 acres with negligible storage at a normal surface elevation of 375.5 feet msl; (3) a new powerhouse measuring 60 by 130 feet and containing four rehabilitated turbines and four generators with a total rated capacity of 2.6 MW operating under a head of 18 feet; (4) an existing tailrace, 120 feet wide, which joins the river 600 feet downstream; (5) a new switchyard next to the powerhouse with a 3000-kVA transformer; and (6) appurtenant facilities. The average annual generation of 16.5 million kWh would be used by the Applicant in its manufacturing processes.

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 New York State Division of Fish and Wildlife are requested, for the purposes set forth in Section 408 of the Act, to submit within 60 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or to otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide any comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 60 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Competing Application—Any qualified license applicant desiring to file a competing application must submit to the Commission, on or before June 4, 1982, either the competing license application that proposes to develop at least 7.5 megawatts in that project, or notice of intent to file such a license application. Submission of a timely notice of intent allows an interested person to file the competing license application no later than 120 days from the date that comments, protests, etc. are due. Applications for preliminary permit will not be accepted.

A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c) (1980). A competing license application must conform with the requirements of 18 CFR 4.33 (a) and (d) (1980).

Comments, 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 4, 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, N.E., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-11103 Filed 4-22-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 2499-000]

Potsdam Paper Corp.; Application for Exemption for Small Hydroelectric Power Project Under 5 MW Capacity

April 21, 1982.

Take notice that on March 11, 1982, the Potsdam Paper Corporation (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. 2499) would be located on the Raquette River in St. Lawrence County, New York. Correspondence with the Applicant should be directed to: Mr. W. W. Krueger, President, P.O. Box 191, Potsdam, New York 13676.

Project Description—The proposed run-of-the-river project would consist of: (1) an existing concrete dam, 300 feet long and 20 feet high; (2) a small impoundment covering 35 acres with negligible storage at a normal surface elevation of 353 feet msl; (3) a refurbished 80 by 80-foot powerhouse containing four new 750-kV turbine/generator units operating under a head of 19.5 feet; (4) an existing tailrace 1,600 feet long, 100 feet wide and 2 feet deep; (5) a new upgraded 115-kV transmission line one mile long from the Hewittville powerhouse to the Unionville substation; and (6) appurtenant facilities. The average annual generation of 18.0 million kWh would be used by the Applicant in its manufacturing processes.

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 New York State Division of Fish and Wildlife are requested, for the purposes set forth in Section 408 of the Act, to submit within 60 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or to otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide any comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 60 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Competing Application—Any qualified license applicant desiring to file a competing application must submit to the Commission, on or before June 4, 1982 either the competing license application that proposes to develop at least 7.5 megawatts in that project, or notice of intent to file such a license application. Submission of a timely notice of intent allows an interested person to file the competing license application no later than 120 days from the date that comments, protests, etc. are due. Applications for preliminary permit will not be accepted.

A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c) (1980). A competing license application must conform with the requirements of 18 CFR 4.33 (a) and (d) (1980).

Comments, 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 4, 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, N.E., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-11104 Filed 4-22-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6121-000]

Seattle Oil Service, Inc.; Application for Preliminary Permit

April 19, 1982.

Take notice that Seattle Oil Service, Inc. (Applicant) filed on March 22, 1982, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. § 791(a)–825(r)] for Project No. 6121 to be known as the Frenchman Hills Waterway Station 15+000 Hydroelectric Project located on Frenchman Hills Waste Waterway near Royal City in Grant County, Washington. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Milton B. Rice, Seattle Oil Service, Inc., 6320 Fauntleroy Way, S.W., Seattle, Washington 98136.

Project Description—The proposed project would consist of: (1) a 5-foot high concrete intake structure diverting water from the existing Frenchman Hills Waste Waterway; (2) a 4-foot diameter steel penstock; (3) a powerhouse with a total installed capacity of 350 kW; (4) a tailrace conveying the effluent to the Frenchman Hills Waste Waterway; and (5) a 300-foot long, 12.4-kV transmission line interconnecting with an existing 12.4-kV Grant County PUD transmission line. The Applicant estimates that the average annual output would be 1,700 MWh.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. The Applicant is seeking issuance of a preliminary permit for a period of 18 months during which it would conduct engineering, economic, hydrological, and environmental studies and prepare an FERC license application. The cost of these studies is estimated by the Applicant to be $10,000.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before June 28, 1982, the competing application itself, or a notice of intent to file such an application [see: 18 CFR 4.30 et seq. (1981); and Docket No. RM81–15, issued October 29, 1981, 46 F.R. 55245, November 9, 1981].

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 28, 1982, and should specify the type of application forthcoming. Any application for license 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].

Submission of a timely notice of intent to file an application for preliminary permit, allows an interested person to file an acceptable competing application for preliminary permit no later than August 27, 1982.

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 28, 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. 82-11143 Filed 4-22-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6118-000]

Seattle Oil Service, Inc.; Application for Preliminary Permit

April 19, 1982.

Take notice that Seattle Oil Service, Inc. (Applicant) filed on March 22, 1982, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for Project No. 6118 to be known as the Frenchman Hills Waterway Station 0+50 Hydroelectric Project located on Frenchman Hills Waste Waterway near Royal City in Grant County, Washington. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Milton B. Rice, Seattle Oil Service, Inc., 6320 Fauntleroy Way, S.W., Seattle, Washington 98136.

Project Description—The proposed project would consist of: (1) a 5-foot high concrete intake structure diverting water from the existing Frenchman Hills Waste Waterway; (2) a 3-foot diameter steel penstock; (3) a powerhouse with a total installed capacity of 200 kW; (4) a tailrace conveying the effluent to the Frenchman Hills Waste Waterway; and (5) a 200-foot long, 12.4-kV transmission line interconnecting with an existing 12.4-kV Grant County PUD transmission line. The Applicant estimates that the average annual output would be 900 MWh.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. The Applicant is seeking issuance of a preliminary permit for a period of 18 months during which it would conduct engineering, economic, hydrological, and environmental studies and prepare an FERC license application. The cost of these studies is estimated by the Applicant to be $10,000.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before June 28, 1982, the competing application itself, or a notice of intent to file such an application [see: 18 CFR 4.30 et seq. (1981); and Docket No. RM81/15, issued October 29, 1981, 46 FR 55245, November 9, 1981].

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 28, 1982, and should specify the type of application forthcoming. Any application for license 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].

Submission of a timely notice of intent to file an application for preliminary permit, allows an interested person to file an acceptable competing application for preliminary permit no later than August 27, 1982.

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—Any one 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 28, 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. 82-11144 Filed 4-22-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5933-000]

Michael Earl Springer and James Baynard Boulden; Application for Preliminary Permit

April 20, 1982.

Take notice that Michael Earl Springer and James Baynard Boulden (Applicant) filed on February 1, 1982, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for Project No. 5933 to be known as the Wolf Creek Hydro Project located on the Wolf Creek, near Bridgeport, in Mono County, California. The project would entirely lie within the Toiyabe National Forest. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. James Baynard Boulden, Box 78, Wellington, Nevada 89444.

Project Description—The proposed project would consist of: (1) a proposed reinforced concrete diversion dam; (2) a proposed 1.2 mile long, 12-inch diameter diversion conduit; (3) a proposed powerhouse with a total rated capacity of 450 kW; (4) an approximately 2 mile long transmission line; and (5) appurtenant facilities. The Applicant estimates that the average annual energy output would be 3.78 GWh. A potential market for project generated energy is the Southern California Edison Corporation.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a period of 36 months during which it would conduct technical, environmental and economic studies, and also prepare an FERC license application. No new roads would be needed for conducting these studies. The Applicant estimates that the cost of undertaking these studies would be $35,000.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before July 6, 1982, the competing application itself, or a notice of intent to file such an application [see: 18 CFR 4.30 et seq. (1981); and Docket No. RM81–15, issued October 29, 1981, 46 FR 55245, November 9, 1981.]

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 July 6, 1982, and should specify the type of application forthcoming. Any application for license 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].

Submission of a timely notice of intent to file an application for preliminary permit, allows an interested person to file an acceptable competing application for preliminary permit no later than September 7, 1982.

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 July 6, 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 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. 82-11105 Filed 4-22-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5934-000]

Michael Earl Springer and James Baynard Boulden; Application for Preliminary Permit

April 16, 1982.

Take notice that Michael Earl Springer and James Baynard Boulden (Applicant) filed on February 1, 1982, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for Project No. 5934 to be known as the Leavitt Creek Hydro Power Project located on the Leavitt Creek, near Bridgeport, in Mono County, California. The project would entirely lie within the Toiyabe National Forest. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. James Baynard Boulden, Box 78, Wellington, Nevada 89444.

Project Description—The proposed project would consist of: (1) a proposed reinforced concrete diversion dam; (2) a proposed 31,680-foot long, 16-inch diameter diversion conduit; (3) a proposed powerhouse with a total rated capacity of 450 kW; (4) an approximately 4 mile long transmission line; and (5) appurtenant facilities. The Applicant estimates that the average annual energy output would be 3.78 GWh. A potential market for project generated energy is the Southern California Edison Corporation.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a period of 36 months during which it would conduct technical, environmental and economic studies, and also prepare an FERC license application. No new roads would be needed for conducting these studies. The Applicant estimates that the cost of undertaking these studies would be $35,000.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before June 28, 1982, the competing application itself, or a notice of intent to file such an application [see: 18 CFR 4.30 et seq. (1981); and Docket No. RM81–15, issued October 29, 1981, 46 FR 55245, November 9, 1981].

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 28, 1982, and should specify the type of application forthcoming. Any application for license 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].

Submission of a timely notice of intent to file an application for preliminary permit, allows an interested person to file an acceptable competing application for preliminary permit no later than August 27, 1982.

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 28, 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, N.E., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-11145 Filed 4-22-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5451-001]

Ted Lance Slater; Application for Exemption for Small Hydroelectric Power Project Under 5 MW Capacity

April 16, 1982.

Take notice that on March 5, 1982, Ted Lance Slater (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. 5451) would be located on Sullivan Creek in Tuolumne County, California. Correspondence with the Applicant should be directed to: Mr. Ted Lance Slater, 2616 Hacienda Court, Santa Barbara, California 93105.

Project Description—The proposed project would consist of: (1) a 4-foot high diversion structure at approximate elevation 3030 feet; (2) a penstock 850 feet long, (3) a powerplant at elevation 2808 feet with 10 to 40 kW capacity, and (4) a transmission line 185 feet long.

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 June 7, 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 June 7, 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. 82-11135 Filed 4-22-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP80-343-001]

Southwest Gas Corp.; Petition to Amend

April 16, 1982.

Take notice that on March 15, 1982,[1] Southwest Gas Corporation (Petitioner), P.O. Box 15015, Las Vegas, Nevada 89114, filed in Docket No. CP80-343-001 a petition to amend the order issued March 19, 1981, in Docket No. CP80-343-001 pursuant to Section 7(c) of the Natural Gas Act so as to authorize the construction of 16.07 miles of 12.75-inch loop pipeline on its Carson lateral line, 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 March 19, 1981, in the instant docket, it was authorized to construct 15.5 miles of 12.75-inch loop pipeline. It is asserted that the original survey was in error and that Petitioner actually laid 16.07 miles of loop pipeline, the additional 1.02 mile being necessary to close the loop on the Carson lateral pipeline. Accordingly, Petitioner requests that the certificate be amended to authorize 16.07 miles of 12.75-inch loop pipeline.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before May 7, 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. 82-11136 Filed 4-22-82; 8:45 am]

BILLING CODE 6717-01-M

[1] The petition was initially tendered for filing on March 15, 1982, however, the fee required by § 159.1 of the Regulations under the Natural Gas Act (18 CFR 159.1) was not paid until April 2, 1982; thus filing was not completed until the latter date.

[Project No. 5985-000]

Town of Sunapee; Application From Exemption From Licensing of a Small Hydroelectric Project of 5 Megawatts or Less

April 21, 1982.

Take notice that the Town of Sunapee filed with the Federal Energy Regulatory Commission on February 16, 1982, an application for exemption for its Sunapee Project No. 5985-000 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 Sugar River in Sullivan County, New Hampshire. Correspondence with the Applicant should be directed to: Fred J. Ayer III, Kleinshmidt and Dutting, 75 Main Street, P.O. Box 76, Pittsfield, Maine 04867.

Project Description—The proposed project would consist of: (1) the existing town dam, a stone masonry structure 15 feet high and 71 feet long; (2) a reservoir with negligible storage and a surface area of 0.5 acre, having a normal surface elevation of 1085.8 feet USGS; (3) a new intake; (4) a new 4-foot diameter penstock 1,050 feet long; (5) a new powerhouse having one generating unit with a capacity of 750 kW; (6) a new tailrace; and (7) appurtenent facilities. The Applicant estimates the average annual energy production would be 2,500,000 kW-Hrs. All project energy would be sold to the Public Service Company of New Hampshire.

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 form 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 an exemption and consistent with the purpose of an exemption as described in this notice. No other formal requests for comments will be made. If an agency does not file comments within 60 days of the date of issuance of this notice, 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 June 4, 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 October 4, 1982. Applications for a preliminary permit will not be accepted. A notice of intent 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 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 June 4, 1982.

Filing and Service of Responsive Documents—Any comments, protests, or petitions to intervene must bear in all capital letters the title "COMMENTS", "PROTEST", or "PETITION TO INTERVENE", as applicable. Any of these filings must also state that it is made in response to this notice of application for exemption for Project No. 5985-000. Any comments, notices of intent, competing applications, protests, or petitions to intervene 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.

[1] Pub. Law 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).

Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208, 400 First Street, N.W., Washington, D.C. 20426. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-11107 Filed 4-22-82; 8:45 a.m.]

BILLING CODE 6717-01-M

[Docket No. RP82-65-000]

Tennessee Gas Pipeline Co., a Division of Tenneco Inc.; Tennessee Gas Pipeline Co., a Division of Tenneco Inc. of Petition for Waiver of Regulations Under the Natural Gas Act and of Currently Effective Tariff Provisions and of Change in FERC Gas Tariff

April 15, 1982.

Take notice, that on April 6, 1982, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. ("Tennessee") filed pursuant to Section 1.7 of the Commission's Rules of Practice and Procedure, 18 CFR 1.7, for waiver of § 154.38(d)(4) of the Commission's regulations under the Natural Gas Act, 18 CFR 154.38(d)(4), and for relief from Section XXIII of Tennessee's FERC Gas Tariff, Original Volume No. 1 to permit a one-time special surcharge effective for the period May 1, 1982 through April 30, 1983 to recover approximately $80,474,347 estimated in retroactive adjustments to be paid by Tennessee to producers of natural gas during the same twelve month period as a result of Order No. 93, 1977-81 Transfer Binder FERC Statutes and Regulations 30,172, and Order No. 93-A, 15 FERC 61,075. Tennessee further states that such relief will permit it to recover these costs reasonably concurrently with their determination and payment, rather than deferring such recovery for several months through the procedures of its PGA provisions.

To effectuate the requested surcharge, Tennessee has tendered for filing, along with its Petition, Fourth Revised Sheet No. 21 of Original Volume No. 1 of its FERC Gas Tariff to be effective on May 1, 1982.

Tennessee has sought waiver of the thirty day notice required for tariff changes.

Tennessee also states that copies of the instant filing have been served upon all of Tennessee's jurisdictional customers and all interested state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 or 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. 82-11146 Filed 4-22-82; 8:45 a.m.]

BILLING CODE 6717-01-M

[Docket No. CP82-272-000]

Texas Eastern Transmission Corp.; Application

April 16, 1982.

Take notice that on April 2, 1982, Texas Eastern Transmission Corporation (Applicant), P.O. Box 2521, Houston, Texas 77001, filed in Docket No. CP82-27,000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public covenience and necessity authorizing the construction and operation of natural gas facilities offshore Louisiana, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant specifically proposes to construct and operate 3.5 miles of 12-inch pipeline (WD 86 pipeline) together with related facilities extending from West Delta Block 86 "A" Platform, offshore Louisiana, to Applicant's South Pass Block 89 pipeline at a subsea tie-in in West Delta Block 87, offshore Louisiana. Applicant states that the WD 86 pipeline would connect West Delta Block 86 to Applicant's proposed 20-inch South Pass Block 89 pipeline in West Delta Block 87.

Applicant Asserts tha the WD 86 pipeline would permit the attachment of quantities of natural gas produced from the West Delta Block 86 field. It is submitted that such field is composed of three leases within West Delta Blocks 85 and 86 of which 100 percent of each lease has been leased by Aminoil USA Inc., Louisiana Land and Exploration Company, Amerada Hess Corporation, and Marathon Oil Company. It is further submitted that Applicant has entered into a gas purchase contract with Marathon Oil Company for its 30 percent interest in the above three leases.

Applicant states that upon completion the WD 86 pipeline would have a maximum capacity of approximately 115,000 Mcf of natural gas per day.

Applicant estimates that total cost of the proposed facilities to be $4,754,000 which would be financed initially through revolving credit arrangements or from funds on hand. Permanent financing, it is asserted, would be undertaken as part of Applicant's overall long-term financing program at a latter date.

Any person desiring to be heard or to make any protest with reference to said application should on or before April 30 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 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 ith 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 unecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary

[FR Doc. 82-11147 Filed 4-22-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6092-000]

Western Hydro Electric, Inc.; Application for Exemption for Small Hydroelectric Power Project Under 5 MW Capacity

April 20, 1982.

Take notice that on March 15, 1982, Western Hydro Electric, 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 Butter Creek small hydroelectric project (Project No. 6092) would be located on Butter Creek, near Packwood, in Lewis County, Washington. Correspondence with the Applicant should be directed to: Donald J. White, Western Hydro Electric, Inc., Commercial Security Bank Bldg., Suite 600, 50 S. Main Street, Salt Lake City, Utah 84144.

Project Description—The proposed project would consist of: (1) a 6-foot high concrete diversion weir; (2) an intake; (3) a 7,300-foot long pipeline; (4) a 3,600-foot long steel penstock; (5) a powerhouse containing 3 generating units, one rated at 1,455 kW, one rated at 725 kW, and one rated at 385 kW; and (6) a 3,700-foot long transmission line.

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 Washington Departments of Fisheries 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 June 14, 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 C.F.R. § 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 14, 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. 82-11108 Filed 4-22-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5831-000]

City of Thayer, Missouri; Application for Preliminary Permit

April 20, 1982.

Take notice that the City of Thayer, Missouri (Applicant) filed on December 29, 1981, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)-825(r)] for Project No. 5831 to be known as the Dam No. 3 Project located on the Spring Riverr near the Town of Mammoth Spring in Fulton County, Arkansas. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: The Honorable A. D. Pierce, Mayor, City Hall, Thayer, Missouri 65791.

Project Description—The proposed project would consist of: (1) an existing concrete dam owned by the Arkansas Power & Light Company, 150 feet long and 30 feet high; (2) an impoundment with a storage of about 350 acre-feet at an elevation of 240 feet m.s.l.; (3) a renovated powerhouse measuring 20 by 30 feet, containing two 300-kW turbine/generator units operating under a head of 20 feet; (4) an existing 69-kV transmission line 2.4 miles long and (5) appurtenant facilities. The average annual generation of 1.5 million kWh would be used by the Applicant in its municipal distribution system.

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 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 $50,000.

Competing Applications—This application was filed as a competing

application to the Spring River Power Developers and the City of Searcy, Arkansas's application for Project No. 5219 filed on August 11, 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 June 14, 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 Hydropower Licensing, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Room 208 RB at the above address. A copy of any petiton 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. 82-11096 Filed 4-22-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5279-001]

Yankee Power Co.; Application for Exemption for Small Hydroelectric Power Project Under 5 MW Capacity

April 16, 1982.

Take notice that on January 22, 1982, Yankee Power Company (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. 5279) would be located on Birch Creek, Whatcom County, Washington. Correspondence with the Applicant should be directed to: Mr. James E. Hungerford, Yankee Power Company, SE 6350 Arcadia Road, Shelton, Washington 98584.

Project Description—The proposed project would consist of: (1) an existing 15-foot long, 9-foot high dam; (2) a 500-foot long, 6-inch diameter penstock; (3) a powerhouse containing one generating unit with a rated capacity of 10 kW; and (4) a 30-foot long, 240-kV transmission line from the powerhouse to an existing transmission line. The Applicant estimates that the average annual energy production would be 60 MWh.

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 State of Washington, Department of Fisheries & State of Washington Department of 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 June 7, 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 June 7, 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. 82-11148 Filed 4-22-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6125-000]

Yuba County Water Agency; Application for Preliminary Permit

April 16, 1982.

Take notice that Yuba County Water Agency (Applicant) filed on March 26, 1982, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)-825(r)] for Project No. 6125 to be known as the Wambo Bar Water Power Project located on North Fork Yuba River and Tributaries including portions of deadwood, slate, canyon, Cherokee and Indian Creeks, partially within the Plumas and Tahoe National Forests in Yuba and Sierra County, California. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Frost, Administrator, Yuba County Water Agency, County Courthouse, Marysville, California 95901.

Project Description—The proposed project would consist of: (1) a 310-foot high, 900-foot long crest rockfill dam; (2) a 14-foot square intake structure; (3) a 10-foot diameter circular tunnel connecting to; (4) a 10-foot diameter, 200-foot long penstock; (5) a powerhouse containing a turbine-generating unit with a total rated capacity of 15 MW; (6) a reservoir with 70,000 acre-foot storage; and (7) appurtenant facilities. Applicant estimates a 85 GWh average annual energy production.

Purposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. Applicant has requested a 36-month permit to prepare a definitive project report including preliminary designs, and geological, environmental, and economic feasibility studies. The cost of forementioned activities along with preparation of an environmental impact report, obtaining agreements with Federal, State, and local agencies, and preparing a license application is estimated by the Applicant to be $500,000. Power would be sold to Pacific Gas & Electric Company.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before June 25, 1982, the competing application itself or a notice of intent to file such an application [see: 18 CFR 4.30 et seq. (1981); and Docket No. RM81-15, issued October 29, 1981, 46 FR 55245, November 9, 1981.]

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 25, 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).

Submission of a timely notice of intent to file an application for preliminary permit, allows an interested person to file an acceptable competing application for preliminary permit no later than August 24, 1982.

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 25, 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. 82-11149 Filed 4-22-82; 8:45 am]

BILLING CODE 6717-01-M

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: April 16, 1982.

JD NO	JA DKT	API. NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
COLORADO OIL & GAS COMMISSION									
-CARL A HOUY				RECEIVED:	03/29/82	JA: CO			
8225311	81-892	0500107774		102-4		UPRR 23-11	DRAUTHEAD	50.0	CRYSTAL OIL CO
-COORS ENERGY CO				RECEIVED:	03/29/82	JA: CO			
8225308	81-252	0507708297		103		HARVEY 4-19	PLATEAU FIELD SEC 19	48.6	NORTHERN NATURAL
-EL PASO NATURAL GAS COMPANY				RECEIVED:	03/29/82	JA: CO			
8225245	81-1006	0506705082		108-ER		SEVER #1	MESAVERDE	0.0	EL PASO NATURAL G
-ENERGY MINERALS CORPORATION				RECEIVED:	03/29/82	JA: CO			
8225297	81-981	0512308854		108		DECHANT STATE #7	SPINDLE	15.5	PANHANDLE EASTERN
-ESTATE OF ROY L COOK				RECEIVED:	03/29/82	JA: CO			
8225255	81-958	0506700000		108-PB		MCKEEN #1	IGNACIO BLANCO	0.0	EL PASO NATURAL G
-EXCEL ENERGY CORP				RECEIVED:	03/29/82	JA: CO			
8225281	81-196	0512310111		107-TF		ST VRAIN ASSOCIATES #1	WATTENBERG	180.0	PANHANDLE EASTERN
-GEODYNE RESOURCES INC				RECEIVED:	03/29/82	JA: CO			
8225246	81-188	0500906239		103		SELF 1-8 #1	WALSH	50.0	COLORADO INTERSTA
-GRIFFIN PETROLEUM CORP				RECEIVED:	03/29/82	JA: CO			
8225310	81-189	0500106160		102-2		FRED JR #1	BROMLEY	54.8	CRYSTAL GAS RESOU
-H L WILLETT				RECEIVED:	03/29/82	JA: CO			
8225247	81-694	0512310041		103		HELGOTH HEIRS #1	WATTENBERG	60.0	PANHANDLE EASTERN
8225278	81-183	0512310041		107-TF		HELGOTH HEIRS #1	WATTENBERG	60.0	PANHANDLE EASTERN
-J-W OPERATING COMPANY				RECEIVED:	03/29/82	JA: CO			
8225300	81-995	0512506304		108		O LUEKING #1	ROCK CREEK	14.5	CITIES SERVICE GA
8225299	81-996	0512506245		108		T E BROPHY #13	WAVERLY	21.5	KANSAS-NEBRASKA N
-KANSAS-NEBRASKA NATURAL GAS CO INC				RECEIVED:	03/29/82	JA: CO			
8225251	81-412	0512506437		108		TUSTIN 1-30	REPUBLICAN	20.0	
-MACEY & MERSHON OIL INC				RECEIVED:	03/29/82	JA: CO			
8225262	81-250	0512309902		107-TF		BADDING STATE #1	WATTENBERG	90.0	COLORADO INTERSTA
8225261	81-245	0500107415		107-TF		BERGMAN #1	WATTENBERG	73.0	PANHANDLE EASTERN
8225260	81-247	0500107625		107-TF		BROMLEY ESTATES #1	WATTENBERG	82.0	PANHANDLE EASTERN
8225266	81-244	0512309731		107-TF		FREDERIKSEN #1	WATTENBERG	75.0	PANHANDLE EASTERN
8225263	81-248	0512309758		107-TF		JILLSON GAS UNIT #1	WATTENBERG	85.0	PANHANDLE EASTERN
8225265	81-249	0512309853		107-TF		LITTLE THOMPSON GAS UNIT #1	WATTENBERG	28.0	PANHANDLE EASTERN
8225259	81-246	0500107623		107-TF		MELISSA #1	WATTENBERG	87.0	PANHANDLE EASTERN
8225258	81-243	0512309660		107-TF		MILTON LAKE #1	WATTENBERG	68.0	PANHANDLE EASTERN
8225257	81-242	0512309710		107-TF		OLIVE #1	WATTENBERG	30.0	PANHANDLE EASTERN
8225271	81-241	0512309716		107-TF		STARKS #1	WATTENBERG	70.0	PANHANDLE EASTERN
8225264	81-251	0512309867		107-TF		STROH-ANDERSON #1	WATTENBERG	1.8	PANHANDLE EASTERN
-MADERA ROYALTY & ENERGY INC				RECEIVED:	03/29/82	JA: CO			
8225250	81-197	0500106494		103		RUTH #3	MANILA	9.1	PANHANDLE EASTERN
-MARTIN EXPLORATION MGMT CORP				RECEIVED:	03/29/82	JA: CO			
8225307	81-186	0512300000		103		GLENS #10	SPINDLE	0.0	PANHANDLE EASTERN
8225256	81-194	0501306051		107-TF		MACY #3-1	WILDCAT	72.0	PANHANDLE EASTERN

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-MIDLANDS GAS CORPORATION				RECEIVED:	03/29/82	JA: CO			
8225252	81-414	0512506419		108		ALLEN 1-12	BEECHER ISLAND	20.0	KANSAS-NEBRASKA N
8225253	81-353	0512506450		108		ALLEN 1-7X	BEECHER ISLAND	22.0	KANSAS-NEBRASKA N
8225313	81-345	0512506503		102-2		ROCKWELL 1-15	REPUBLICAN	84.0	KANSAS-NEBRASKA N
8225314	81-254	0512506430		102-2		STALLINGS 3-12	SCHRAMM	38.0	KANSAS-NEBRASKA N
-MESA PETROLEUM CO				RECEIVED:	03/29/82	JA: CO			
8225288	81-206	0512506412		107-TF		CONRAD #1-30	ECKLEY	60.0	CITIES SERVICE GA
8225290	81-207	0512506411		107-TF		CONRAD #1-31	ECKLEY	60.0	CITIES SERVICE GA
8225272	81-208	0512506410		107-TF		CONRAD #1-32	ECKLEY	60.0	CITIES SERVICE GA
8225296	81-211	0512506366		107-TF		CONRAD 2-25	ECKLEY	60.0	CITIES SERVICE GA
8225291	81-212	0512506367		107-TF		CONRAD 3-25	ECKLEY	60.0	CITIES SERVICE GA
8225273	81-216	0512506368		107-TF		ECKELY STATE #2-36	ECKLEY	60.0	CITIES SERVICE GA
8225306	81-260	0512506376		107-TF		ECKLEY CONRAD #1-5	ECKLEY	62.0	CITIES SERVICE GA
8225304	81-274	0512506506		107-TF		ECKLEY CONRAD #2-6	ECKLEY	90.0	CITIES SERVICE GA
8225294	81-210	0512506353		107-TF		ECKLEY CONRAD 1-25	ECKLEY	60.0	CITIES SERVICE GA
8225295	81-209	0512506356		107-TF		ECKLEY CONRAD 1-6	ECKLEY	60.0	CITIES SERVICE GA
8225284	81-205	0512506516		107-TF		ECKLEY CONRAD 4-25	ECKLEY	73.0	CITIES SERVICE GA
8225292	81-218	0512506351		107-TF		ECKLEY KITZMILLER 1-28	ECKLEY	60.0	CITIES SERVICE GA
8225275	81-214	0512506346		107-TF		ECKLEY KITZMILLER 1-32	ECKELY	60.0	CITIES SERVICE GA
8225293	81-213	0512506355		107-TF		ECKLEY KITZMILLER 1-5	ECKLEY	60.0	CITIES SERVICE GA
8225283	81-204	0512506512		107-TF		ECKLEY KITZMILLER 2-28	ECKLEY	55.0	CITIES SERVICE GA
8225303	81-259	0512506517		107-TF		ECKLEY STATE #3-36	ECKLEY	58.0	CITIES SERVICE GA
8225302	81-258	0512506515		107-TF		ECKLEY STATE #4-36	ECKLEY	64.0	CITIES SERVICE GA
8225274	81-217	0512506362		107-TF		ECKLEY STATE 1-36	ECKLEY	60.0	CITIES SERVICE GA
8225286	81-201	0512506507		107-TF		KITZMILLER #1-4	ECKLEY	109.0	CITIES SERVICE GA
8225301	81-203	0512506511		107-TF		KITZMILLER #3-33	ECKLEY	55.0	CITIES SERVICE GA
8225276	81-202	0512506510		107-TF		KITZMILLER 1-34	ECKLEY	12.0	CITIES SERVICE GA
8225277	81-215	0512506365		107-TF		KITZMILLER 2-33	ECKLEY	60.0	CITIES SERVICE GA
-MTS LTD PARTNERSHIP				RECEIVED:	03/29/82	JA: CO			
8225305	81-489	0512506572		107-TF		TUELL 35 #1	ECKLEY	155.0	CITIES SERVICE GA
8225282	81-257	0512506533		107-TF		TUELLAND #1-35	ECKLEY	73.0	CITIES SERVICE GA
-NIELSON ENTERPRISES INC				RECEIVED:	03/29/82	JA: CO			
8225279	81-238	0512309808		107-TF		STATE OLIN #2	WATTENBERG	87.5	COLORADO INTERSTA
8225280	81-239	0512309765		107-TF		STATE-OLIN #1	WATTENBERG	87.5	COLORADO INTERSTA
-NORTHWEST EXPLORATION COMPANY				RECEIVED:	03/29/82	JA: CO			
8225248	81-237(B)	0504506267		103		CLOUGH #135	RULISON	0.0	NORTHWEST PIPELIN
8225309	81-237	0504506267		102-2		CLOUGH 135	RULISON WASATCH	0.0	NORTHWEST PIPELIN
8225298	81-755	0504506252		108		CLOUGH 18	RULISON MESAVERDE	21.5	NORTHWEST PIPELIN
8225289	81-447	0504506254		108		MCNARY 107	RULISON WASATCH	12.0	NORTHWEST PIPELIN
-SANDLIN OIL CORP				RECEIVED:	03/29/82	JA: CO			
8225254	81-987	0500107454		108		WOERPEL #1	KATIE	12.0	PANHANDLE EASTERN
-SOHIO PETROLEUM CO				RECEIVED:	03/29/82	JA: CO			
8225268	81-705	0503906375		103		MILLER #6-11	DEADEYE	109.5	SUN GAS CO
8225267	81-175	0503900000		103		MILLER #6-13	DEADEYE	63.9	SUN GAS CO
8225287	81-784	0503906376		103		MILLER 6-15	COMANCHE CREEK	54.0	SUN GAS CO
8225249	81-783	0503906377		103		NEIRA 8-3	DEADEYE	128.0	SUN GAS CO
-STELBAR OIL CORP INC				RECEIVED:	03/29/82	JA: CO			
8225312	81-187	0512509575		102-2		MATHIES #1-19	DENOVA	60.0	NATURAL GAS PIPEL
-SUPRON ENERGY CORPORATION				RECEIVED:	03/29/82	JA: CO			
8225270	81-178	0506706403		103		BASEY 1-A	IGNACIO BLANCO MESAVE	402.0	EL PASO NATURAL G
8225285	81-177	0506706406		103		DOWLER 1-A	IGNACIO BLANCO MESAVE	207.0	EL PASO NATURAL G
8225269	81-176	0506706404		103		SUTTON 1-A	IGNACIO BLANCO MESAVE	342.0	EL PASO NATURAL G

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OKLAHOMA CORPORATION COMMISSION

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-ALLEN EXPLORATION INC			RECEIVED:	03/31/82	JA: OK	

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME
8225378	12946	3514722164		103		JETER #4
8225379	12947	3514722162		103		JETER #5
				RECEIVED:	03/31/82	JA: OK
-AMCOLE ENERGY CORP						
8225406	13336	3507322890		103		LANKARD #2
				RECEIVED:	03/29/82	JA: OK
-AMERADA HESS CORPORATION						
8225341	13459	3512920007		108		BULL UNIT #1
				RECEIVED:	03/31/82	JA: OK
-ARCO OIL AND GAS COMPANY						
8225375	12143	3505100000		108		ELMER S POOLER A #6
8225407	13340	3507920402		103		GOLDSBOROUGH-MIDWEST #2
8225401	13471	3504720817		108		IRMA ISBELL #2
8225396	13470	3502700000		108		JENNINGS-BRYAN #1
8225395	13469	3502500000		108		SMALTS UNIT #1-25
8225374	12141	3505100000		108		THOMAS CHARLSON #8
8225397	16291	3504722714		102-4		VERA WINTER #1
				RECEIVED:	03/31/82	JA: OK
-ARKLA EXPLORATION COMPANY						
8225361	13365	3505120990		103		MOWDY #1
8225362	13364	3505120990		103		STEINER #1
				RECEIVED:	03/31/82	JA: OK
-BROOKS HALL OIL CORP						
8225363	13363	3515321230		103		HOMER LOVE #2-A
8225364	13362	3515321205		103		HOMER LOVE #4
				RECEIVED:	03/31/82	JA: OK
-CANADIAN EXPLORATION CORP						
8225413	13180	3501721999		103		COLLIER #19-1
				RECEIVED:	03/31/82	JA: OK
-CHAMPLIN EXPLORATION INC						
8225381	12850	3515121184		103		BARKER #1
8225373	12774	3500320804		103		SEVERIN "A" #1
				RECEIVED:	03/29/82	JA: OK
-CHAMPLIN PETROLEUM COMPANY						
8225348	13292	3509300000		103		JOHN JOHNSON #2
				RECEIVED:	03/31/82	JA: OK
-CHESNUTT OIL PROPERTIES						
8225404	13266	3507122184		103		MILLER-EFFIE #1
8225367	13267	3507122174		103		MILLER-EFFIE #2
				RECEIVED:	03/31/82	JA: OK
-CLARK RESOURCES INC						
8225418	13154	3507323205		103		BROWN 6-1
8225417	13155	3507323027		103		THRASHER 2-1
				RECEIVED:	03/29/82	JA: OK
-CLEMENTS ENERGY INC						
8225342	13346	3508321035		103		BOZARTH NO 1-B
				RECEIVED:	03/29/82	JA: OK
-CLIFFORD RESOURCES INC						
8225343	13345	3509300000		103		DIERKSON #1-12
				RECEIVED:	03/31/82	JA: OK
-ENSERCH EXPLORATION INC						
8225415	13175	3515121161		103		FORREST BAIRD #1
				RECEIVED:	03/31/82	JA: OK
-FRED HARRIS						
8225377	13157	3511720665		103		HEWITT #5
				RECEIVED:	03/29/82	JA: OK
-FUNK EXPLORATION INC						
8225339	13082	3507323247		103		FLEENOR #1
				RECEIVED:	03/31/82	JA: OK
-FUNK EXPLORATION INC						
8225384	11139	3500722018		102-4		REGNIER #1-21
				RECEIVED:	03/31/82	JA: OK
-GETTY OIL COMPANY						
8225359	13423	3513722447		103		H E RUSSELL #9
				RECEIVED:	03/31/82	JA: OK
-GOMACO INC						
8225399	16342	3508321855		102-4		FENNEMA #1-18
8225405	13299	3514722049		103		KETCHUM I II
8225400	16343	3508321732		102-4		WILSON #1-24
				RECEIVED:	03/31/82	JA: OK
-GREEN OPERATING CO						
8225385		3508100000		102-4	103	CARNEY TOWNSITE SKINNER SAND U #3

FIELD NAME	PROD	PURCHASER
NORTH WANN (BARTLESVI	18.0	CITIES SERVICE GA
NORTH WANN (BARTLESVI	47.0	CITIES SERVICE GA
SOONER TREND	83.0	CONOCO INC
NE CRAWFORD	11.3	DELHI GAS PIPELIN
CHICKASHA	14.0	ARKANSAS LOUISIAN
RED OAK NORRIS	365.0	ARKANSAS LOUISIAN
SOONER TREND	11.7	EXXON COMPANY USA
NORTH NORMAN	14.6	CITIES SERVICE GA
MIDWELL	14.6	PANHANDLE EASTERN
CHICKASHA	15.0	ARKANSAS LOUISIAN
CARRIER	36.5	PANHANDLE EASTERN
NAPLES SE	400.0	ARKANSAS LOUISIAN
WEATHERFORD	350.0	ARKANSAS LOUISIAN
S W SHARON	183.0	NORTHERN NATURAL
S W SHARON	91.0	NORTHERN NATURAL
NORTHWEST MUSTANG	67.0	DELHI GAS PIPELIN
WAYNOKA	155.0	PANHANDLE EASTERN
RINGWOOD	20.0	UNION TEXAS PETRO
EAST CHANEY DELL	206.0	CHAMPLIN PETROLEU
DILWORTH	7.0	NEWKIRK GAS TRANS
DILWORTH	20.0	NEWKIRK GAS TRANS
SOONER TREND	30.0	CITIES SERVICE GA
SOONER TREND	30.0	CITIES SERVICE GA
N E RUSSELL	19.0	EASON OIL CO
SOONER TREND	100.0	OKLAHOMA GAS & EL
WILDCAT	638.0	
LAUDERDALE	60.0	H J D CATTLE CO I
MAGANE	500.0	CONOCO INC
S BALKO	0.0	NORTHERN NATURAL
SHO-VEL-TUM	12.8	MOBIL OIL CORP
LAKE GUTHRIE SOUTH	73.0	WESTERN STATE GAS
NORTH WANN (BARTLESVI	219.0	CITIES SERVICE GA
LAKE GUTHRIE SOUTH	53.0	WESTERN STATE GAS
CARNEY TOWNSITE SKINN	1.8	SUN GAS CO

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8225390	16322	3508121136		102-4	103	CARNEY TOWNSITE SKINNER SAND U #4	CARNEY TOWNSITE SKINN	1.8	SUN GAS CO
8225391	16323	3508121144		102-4	103	CARNEY TOWNSITE SKINNER SAND U #5	CARNEY TOWNSITE SKINN	1.8	SUN GAS CO
8225388	16320	3508121514		102-4	103	CARNEY TOWNSITE SKINNER SAND U #6	CARNEY TOWNSITE SKINN	1.8	SUN GAS CO
8225387	16319	3508121535		102-4	103	CARNEY TOWNSITE SKINNER SAND U #7	CARNEY TOWNSITE SKINN	1.8	SUN GAS CO
8225389	16321	3508121580		102-4	103	CARNEY TOWNSITE SKINNER SAND U #8	CARNEY TOWNSITE SKINN	1.8	SUN GAS CO
8225386	16317	3508121056		102-4	103	WILSON #1 (CARNEY TWNS SKINNER #2)	CARNEY TOWNSITE SKINN	1.8	SUN GAS CO
-GULF OIL CORPORATION				RECEIVED:	03/29/82	JA: OK			
8225338	12722	3511121244		108		SNOW #3	BEGGS SOUTH	3.0	PHILLIPS PETROLEU
8225337	12723	3511121245		108		SNOW #4	BEGGS SOUTH	3.0	PHILLIPS PETROLEU
8225336	12724	3511121267		108		SNOW #5	BEGGS SOUTH	0.3	PHILLIPS PETROLEU
8225335	12725	3511121268		108		SNOW #6	BEGGS SOUTH	0.3	PHILLIPS PETROLEU
-HAZELWOOD PRODUCTION & EXPLORATION				RECEIVED:	03/31/82	JA: OK			
8225393	13361	3501722282		103		RAY #1	DILWORTH	82.1	CITIES SERVICE GA
-HILLIARD OIL & GAS INC				RECEIVED:	03/31/82	JA: OK			
8225383	11903	3504321147		103		BERRY #2	PUTNAM (RED FORK)	25.0	MOBIL OIL CORP
-HOME-STAKE PRODUCTION CO				RECEIVED:	03/29/82	JA: OK			
8225340	13104	3500700000		108-SA		SIMS #1	SIMS UNIT	18.0	NORTHERN NATURAL
-JOHN A HENRY & CO				RECEIVED:	03/31/82	JA: OK			
8225357	13427	3510721725		103		JOHN HENRY #1	YUKON	365.0	CONOCO INC
-JOHN A TAYLOR				RECEIVED:	03/31/82	JA: OK			
8225414	13179	3506321312		103		BADGER #1	S ATWOOD	180.0	TRANSOK PIPELINE
-KENNEDY & MITCHELL INC				RECEIVED:	03/31/82	JA: OK			
8225372	12927	3515321041		103		ESTHER #24-367	UNDESIGNATED (SW NW S	185.0	MICHIGAN WISCONSI
-L & T OIL & GAS INC				RECEIVED:	03/29/82	JA: OK			
8225323	13171	3507322345		103		MOFFAT #1	SOONER TREND	164.0	CONOCO INC
-L O WARD				RECEIVED:	03/29/82	JA: OK			
8225347	13294	3508720464		103		LOWRY #1	DIBBLE	24.3	SUN GAS CO
-L O WARD				RECEIVED:	03/31/82	JA: OK			
8225366	13293	3504724470		103		BLAKELY #2	SOONER TREND	75.0	CHAMPLIN PETROLEU
8225358	13425	3502720543		103		HARLOW ROYALTIES #2	S W MOORE	75.0	SUN GAS CO
8225371	13092	3504722413		103		MITCHELL #3	SOONER TREND	300.0	ONG
-LATIGO OIL & GAS INC				RECEIVED:	03/29/82	JA: OK			
8225321	6664	3500700000		108		BARBY A-1	MOCANE-LAVERNE	73.0	NORTHERN NATURAL
-LEEMAN ENERGY CORP				RECEIVED:	03/29/82	JA: OK			
8225353	13173	3509322235		103		LEEMAN ENERGY CORP SMITH #1	RINGWOOD	106.0	PIONEER GAS PRODU
-LEEMAN ENERGY CORP				RECEIVED:	03/31/82	JA: OK			
8225380	12854	3511122620		103		LEE #1	MORRIS	23.0	PHILLIPS PETROLEU
-LITTLE O* OIL CO				RECEIVED:	03/31/82	JA: OK			
8225409	13153	3513722364		103		MOORE ESTATE #1	SHOVELTUM	29.2	GETTY OIL CO
-MACKELLAR INC				RECEIVED:	03/31/82	JA: OK			
8225360	13378	3510320767		103		HOLLINGSHEAD #1	EAST GREEN VALLEY	0.0	ARCO OIL & GAS CO
-MAY PETROLEUM INC				RECEIVED:	03/31/82	JA: OK			
8225394	13371	3500722128		103		TRETBAR #1 (OTC UNASSIGNED)	MOCANE-LAVERNE GAS AR	547.5	
-MEWBOURNE OIL COMPANY				RECEIVED:	03/29/82	JA: OK			
8225345	13343	3505921042		103		PILE #1	C/SE SEC 29 (PILE #1	20.0	
-MOBIL OIL CORP				RECEIVED:	03/31/82	JA: OK			
8225368	13252	3504925547		108		C LAMBERT #4	GOLDEN TREND	5.7	WARREN PETROLEUM
-MONSANTO COMPANY				RECEIVED:	03/31/82	JA: OK			
8225392	13430	3508320879		103		HARNED #1	EAST GUTHRIE LAKE	84.0	CITIES SERVICE GA
8225354	13431	3508321034		103		HARNED #2	EAST GUTHRIE LAKE	150.0	CITIES SERVICE GA
8225355	13432	3508300000		103		HARNED #3	EAST GUTHRIE LAKE	100.0	CITIES SERVICE GA
8225356	13433	3508300000		103		KIGHTLINGER #1	EAST GUTHRIE LAKE	360.0	CITIES SERVICE GA
-NFC PETROLEUM CORP				RECEIVED:	03/29/82	JA: OK			

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8225324	13334	3502920166		103		CUNNINGHAM 1-14	ASHLAND	6.9	OKLAHOMA GAS & EL
8225346	13333	3506320693		103		PARKS 2-16	SOUTH DUSTIN	20.7	OKLAHOMA GAS & EL
-OKLAHOMA CONVEYANCE CORP				RECEIVED:	03/31/82	JA: OK			
8225402	13162	3507100000		103		HAZALEUS #1A	PECKHAM	5.5	CITIES SERVICE GA
8225403	13163	3507100000		103		HAZALEUS #1B	EAST BLACKWELL	365.0	CITIES SERVICE GA
-P-T LTD 80				RECEIVED:	03/29/82	JA: OK			
8225334		3504722576		103		HIXON 19-2	SOONER TREND	35.0	WELLHEAD ENTERPRI
8225333	13350	3504722668		103		HIXON 30-2	SOONER TREND	35.0	WELLHEAD ENTERPRI
8225330	13352	3504722441		103		MILACEK 14-1	SOONER TREND	35.0	WELLHEAD ENTERPRI
8225332	13351	3504721956		103		VCULEK 29-2	SOONER TREND	35.0	WELLHEAD ENTERPRI
-P-T LTD 80				RECEIVED:	03/31/82	JA: OK			
8225408	13349	3504721949		103		VCULEK 28-2	SOONER TREND	35.0	WELLHEAD ENTERPRI
-P-T LTD 81				RECEIVED:	03/29/82	JA: OK			
8225327	13356	3504722602		103		HUNTER 13-1	SOONER TREND	35.0	WELLHEAD ENTERPRI
8225329	13354	3509322220		103		LARR 29-1	SOONER TREND	35.0	WELLHEAD ENTERPRI
8225326	13357	3504722596		103		MARKES 11-1	SOONER TREND	35.0	WELLHEAD ENTERPRI
8225331	13353	3509322182		103		MAXEY 24-1	SOONER TREND	35.0	WELLHEAD ENTERPRI
8225328	13355	3509322180		103		RATZLAFF 7-1	SOONER TREND	35.0	WELLHEAD ENTERPRI
-PETRO-ENERGY EXPLORATION INC				RECEIVED:	03/31/82	JA: OK			
8225398	13530	3508321777		103		PRISTERNIK #1-7	EAST MARSHALL	100.0	EASON OIL CO
-PETROLEUM RESERVE CORP				RECEIVED:	03/29/82	JA: OK			
8225351	13282	3508121376		103		HIBLER 32-2		109.0	SUN GAS CO
-PHILLIPS PETROLEUM COMPANY				RECEIVED:	03/29/82	JA: OK			
8225322	10341	3501121491		103		DETTWEILER "A" #1	WATONGA	0.0	
-PROSPECTIVE INVESTMENT & TRADING CO				RECEIVED:	03/31/82	JA: OK			
8225424	16392	3504321333		102-4		GOSS #1		350.0	DELHI GAS PIPELIN
-R CLAY UNDERWOOD				RECEIVED:	03/31/82	JA: OK			
8225365	13331	3500722030		103		JESSIE S ADAMS "F" #20	MOCAINE	24.6	COLORADO INTERSTA
-RAMBLER OIL CO				RECEIVED:	03/31/82	JA: OK			
8225410	13189	3509321839		103		BOEHS #2-4	ORION	0.0	DELHI GAS PIPELIN
8225421	13192	3501120864		103		ESTER RHODES #1-10	S GREENFIELD	0.0	OKLAHOMA GAS & EL
8225411	13188	3509321503		103		MILDRED PAINTON #1-4	ORION	0.0	DELHI GAS PIPELIN
8225412	13187	3501120874		103		MYRA WRIGHT #1-3	ELM GROVE	0.0	PUBLIC SERVICE CO
8225422	13190	3509321265		103		RUMSEY #1-9	NE SEILING	0.0	DELHI GAS PIPELIN
8225420	13193	3509300000		103		STRECKER #1-4	NE SEILING	0.0	DELHI GAS PIPELIN
8225376	13194	3509321339		103		THELMA GARMAN #1-16	N W TRIVOLI	0.0	DELHI GAS PIPELIN
-RICKS EXPLORATION CO				RECEIVED:	03/29/82	JA: OK			
8225325	17089	3501520974		107-DP		MARVIN ABBOTT #1	WILDCAT	2376.0	TENNESSEE GAS PIP
-SAMSON RESOURCES COMPANY				RECEIVED:	03/31/82	JA: OK			
8225419	11793	3507300000		108-ER		VEITH #1		0.0	DELHI GAS PIPELIN
-SELLERS & SELLERS				RECEIVED:	03/31/82	JA: OK			
8225370	13117	3506300000		108		SEVIER BOOCH #1	GREASY CREEK	9.5	PUBLIC SERVICE CO
-SUN OIL COMPANY (DELAWARE)				RECEIVED:	03/31/82	JA: OK			
8225423	7551	3509300000		108		CORRIE STEWART #1	DOVER-HENNESSEY	11.4	EXXON CORP
-TENNECO OIL COMPANY				RECEIVED:	03/29/82	JA: OK			
8225349	13290	3515321206		103		MACKEY #1-4	CEDARDALE NE	375.0	MICHIGAN WISCONSI
-VAN HORN OIL & GAS INC				RECEIVED:	03/29/82	JA: OK			
8225350	13289	3507322961		103		BURSHIK 32-1	SOONER TREND	50.0	EASON OIL CO
-VULCAN ENERGY CORP				RECEIVED:	03/29/82	JA: OK			
8225344	13344	3507322881		103		GARNET #2	SOONER TREND	175.0	PHILLIPS PETROLEU
-W B WILSON				RECEIVED:	03/31/82	JA: OK			
8225382	12112	3507122283		103		STATE "13" #1	UNDESIGNATED	14.6	CHASE GATHERING S
-W C PAYNE				RECEIVED:	03/29/82	JA: OK			

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8225352	13232	3507323028		103		BLAKELY 1-17	SOONER TREND	90.0	CONOCO INC
-W C PAYNE				RECEIVED:	03/31/82	JA: OK			
8225369	13234	3508321721		103		STONER #2-33	SOONER TREND	70.0	CONOCO INC
-WESSELY ENERGY CORPORATION				RECEIVED:	03/31/82	JA: OK			
8225425	16391	3504921803		102-4		BROWN #1-10 049-73618	GOLDEN TREND	55.0	CITIES SERVICE GA
-WHEELER OIL COMPANY				RECEIVED:	03/31/82	JA: OK			
8225416	13159	3504700000		103		HALEY #1-21	SOONER TREND	0.0	CITIES SERVICE GA
**********									
** BUREAU OF INDIAN AFFAIRS, OSAGE AGENCY, PAWHUSKA,OK									
**********									
-DOAK-ASHER CORP				RECEIVED:	03/30/82	JA: OK 8			
8225320		3511300000		103		EAST DRUMMOND 1-A	MINNEHOMA 330 F/N 500	71.1	PHILLIPS PETROLEU
8225315		3511300000		108		SIGGINS #1-A	MINNEHOMA 330' F/SL 9	6.4	PHILLIPS PETROLEU
8225316		3511300000		108		SIGGINS #2-A	MINNEHOMA 1650' F/NL	6.4	PHILLIPS PETROLEU
8225317		3511300000		108		SIGGINS #3-A	MINNEHOMA 990' F/NL 9	6.4	PHILLIPS PETROLEU
8225319		3511300000		108		SIGGINS #4 (AGENCY #8)	MINNEHOMA 1000 F/SL 6	10.6	PHILLIPS PETROLEU
8225318		3511300000		108		SIGGINS #6	MINNEHOMA 1000' F/SL	6.4	PHILLIPS PETROLEU

BILLING CODE 6717-01-C

The above notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production (PROD) is in million cubic feed (MMCF). an (*) before the Control (JD) number denotes additional purchasers listed at the end of the notice.

The applications for determination are available for inspection except to the extent such matrial is confidential under 18 CFR 275.206, at the Commission's Division of Publiic Information, Room 1000, 825 North Capitol St., Washington, D.C. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission within fifteen days after publication of notice in the **Federal Register.**

Categories within each NGPA section are indicated by the folllowing codes:

Section 102–1: New OCS Lease
102–2: New well (2.5 miles rule)
102–3: New well (1000 ft rule)
102–4: New onshore reservoir
102–5: New reservoir on old OCS lease
Section 107–DP: 15,000 feet or deeper
107–GB: Geopressured brine
107–GS: Coal seams
107–DV: Devonian shale
107–PE: Production enhancement
107–TF: New tight formation
107–RT: Recompletion tight formation
Section 108: Stripper well
108–SA: Seasonally affected
108–ER: Enhanced recovery
108–PB: Pressure buildup

Kenneth F. Plumb,

Secretary.

[FR Doc. 82–77750 Filed 4–22–82; 8:45 am]
BILLING CODE 6717–01–M

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: April 16, 1982.

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
KANSAS CORPORATION COMMISSION									
-AMOCO PRODUCTION CO			RECEIVED:	04/02/82	JA: KS				
8225426	K82-0173	1512900000		108		DOLL GAS UNIT #1	HUGOTON	20.0	CITIES SERVICE GA
8225427	K82-0174	1512900000		108		KANSAS UNIVERSITY GAS UNIT "B" #1	HUGOTON	17.5	CITIES SERVICE GA
8225463	K 82-0166	1512900000		108		LUTZ GAS UNIT #1 (3RD)	HUGOTON	21.0	CITIES SERVICE GA
8225466	K 82-0021	1518720327		103		PLUMMER GAS UNIT "A" /CG/ #2	PANOMA	50.0	CITIES SERVICE GA
-ANADARKO PRODUCTION COMPANY			RECEIVED:	04/02/82	JA: KS				
8225526	K 82-0055	1512920528		103		DAVISON A-2	CIMARRON VALLEY	72.0	PANHANDLE EASTERN
8225525	K 82-0054	1512920476		103		FORWARD "A" #1	PANOMA	37.0	PANHANDLE EASTERN
8225441	K 81-1275	1517520525		102-4		MAXWELL B #1	SHUCK	883.0	CIMARRON-QUINQUE
8225458	K 82-0171	1512920541		103		MCDOUGAL A #1	WC	36.5	CIMARRON-QUINQUE
8225450	K 82-0065	1517520540		103		MCGILL A #1	ADAMSON	36.5	CIMARRON-QUINQUE
8225538	K 82-0187	1512920587		103		MUNDY "A" #2	INTERSTATE RED CAVE	191.6	PANHANDLE EASTERN
-ASSOCIATES RESOURCE CORP			RECEIVED:	04/02/82	JA: KS				
8225529	K 82-0094	1512522753		103		BELLAMY #1-A	EAST COFFEYVILLE	10.0	VERDIGRIS ENERGY
-ATTICA GAS VENTURE CORP			RECEIVED:	04/02/82	JA: KS				
8225478	K82-0046	1507720744		103		CITY OF ATTICA #2	SULLIVAN	300.0	PEOPLES NATURAL G
-BOW VALLEY PETROLEUM INC			RECEIVED:	04/02/82	JA: KS				
8225459	K 82-170	1503320433		102-2		LEMON RANCH 2-20	WILDCAT	75.0	MICHIGAN WISCONSI
8225461	K 82-0168	1503320489		102-2		LOWENFELD 3-20	WILDCAT	14.0	MICHIGAN WISCONSI
8225460	K 82-169	1503320477		102-2		MOFFETT #1-32	WILDCAT	165.0	MICHIGAN WISCONSI
-CITIES SERVICE COMPANY			RECEIVED:	04/02/82	JA: KS				
8225522	K 82-0049	1505520473		103		GANN A #2	PANOMA	149.3	NORTHERN NATURAL
-COMANCHE PRODUCTION, INC.			RECEIVED:	04/02/82	JA: KS				
8225455	K 81-1287	1505320558		102-4		SVATY #3	ELLSWORTH	54.8	NORTHERN NATURAL
-CROWE DRILLING CO INC			RECEIVED:	04/02/82	JA: KS				
8225470	K82-0017	1517320406		102-2		LAUDERBACH #1	LATTA NORTH	600.0	
-DUNBAR & SON OIL ENTERPRISES INC			RECEIVED:	04/02/82	JA: KS				
8225444	K 81-1219	1503522908		102-2		NELLIE MILLS #3	OTTER CREEK	29.0	CITIES SERVICE GA
8225443	K 81-1221	1503522912		102-2		SNYDER B-5	GUTHRIE	3.0	CITIES SERVICE GA
-EDMISTON OIL CO INC			RECEIVED:	04/02/82	JA: KS				
8225512	K 82-0151	1500720821		103		OHLSON "B" #3	HARDTNER	20.4	KANSAS GAS SUPPLY
8225511	K 82-0152	1500721030		103		OHLSON "B" #4	HARDTNER	28.0	KANSAS GAS SUPPLY
8225510	K 82-0153	1500720667		103		VOGEL "A" #2	HARDTNER	12.0	KANSAS GAS SUPPLY
8225509	K 82-0154	1500720958		103		VOGEL "A" #3	HARDTNER	12.0	KANSAS GAS SUPPLY
8225508	K82-0155	1500720959		103		VOGEL "A" #4	HARDTNER	12.0	KANSAS GAS SUPPLY
8225507	K82-0156	1500720868		103		VOGEL "A" #5	HARDTNER	12.0	KANSAS GAS SUPPLY
-EDWIN L COX			RECEIVED:	04/02/82	JA: KS				
8225518	K 81-1278	1517500000		108		LIGHT #1	MASSONI	2.0	PANHANDLE EASTERN
-F G HOLL			RECEIVED:	04/02/82	JA: KS				
8225440	K 82-0115	1504720950		102-4		EMBRY 3-23	EMBRY	7.3	NORTHERN NATURAL
-GEORGE W PEASE JR			RECEIVED:	04/02/82	JA: KS				

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME
8225446	K 81-1135	1503522723		103		BRYANT #1-B
-GOULD OIL INC				RECEIVED:	04/02/82	JA: KS
8225449	K 82-0064	1500720429		108		DAVIS #1
-GRAHAM-MICHAELIS CORP				RECEIVED:	04/02/82	JA: KS
8225517	K 81-1277	1509720822		103		ROBBINS #2-34
-GRANT OIL INC.				RECEIVED:	04/02/82	JA: KS
8225445	K 81-1159	1512522998		103		HALL #1
-GRAVES DRILLING CO INC				RECEIVED:	04/02/82	JA: KS
8225472	K82-0014	1500721250		103		CUNNINGHAM #1
8225523	K 82-0050	1500721322		103		GARTEN #1
8225473	K82-0013	1500721184		103		PENNOCK #1
8225524	K 82-0051	1500721246		103		SMITH #2
8225474	K82-0012	1500721130		103		THERON #1
-GREEN WOLF OIL COMPANY				RECEIVED:	04/02/82	JA: KS
8225462	K 82-0167	1509320726		103		DANNEBOHN #3
-H-30 INC				RECEIVED:	04/02/82	JA: KS
8225454	K 81-1286	1509520982		103		MILLARD #1
-HAWKINS OIL & GAS INC				RECEIVED:	04/02/82	JA: KS
8225456	K 81-1288	1500721094		102-2		MAYBERRY #1-26
8225480	K82-0043	1500721164		102-2		POLLOCK #1-36
-HELLAR DRILLING CO INC				RECEIVED:	04/02/82	JA: KS
8225447	K81-1108	1505320600		102-2		RATHBUN "A" #1
-HINKLE OIL COMPANY				RECEIVED:	04/02/82	JA: KS
8225483	K82-0037	1514500000		102-4		BENDER #1
-HOLLY ENERGY INC				RECEIVED:	04/02/82	JA: KS
8225498	K82-0062	1503320467		102-4		BAKER TRUST #1
8225448	K 82-0063	1503320500		102-4		BAKER TRUST #2
-IMPERIAL OIL COMPANY				RECEIVED:	04/02/82	JA: KS
8225467	K 82-0020	1505720144		102-2		BARTLETT #1-5
8225433	K 82-0181	1515121014		102-2		CALBECK #1-6
8225468	K82-0019	1515120915		102-2		LEMON #1-18 (KINDERHOOK)
8225469	K82-0018	1515120915		102-2		LEMON #1-18 (MARMATON)
8225465	K 82-0022	1515121008		102-2		LEMON #3-18
8225428	K82-0175	1509720817		102-2		ROSE "A" #1-13
-INCA OIL CO				RECEIVED:	04/02/82	JA: KS
8225429	K82-0176	1517520493		103		BLACK A #1
-J M HUBER CORPORATION				RECEIVED:	04/02/82	JA: KS
8225457	K 82-0172	1512920529		103		MOSS #6-2
-JOHN O FARMER INC				RECEIVED:	04/02/82	JA: KS
8225452	K 81-1284	1518521327		103		WHITZEL #1
-KANSAS CRUDE INC				RECEIVED:	04/02/82	JA: KS
8225451	K 81-1283	1500721199		103		HOUSE #1
-KANSAS-NEBRASKA NATURAL GAS CO INC				RECEIVED:	04/02/82	JA: KS
8225475	K82-0011	1509300000		108		JACKSON #1
8225482	K82-0038	1509320749		103		KORFF #1-2
-KEENER OIL CO				RECEIVED:	04/02/82	JA: KS
8225503	K82-0206	1509521187		103		COVINGTON #2
8225501	K82-0208	1509520697		103		GRAYDON MURRAY #2
8225502	K82-0207	1509520613		103		JENNA HUEY #1
8225499	K82-0210	1509520655		103		LINDQUIST #3
8225493	K82-0211	1509520556		103		MARGARET FLICKNER #1
8225500	K82-0209	1509520773		103		REDETZKE #2
8225492	K82-0212	1509520558		103		VALARIE NEVILLE #1

FIELD NAME	PROD	PURCHASER
GIBSON POOL	50.0	NEWKIRK GAS TRANS
AETNA	10.0	CITIES SERVICE GA
MULE CREEK NORTHEAST	60.0	KANSAS GAS SUPPLY
JEFFERSON-SYCAMORE	9.9	UNION GAS SYSTEMS
BLOOM NORTH	16.4	KANSAS POWER & LI
BLOOM NORTH	18.2	KANSAS POWER & LI
BLOOM NORTH	14.6	KANSAS POWER & LI
BLOOM NORTH	18.2	KANSAS POWER & LI
BLOOM NORTH	12.8	KANSAS POWER & LI
HUGOTON	139.4	PANHANDLE EASTERN
SPIVEY-GRABS-BASIL	36.0	PEOPLES NATURAL G
WILDCAT	189.0	
CEDAR	125.0	
WILDCAT	474.5	GARFIELD GAS GATH
GATTERMAN SEC 35-23S-	91.3	NATURAL GAS PIPEL
COLLIER FLATS SOUTH	70.0	NORTHERN NATURAL
COLLIER FLATS SOUTH	70.0	NORTHERN NATURAL
M-B	146.0	NATURAL GAS PIPEL
UNNAMED	73.0	PANHANDLE EASTERN
CARVER ROBBINS WEST	91.3	PANHANDLE EASTERN
CARVER ROBBINS WEST	1.8	PANHANDLE EASTERN
CARVER ROBBINS WEST	54.8	PANHANDLE EASTERN
CARVER ROBBINS WEST	18.3	PANHANDLE EASTERN
WILDCAT	185.2	PANHANDLE EASTERN
PANOMA COUNCIL GROVE	18.0	CITIES SERVICE GA
UN-NAMED	150.0	KANSAS-NEBRASKA N
AMBER MILLS	200.0	CENTRAL STATES GA
KANSAS HUGOTON	17.0	KANSAS-NEBRASKA N
PANOMA	87.0	KANSAS-NEBRASKA N
GARLISCH SW	73.0	KANSAS GAS SUPPLY
GARLISCH SW	202.6	KANSAS GAS SUPPLY
PRATHER	51.1	KANSAS GAS SUPPLY
PRATHER	459.2	KANSAS GAS SUPPLY
GARLISCH SW	79.2	KANSAS GAS SUPPLY
GARLISCH SW	474.5	KANSAS GAS SUPPLY
GARLISCH SW	225.6	KANSAS GAS SUPPLY

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME
-LEBSACK OIL PRODUCTION INC				RECEIVED:	04/02/82	JA: KS
8225496	K82-0059	1515900000		108		SCHAFER #1
8225495	K82-0060	1504720927		103		TURNER #1
-LEE PHILLIPS OIL CO				RECEIVED:	04/02/82	JA: KS
8225536	K 82-0102	1509520841		103		AMERINE #1
8225537	K 82-0103	1509520915		103		AMERINE #2
-MARTIN B KLENDA				RECEIVED:	04/02/82	JA: KS
8225505	K82-0158	1511500000		108		KLENDA "B" #1
-MCCOY PETROLEUM CORP				RECEIVED:	04/02/82	JA: KS
8225464	K 82-0023	1509521192		103		EARLY #2
-OKMAR OIL COMPANY				RECEIVED:	04/02/82	JA: KS
8225453	K 81-1285	1500720522		108		PIERSON #1
-PAR PETROLEUM INC				RECEIVED:	04/02/82	JA: KS
8225497	K82-0058	1507520251		108		FROST #1
-PETRO-VALLEY SERVICES CORP				RECEIVED:	04/02/82	JA: KS
8225434	K 82-0217	1501120385		108		HAYS #2
8225435	K 82-0218	1501120265		108		HEIDER #1
8225438	K 82-0221	1501100000		108		HENDERSON #1
8225437	K 82-0220	1501120262		108		MANLEY #2
8225490	K82-0214	1501120619		108		MCCLIMANS #1
8225488	K82-0216	1501120452		108		MCMILLEN #3
8225491	K82-0213	1501120618		108		SHEPARD #1
8225489	K82-0215	1501120490		108		STEWART #1-C
8225436	K 82-0219	1501120381		108		SUTTERBY #1
-PROFESSIONAL PETROLEUM INC				RECEIVED:	04/02/82	JA: KS
8225479	K82-0044	1500721099		103		ALBERT BOUZIDEN 18-1
-R C BANKS				RECEIVED:	04/02/82	JA: KS
8225528	K 82-0057	1507120204		103		FISHMAN #1
8225527	K 82-0056	1507120219		103		WOOD #1
-REACH PETROLEUM CORP				RECEIVED:	04/02/82	JA: KS
8225442	K 81-1222	1507720683		103		HARRISON #1
-ROBINSON OIL CO				RECEIVED:	04/02/82	JA: KS
8225540	K 82-0196	1500720910		103		ACHENBACH "BC" #2
8225539	K 82-0195	1500720892		103		ACHENBACH "BC"-1
8225543	K 82-0199	1507700000		108		BERRY #2 (877151)
8225504	K82-0203	1517320404		102-2		DALEY "A" #1
8225544	K 82-0200	1500720193		108		HAGER "A" #1
8225545	K 82-0201	1500720196		108		HUGHBANKS G U 1
8225546	K 82-0202	1500720269		108		KASTENS "A" 1
8225541	K 82-0197	1500721252		103		MOLZ "B" #4
8225542	K 82-0198	1500720694		103		TRAFFAS GAS UNIT #1
-SHAWMAR OIL CO INC				RECEIVED:	04/02/82	JA: KS
8225439	K 82-0222	1511500000		108		SCHONEMAN #1 00173-000005
8225516	K 82-0223	1511500000		108		SCHONEMAN #2 00173-000005
8225515	K 82-0224	1511520100		108		SCHONEMAN #3 00173-000005
8225514	K 82-0225	1511520263		108		SCHONEMAN #4 00173-000005
8225513	K 82-0226	1511520402		108		SCHONEMAN #5 00173-000005
8225487	K82-0227	1511520452		108		SCHONEMAN #6 00173-000005
8225486	K82-0228	1511520449		108		SCHONEMAN #7 00173-000005
-STEVENS COUNTY OIL & GAS CO				RECEIVED:	04/02/82	JA: KS
8225476	K82-0010	1509300000		108		BURNETT #1
-TEGO INC				RECEIVED:	04/02/82	JA: KS
8225534	K 82-0099	1512523007		103		BARNETT "T" 1

FIELD NAME	PROD	PURCHASER
TOBIAS	6.5	PEOPLES NATURAL G
ENGLISH NW	90.0	CENTRAL STATES GA
DRESDEN EXT	11.0	CENTRAL STATES GA
DRESDEN EXT	759.0	CENTRAL STATES GA
ANTELOPE FIELD	9.9	CITIES SERVICE GA
BASIL	45.0	PEOPLES NATURAL G
HARDTNER	18.0	KANSAS GAS SUPPLY
BRADSHAW	16.4	KANSAS-NEBRASKA N
XENIA-MAPLETON	1.4	SEKCO GAS CO
XENIA-MAPLETON	1.5	SEKCO GAS CO INC
XENIA-MAPLETON	0.1	SEKCO GAS CO INC
XENIA-MAPLETON	1.3	SEKCO GAS CO INC
XENIA-MAPLETON	0.3	SEKCO GAS CO INC
XENIA-MAPLETON	2.0	SEKCO GAS CO INC
XENIA-MAPLETON	3.4	SEKCO GAS CO INC
XENIA-MAPLETON	3.0	SEKCO GAS CO INC
XENIA-MAPLETON	1.9	SEKCO GAS CO INC
AETNA-MISSISSIPPI	518.0	KANSAS POWER & LI
NORTH BYERS	36.0	SUNFLOWER ELECTRI
NORTH BYERS	36.0	SUNFLOWER ELECTRI
STROHVILLE	108.0	QUIVIRA GAS CO
STRANATHAN EXTENSION	12.3	PANHANDLE EASTERN
STRANATHAN EXTENSION	12.3	PANHANDLE EASTERN
SHARON NORTH	3.2	PEOPLES NATURAL G
LATTA NORTH	193.4	GETTY OIL CO
CORWIN	10.9	PEOPLES NATURAL G
HIBBARD NORTH	4.7	NORTHERN NATURAL
HARMON	6.2	PEOPLES NATURAL G
STRANATHAN EXTENTION	19.0	PANHANDLE EASTERN
TRAFFAS EXTENTION	16.5	PANHANDLE EASTERN
LOST SPRINGS POOL	11.0	CITIES SERVICE GA
LOST SPRINGS POOL	11.0	CITIES SERVICE GA
LOST SPRINGS POOL	11.0	CITIES SERVICE GA
LOST SPRINGS POOL	11.0	CITIES SERVICE GA
LOST SPRINGS POOL	11.0	CITIES SERVICE GA
LOST SPRINGS POOL	11.0	CITIES SERVICE GA
LOST SPRINGS POOL	11.0	CITIES SERVICE GA
HUGOTON	16.3	NORTHERN NATURAL
WAYSIDE	18.3	SENOCO INC

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8225533	K 82-0098	1512523008		103		BARNETT "T" 2	WAYSIDE	18.3	SENOCO INC
8225535	K 82-0100	1512523009		103		BARNETT "T" 3	WAYSIDE	18.3	SENOCO INC
8225532	K 82-0097	1512523010		103		BARNETT "T" 4	WAYSIDE	18.3	SENOCO INC
8225531	K 82-0096	1512523012		103		BARNETT "T" 6	WAYSIDE	18.3	SENOCO INC
8225530	K 82-0095	1512523013		103		BARNETT "T" 7	WAYSIDE	18.3	SENOCO INC
-TENNECO OIL COMPANY				RECEIVED:	04/02/82	JA: KS			
8225481	82-0039	1515520781		103		CANTWELL #2-28	CANTWELL	46.0	
8225506	K82-0157	1515520781		102-2		CANTWELL #2-28	CANTWELL	46.0	
-TERRY P SILHAN				RECEIVED:	04/02/82	JA: KS			
8225485	K82-0229	1511500000		108		SCHIMPF A-1	ANTELOPE FIELD	2.3	KAN-GO INC
8225484	K82-0230	1511500000		108		SCHIMPF A-2	ANTELOPE FIELD	2.3	KAN-GO INC
-TEXAS ENERGIES INC				RECEIVED:	04/02/82	JA: KS			
8225519	K 81-1280	1515121024		103		HAMILTON 3-27	TATLOCK EAST	30.0	CENTRAL STATES GA
8225494	K82-0061	1515120950		103		JONES 1-24	CARVER ROBBINS	30.0	CENTRAL STATES GA
-TXO PRODUCTION CORP				RECEIVED:	04/02/82	JA: KS			
8225471	K82-0016	1505720250		103		DAVIS "J" #1	PLEASANT VALLEY	36.5	DELHI GAS PIPELIN
8225520	K 81-1282	1509521115		103		NICHOLAS "A" #1	MESSENGER	109.5	DELHI GAS PIPELIN
-VINCENT OIL CORP				RECEIVED:	04/02/82	JA: KS			
8225432	K 82-0179	1509520310		108		COX #1	SPIVEY-GRABS	12.6	PEOPLES NATURAL G
8225430	K-82-0177	1515120952		103		HOFF #1	CARVER ROBBINS WEST	30.0	PANHANDLE EASTERN
8225431	K 82-0178	1509520653		108		JACOBS "M" #1	SPIVEY-GRABS	7.3	PEOPLES NATURAL G
-ZENITH DRILLING CORPORATION INC				RECEIVED:	04/02/82	JA: KS			
8225477	K82-0047	1504720913		103		SETTE #2	WIL	36.0	CENTRAL STATES GA
8225521	K 82-0048	1504720914		103		SETTE #3	WIL	36.0	CENTRAL STATES GA
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MICHIGAN DEPARTMENT OF NATURAL RESOURCES									
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-ADOLPH ROVSEK				RECEIVED:	04/02/82	JA: MI			
8225551		2105931314		103		JERRY D & SHERRY L BRADFORD #2-10	E/2 SE/4 NW/4 SEC 10	54.8	MARATHON OIL CO
-AMOCO PRODUCTION CO				RECEIVED:	04/02/82	JA: MI			
8225552		2107934785		102-4		STATE BLUE LAKE /N/ #1-5	BLUE LAKE 5-28N-5W	154.0	CONSUMERS POWER C
-CONSUMERS POWER COMPANY				RECEIVED:	04/02/82	JA: MI			
8225550		2104534361		102-4		CPCO ACKLEY 2-33	EATON RAPIDS "33"	70.0	CONSUMERS POWER C
-FLYNN ENERGY CORPORATION				RECEIVED:	04/02/82	JA: MI			
8225554		2110100000		102-4		BAILEY #1-26	CLEON	1050.0	MICHIGAN CONSOLID
8225553		2110100000		102-4		MILLER #1-26	CLEON	183.0	MICHIGAN CONSOLID
-HOBSON PETROLEUM CORP				RECEIVED:	04/02/82	JA: MI			
8225547		2102500000		102-4		MARTIN-ROSS #1A-1	LEE 1A-1	178.0	BATTLE CREEK GAS
-JEM PETROLEUM CORP				RECEIVED:	04/02/82	JA: MI			
8225549		2111300000		102-4		EDWARDS #7-36	FALMOUTH	1825.0	MICHIGAN CONSOLID
-MACK OIL CORP				RECEIVED:	04/02/82	JA: MI			
8225548		2116500000		102-4		PACKAGING CORP OF AMERICA(PCA) #1-5	WEXFORD 5	120.0	CONSUMERS POWER C
**********									
MISSISSIPPI OIL & GAS BOARD									
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-CALLON PETROLEUM COMPANY				RECEIVED:	04/02/82	JA: MS			
8225573	103-81-372	2312720064		102-4	103	WARE ET AL GAS UNIT #1	OAK GROVE	2.5	SYSTEM FUELS INC
-CHARLES L CHERRY & ASSOCIATES				RECEIVED:	04/02/82	JA: MS			
8225571	2-82-413	2308720052		102-4		G D HOLLIMAN 7-11 #1	MAPLE BRANCH	550.0	TENNESSEE GAS PIP
-EXXON CORPORATION				RECEIVED:	04/02/82	JA: MS			
8225569	5-82-15	2309120152		102-4		HUB GAS UNIT 15 #1	HUB	1000.0	SOUTHERN NATURAL
-FLORIDA GAS EXPLORATION COMPANY				RECEIVED:	04/02/82	JA: MS			
8225556	108-81-467	2309120137		107-DP		C E SIBLEY #1	EAST MORGANTOWN	1460.0	TRANSCONTINENTAL

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME
8225570	6-82-377	2306520190		107-DP		REESE #1-A
-GULF OIL CORPORATION				RECEIVED:	04/02/82	JA: MS
8225572	1-82-11	2307320234		103		JOHNATHAN DAVIS #3-A
-INEXCO OIL COMPANY				RECEIVED:	04/02/82	JA: MS
8225564	101-81-440	2306520187		107-DP		CARROLL R COOK #1
-JEKE INC				RECEIVED:	04/02/82	JA: MS
8225574	20-82-533	2311320111		102-4		MARTIN - SABINE UNIT #1
-LOUISIANA LAND & EXPLORATION CO				RECEIVED:	04/02/82	JA: MS
8225576	13-82-476	2309120154		107-DP		JOHN HAUBERG #3
8225557	109-81-434	2307720040		107-DP		R V DICKEY #1
-MARION CORPORATION				RECEIVED:	04/02/82	JA: MS
8225565	93-81-531	2307320212		107-DP		AMOCO-SABINE #1-A
8225566	25-82-531	2307320229		107-DP		AMOCO-SABINE #2
-MOBIL OIL EXPLORATION & PROD S E				RECEIVED:	04/02/82	JA: MS
8225563	90-81-534	2307720039		102-2		JOHN H HAUBERG JR #1
-MOSBACHER PRODUCTION CO				RECEIVED:	04/02/82	JA: MS
8225567	114-81-476	2309120107		107-DP		FERNWOOD LUMBER CO #1
-RADZEWICZ OPERATING CORP				RECEIVED:	04/02/82	JA: MS
8225560	113-81-512	2315721035		102-2		MARTENS-SESSIONS UNIT #2
8225559	112-81-512	2315721024		102-2		STOCKETT UNIT #1
-SHELL OIL CO				RECEIVED:	04/02/82	JA: MS
8225579	7-82-533	2300520215		102-4		ANDERS UNIT #1
8225577	11-82-533	2311320108		102-4		G S CARRUTH UNIT #1
8225562	89-81-522	2302120016		102-4		GREER UNIT #1
8225578	8-82-533	2311320107		102-4		HUTTO UNIT #2
8225558	110-81-522	2302120017		102-4		MANN UNIT #1
-SUN OIL COMPANY (DELAWARE)				RECEIVED:	04/02/82	JA: MS
8225561	99-81-452	2309120112		107-DP		E S RAYBURN 17-11 #1-U
-TOMLINSON INTERESTS INC				RECEIVED:	04/02/82	JA: MS
8225575	15-82-467	2309120169		107-DP		F W WILLOUGHBY 3-5 #1
-TRANSCONTINENTAL OIL CORPORATION				RECEIVED:	04/02/82	JA: MS
8225568	111-81-143	2312120080		102-4		PUCKETT GAS UNIT #5 #4
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VIRGINIA DEPARTMENT OF LABOR & INDUSTRY						
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-COLUMBIA GAS TRANSMISSION CORP				RECEIVED:	04/02/82	JA: VA
8225555		4502720311		107-DV		BUCHANAN ENERGY CORP 820435

FIELD NAME	PROD	PURCHASER
BASSFIELD	730.0	FLORIDA GAS TRANS
BAXTERVILLE	0.0	UNITED GAS PIPE L
OAKVALE	200.0	TRANSCONTINENTAL
OLIVE	40.0	
SOUTH MORGANTOWN	2774.0	TENNESSEE GAS PIP
MONTICELLO	657.0	TENNESSEE GAS PIP
HIGGINS (SOUTHWEST SU	0.0	TRANSCONTINENTAL
HIGGINS	1.8	TRANSCONTINENTAL
(NORTH OLD CAMP) TOPE	1369.0	
SOUTH MORGANTOWN (HOS	150.0	TENNESSEE GAS PIP
ASHWOOD	0.0	TENNESSEE GAS PIP
ASHWOOD	0.0	TENNESSEE GAS PIP
OLIVE	40.0	
OLIVE	40.0	
ALCORN	400.0	
OLIVE	40.0	
ALCORN	450.0	
IMPROVE	273.0	TRANSCONTINENTAL
E MORGANTOWN	1656.0	TRANSCONTINENTAL
PUCKETT	365.0	UNITED GAS PIPELI
VIRGINIA FIELD AREA H	40.4	COLUMBIA GAS TRAN

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-11151 Filed 4-22-82; 8:45 am]

BILLING CODE 6717-01-C

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: April 16, 1982.

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
TEXAS RAILROAD COMMISSION									
-A L SAUDER JR				RECEIVED:	04/01/82	JA: TX			
8225873	F-09-048331	4249700000		103		MARIE WAGGONER E-1	BOONSVILLE (BEND CONG	453.0	DELHI GAS PIPELIN
-AMERICAN DELTA CORP				RECEIVED:	04/01/82	JA: TX			
8225788	F-03-047741	4205131323		102-2		WASHBURN UNIT #1	GIDDINGS (AUSTIN CHAL	0.0	FERGUSON CROSSING
-AMERICAN QUASAR PETROLEUM CO				RECEIVED:	04/01/82	JA: TX			
8225656	F-7C-041793	4243500000		107-TF		SHURLEY RANCH 2-4	SHURLEY RANCH (CANYON	0.0	EL PASO NATURAL G
-AMMEX PETROLEUM INC				RECEIVED:	04/01/82	JA: TX			
8225773	F-03-04-7425	4205131952		102-2	103	SAM UNIT #1	BIG A (TAYLOR)	51.8	CLAJON GAS CO
-AMOCO PRODUCTION CO				RECEIVED:	04/01/82	JA: TX			
8225903	F-10-048417	4229500000		108		DRAPER UNIT #1 (2ND)	MAMMOTH CREEK N (CLEV	20.0	NORTHERN NATURAL
8225836	F-08-048224	4221932719		103		MIDLAND FARMS UNIT #551	MIDLAND FARMS	5.1	AMOCO PRODUCTION
8225901	F-10-048410	4229500000		108		PAUL PIERCE #1 (2ND)	MAMMOTH CREEK N (CLEV	20.0	NORTHERN NATURAL
8225900	F-10-048409	4219500000		108		WILMETH GAS UNIT #1 (2ND)	HANSFORD (M MORROW)	10.0	NORTHERN NATURAL
8225902	F-10-048411	4229500000		108		WILSON UNIT "B" #1 (2ND)	MAMMOTH CREEK N (CLEV	20.0	NORTHERN NATURAL
-AN-SON CORPORATION				RECEIVED:	04/01/82	JA: TX			
8225606	F-10-036276	4221100000		103		JAHNEL #1	GEM HEMPHILL-UPPER MO	277.0	NORTHERN NATURAL
-ANDERSON PETROLEUM INC				RECEIVED:	04/01/82	JA: TX			
8225589	F-7C-032556	4210533196		103	107-TF	ELOISE CARSON CLEGG ET VIR 2-92	OZONA (CANYON SAND)	40.0	ANDERSON PIPELINE
-ARCO OIL AND GAS COMPANY				RECEIVED:	04/01/82	JA: TX			
8225921	F-10-048452	4223300000		108		JOHNSON RANCH /A/ M-1	PANHANDLE WEST	19.0	PHILLIPS PETROLEU
8225922	F-10-048453	4223300000		108		JOHNSON RANCH "D" #1	PANHANDLE WEST	6.9	PHILLIPS PETROLEU
8225829	F-10-048202	4217930584		103		VICTOR MOODY #10	PANHANDLE GRAY COUNTY	3.7	PHILLIPS PETROLEU
8225649	F-06-040983	4236531241		102-2	107-TF	W M REED GAS UNIT #2	CARTHAGE (COTTON VALL	200.0	SOUTHERN NATURAL
8225863	F-10-048277	4239335176		108		WILLIAM R COWAN TRACT "B" #3	QUINDUNO (ALBANY DOLO	14.6	NATURAL GAS PIPEL
-BAR M PETROLEUM CO INC				RECEIVED:	04/01/82	JA: TX			
8225830	F-03-048208	4228730969		103		OLTMANN-NOACK #1	GIDDINGS (AUSTIN CHAL	18.0	PERRY PIPELINE GA
8225892	F-03-048358	4228731117		103		SIMPSON #1	GIDDINGS (AUSTIN CHAL	18.0	PERRY PIPELINE GA
-BLUESKY OIL & GAS INC				RECEIVED:	04/01/82	JA: TX			
8225587	F-03-028908	4214930560		102-2		ARNIM "E" UNIT #5	GIDDINGS (AUSTIN CHAL	0.0	CLAJON GAS CO
8225678	F-03-044731	4214930593		102-2		DANIELS "A" UNIT #1	GIDDINGS (AUSTIN CHAL	0.0	CLAJON GAS CO
-BOB WALLACE OIL INC				RECEIVED:	04/01/82	JA: TX			
8225890	F-10-048356	4206531058		103		CULBERTSON (04944) #2-6	PANHANDLE CARSON COUN	270.0	CABOT PIPELINE CO
8225891	F-10-048357	4206531081		103		HAYS TRUST (04938) #27	PANHANDLE CARSON COUN	175.0	CABOT PIPELINE CO
-BTA OIL PRODUCERS				RECEIVED:	04/01/82	JA: TX			
8225757	F-7C-047287	4238331806		103		JACKSON -B- #12	SPRABERRY (TREND AREA	27.0	EL PASO NATURAL G
-CASADOR OIL & GAS CO				RECEIVED:	04/01/82	JA: TX			
8225654	F-7H-041644	4236300000		102-4		HARTNETT #1	MINERAL WELLS SOUTH (	389.0	INTERSTATE GATHER
-CASHCO OIL CO				RECEIVED:	04/01/82	JA: TX			
8225631	F-03-039141	4218530269		102-2		O'CONNOR-GOINS #1	WILDCAT	0.0	LONE STAR GAS CO
-CHAMPLIN PETROLEUM COMPANY				RECEIVED:	04/01/82	JA: TX			
8225618	F-06-038265	4236500000		103	107-TF	CARTHAGE GAS UNIT 11 #5	CARTHAGE	0.0	TENNESSEE GAS PIP

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8225614	F-06-037499	4236500000		103	107-TF	CARTHAGE GAS UNIT 3 #4	CARTHAGE	0.0	TENNESSEE GAS PIP
8225671	F-04-043648	4235500000		108		G P WARDNER #59	STRATTON (D-6)	14.0	TENNESSEE GAS PIP
8225708	F-04-045837	4227300000		108		G P WARDNER #84	STRATTON (F-39-10)	3.5	TENNESSEE GAS PIP
8225616	F-03-038187	4205100000		102-2	103	HERMAN SCHULTZ #1	GIDDINGS	0.0	FERGUSON CROSSING
8225643	F-03-039945	4205100000		102-2	103	JOHNNIE KNESEK #3	GIDDINGS	0.0	FERGUSON CROSSING
8225615	F-03-037540	4228700000		102-2	103	L W BRINKMAN "A" #2	GIDDINGS	0.0	FERGUSON CROSSING
8225666	F-03-043018	4205131956		102-2	103	L W BRINKMAN "C" #1	GIDDINGS (AUSTIN CHAL	209.5	FERGUSON CROSSING
8225672	F-03-043704	4205100000		102-2	103	MARY GAAS #1	GIDDINGS (AUSTIN CHAL	0.0	FERGUSON CROSSING
*8225603	F-04-035011	4235531702		102-4	103	O A GRUENE #3	STRATTON	270.0	TENNESSEE GAS PIP
8225746	F-08-040949	4243131073		103		R L COPE #5	CONGER SW (PENN)	0.0	NORTHERN NATURAL
*8225596	F-04-033915	4235500000		103		TEXON ROYALTY "B" G P #2	WILDCAT	0.0	TENNESSEE GAS PIP
8225700	F-03-045586	4205100000		102-2	103	THEODORE WEICHERT #2	GIDDINGS (AUSTIN CHAL	0.0	FERGUSON CROSSING
-CHEVRON U S A INC				RECEIVED:		04/01/82 JA: TX			
8225798	F-8A-048049	4241531930		103		SAC ROC UNIT 65-12	KELLY - SNYDER	21.0	EL PASO NATURAL G
-CITIES SERVICE COMPANY				RECEIVED:		04/01/82 JA: TX			
8225784	F-03-047678	4204130579		102-2		BROWN-DUNLAP "A" #1	BRYAN (GEORGETOWN)	198.0	PRODUCER'S GAS CO
8225592	F-03-033144	4208931149		102-2		KOEHN "B" UNIT #1 (LEASE NO 13736)	DUBINA SOUTH (9080)	182.5	
-CLARION RESOURCES INC				RECEIVED:		04/01/82 JA: TX			
8225584	F-7B-028530	4214300000		102-4	103	GUARLES B 85124	LIBERTY OAK (BIG SALI	10.0	NORTHERN GAS PROD
8225585	F-7B-028531	4214300000		102-4	103	TRBMESON-BLEEKER 87208	SINGLETON (DUFFER)	10.0	NORTHERN GAS PROD
-CLAYTON W WILLIAMS JR				RECEIVED:		04/01/82 JA: TX			
8225627	F-03-039036	4205100000		102-2		BERNICE BRINKMAN UNIT #2	GIDDINGS (AUSTIN CHAL	0.0	VALERO TRANSMISSI
8225608	F-03-036775	4205100000		102-2		BIRCH CREEK RANCH #2	GIDDINGS	0.0	VALERO TRANSMISSI
8225641	F-03-039900	4205100000		102-2		EDWARD MYNAR UNIT #1	GIDDINGS (AUSTIN CHAL	0.0	VALERO TRANSMISSI
8225662	F-03-042257	4228700000		102-2		ELMER J PARRISH A #3	GIDDINGS (AUSTIN CHAL	0.0	VALERO TRANSMISSI
8225811	F-03-048085	4205130689		102-2		JAMES MCFARLAND #1	GIDDINGS (AUSTIN CHAL	0.0	VALERO TRANSMISSI
8225595	F-03-033909	4214900000		102-2		JOHN SEE #2B	BIG A (TAYLOR)	0.0	VALERO TRANSMISSI
8225628	F-03-039037	4205100000		102-2		LEE SCHOPPE #3	GIDDINGS (AUSTIN CHAL	0.0	VALERO TRANSMISSI
8225664	F-03-042887	4205100000		102-2		LEO HAVEMANN #2	GIDDINGS (AUSTIN CHAL	0.0	VALERO TRANSMISSI
8225647	F-03-040373	4205100000		102-2		PETERS-CHAMELAR UNIT #2	GIDDINGS (AUSTIN CHAL	0.0	VALERO TRANSMISSI
8225642	F-03-039901	4205131232		102-2		RUST #3	GIDDINGS (AUSTIN-CHAL	0.0	VALERO TRANSMISSI
8225652	F-03-041591	4205100000		102-2		STANLEY HOUDEK #1	GIDDINGS (AUSTIN CHAL	0.0	VALERO TRANSMISSI
8225660	F-03-042056	4205100000		102-2		STANLEY HOUDEK #3	GIDDINGS (AUSTIN CHAL	0.0	VALERO TRANSMISSI
8225622	F-03-038738	4205100000		102-2		W MEIER #2	GIDDINGS	0.0	VALERO TRANSMISSI
8225607	F-03-036774	4228700000		102-2		ZOCH-MIERTSCHIN UNIT #1	GIDDINGS	0.0	VALERO TRANSMISSI
-COMANCHE RESOURCES INC				RECEIVED:		04/01/82 JA: TX			
8225906	F-7B-048426	4204932649		102-4		D B GUNN #4	DALE (CADDO)	0.0	SIOUX PIPELINE CO
8225907	F-7B-048427	4204932683		102-4		D B GUNN #6	DALE (CADDO)	0.0	SIOUX PIPELINE CO
-CONOCO INC				RECEIVED:		04/01/82 JA: TX			
8225810	F-7B-048077	4243331385		103		A BRINKLEY JR-A-#44 ID #04263	FLOWERS (CANYON SAND)	4.0	CITIES SERVICE CO
8225856	F-08-048257	4217300000		108		D C REED #2 ID #19302	SPRABERRY TREND	4.7	PHILLIPS PETROLEU
8225853	F-08-048254	4238900000		108		FORD GERALDINE UNIT #202 ID #21021	GERALDINE FORD	0.9	EL PASO NATURAL G
8225854	F-08-048255	4213500000		108		GIST UNIT #52 ID #19373	FOSTER	0.7	ODESSA NATURAL CO
8225857	F-08-048258	4222700000		108		H R CLAY-A- #26 ID #02691	HOWARD GLASSCOCK	0.1	PHILLIPS PETROLEU
8225852	F-08-048252	4200332872		103		J W BONER-B--#36 ID #01664	FUHRMAN MASCHO	3.7	PHILLIPS PETROLEU
8225855	F-08-048256	4200300000		108		MINNIE MCKINNEY #1 ID #15048	WEMAC	0.7	PHILLIPS PETROLEU
8225923	F-04-048459	4242700000		108		T B SLICK EST B-266 #147	RINCON (FRIO B)	21.0	TENNESSEE GAS PIP
8225858	F-08-048259	4200300000		108		W FUHRMAN MASCHO UNIT 30 ID #21220	FUHRMAN MASCHO	0.3	PHILLIPS PETROLEU
-CONSOLIDATED OIL & GAS INC				RECEIVED:		04/01/82 JA: TX			
8225633	F-04-039160	4250531033		103		B M MARTINEZ #1	LAREDO (LOBO)	166.0	VALERO TRANSMISSI
8225632	F-04-039159	4250530997		103		CANTU #2	LAREDO (LOBO)	19.0	VALERO TRANSMISSI
-CROWN CENTRAL PETROLEUM CORP				RECEIVED:		04/01/82 JA: TX			
8225885	F-08-048344	4249500000		108		T-NM RAILWAY #1	KERMIT-YATES	12.0	CABOT CORP

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8225707	F-10-045811	4235700000		108		WAMBLE PIPKIN #1021	HANSFORD (UPPER MORRO	3.0	NORTHERN NATURAL
-DALECO RESOURCES				RECEIVED:	04/01/82	JA: TX			
8225590	F-03-032708	4205100000		102-2	103	WILKINS #1-L	CLAY NE (EDWARDS REEF	365.0	CLAJON GAS CO
-DAMERON PETROLEUM CORP				RECEIVED:	04/01/82	JA: TX			
8225594	F-7C-033532	4210532755		102-4		MRS RAY DUNLAP - SEC 12 212U	AMERICAN (SPRABERRY A	200.0	EL PASO NATURAL G
-DAVIS OIL COMPANY				RECEIVED:	04/01/82	JA: TX			
8225704	F-7C-045758	4209530547		102-4		H R HOFFMAN #1	PAINT ROCK SW (GARDNE	0.0	LONE STAR GAS CO
-DELRAY OIL INC				RECEIVED:	04/01/82	JA: TX			
8225753	F-7B-047089	4208332760		103		EDGAR HERRING #3	COLEMAN COUNTY REGULA	73.0	LONE STAR GAS CO
-DELTA OIL & GAS CO				RECEIVED:	04/01/82	JA: TX			
8225867	F-7B-048321	4242900000		108		R J KELLY ESTATE RRC #62697	STEPHENS COUNTY REGUL	9.0	LONE STAR GAS CO
8225866	F-7B-048312	4242900000		108		R J KELLY ESTATE RRC #63683	STEPHENS COUNTY REGUL	8.0	LONE STAR GAS CO
8225871	F-7B-048329	4242900000		108		R J KELLY ESTATE RRC #64868	KELLY/STRAWN	2.8	LONE STAR GAS CO
-DIAMOND SHAMROCK CORPORATION				RECEIVED:	04/01/82	JA: TX			
8225916	F-10-048438	4239300000		108		CHAMBERS "B" #1-79	MENDOTA NW	19.0	SOUTHWESTERN PUBL
8225850	F-10-048250	4242100000		108		DOOLEY #3	TEXAS HUGOTON	12.0	PANHANDLE EASTERN
8225915	F-10-048437	4219500000		108		ELLA THOMAS #1	HANSFORD	13.0	NORTHERN NATURAL
8225710	F-10-045861	4229530938		103		GEORGE EARL TUBBS "D" #2-371	LIPSCOMB SW	313.0	
8225712	F-10-045865	4229531022		103		LEROY BECKER #2-636	UNIT	447.0	
8225914	F-10-048436	4235700000		108		MEKEEL "D" #1	PARSELL	9.0	SOUTHWESTERN PUBL
8225620	F-10-038691	4242100000		108-ER		PRICE "D" NO 22	TEXAS HUGOTON	3.0	NORTHERN NATURAL
8225851	F-10-048251	4223300000		108		STEWART #10	PANHANDLE WEST	7.0	NORTHERN NATURAL
8225711	F-10-045864	4235731148		103		W H FLOWERS #2	PAN PETRO	56.0	
8225685	F-10-044890	4221131339		103		W L MATHERS #1	PARSELL	0.0	
-DOMINION CORP				RECEIVED:	04/01/82	JA: TX			
8225663	F-7C-042400	4239931825		102-4		OTTO SPREEN "A" #1 (RRC #94171)	BENOIT SOUTH (FRY "C"	75.0	ODESSA NATURAL CO
-DYCO PETROLEUM CORPORATION				RECEIVED:	04/01/82	JA: TX			
8225778	F-8A-047537	4221933279		103		RUCKER #2	LEVELLAND (SAN ANDRES	8.0	CABOT PIPE LINE C
-E H WORTHAM				RECEIVED:	04/01/82	JA: TX			
8225904	F-09-048422	4200933958		103		J J PERKINS "F" #1 RRC #19697	ARCHER COUNTY REGULAR	11.0	EAGLE PETROLEUM C
8225905	F-09-048423	4200935234		103		PERKINS "G" #2 RRC#19959	ARCHER COUNTY REGULAR	25.0	EAGLE PETROLEUM C
-EL PASO NATURAL GAS COMPANY				RECEIVED:	04/01/82	JA: TX			
8225638	F-10-039791	4221131322		103		CAMPBELL #5	CANADIAN SW (MORROW U	281.0	EL PASO NATURAL G
-ENERGY RESOURCES OIL & GAS CORP				RECEIVED:	04/01/82	JA: TX			
8225645	F-10-040192	4221131309		102-4		MEEK #1-A (ID NO 95619)	BRISCOE (MORROW)	730.0	PIONEER CORP
-ENERGY SOURCES INC				RECEIVED:	04/01/82	JA: TX			
8225688	F-06-045320	4200100000		102-4		S S STAFFORD #1-A	HOLLY SPRING (RODESSA	501.9	DELHI GAS PIPELIN
-ENRE CORP				RECEIVED:	04/01/82	JA: TX			
8225768	F-7B-047393	4242933106		102-4		LILLIE BELLE THOMPSON #8	LILLY BELL (CONGL)	34.0	WARREN PETROLEUM
8225771	F-7B-047403	4242932902		102-4		LILLIE BELLE THOMPSON "A" #1	LILLY BELL (CONGL)	159.0	WARREN PETROLEUM
-ENSERCH EXPLORATION INC				RECEIVED:	04/01/82	JA: TX			
8225646	F-09-040287	4249732077		103		CRAFT WATER BOARD UN 17 #3	BOONSVILLE	441.0	LONE STAR GAS CO
-EXXON CORPORATION				RECEIVED:	04/01/82	JA: TX			
8225805	F-03-048063	4237330398		103		C B GRANBURY #76	LIVINGSTON	5.1	UNITED TEXAS TRAN
8225780	F-08-047551	4200332880		103		FULLERTON CLEARFORK UNIT #1143	FULLERTON	15.0	PHILLIPS PETROLEU
8225722	F-08-046407	4200332923		103		FULLERTON CLEARFORK UNIT #717	FULLERTON	15.0	PHILLIPS PETROLEU
8225794	F-03-047929	4224531433		103		J A DISHMAN "B" #6	AMELIA (FRIO 6)	18.0	HOUSTON PIPELINE
8225786	F-03-047687	4224530436		103		J A DISHMAN F-4	AMELIA (FRIO 6)	12.8	HOUSTON PIPELINE
*8225640	F-06-039817	4236530866		107-TF		J C BROWN #2	CARTHAGE (COTTON VALL	0.0	ARMCO STEEL CORP
8225729	F-08-046657	4210332665		103		J C TUBB A/C #252L	SAND HILLS (TUBB)	42.0	EL PASO NATURAL G
8225742	F-08-046805	4210332670		103		J C TUBB A/C 1 #259L	SAND HILLS (TUBB)	5.0	EL PASO NATURAL G
*8225648	F-06-040431	4240130713		102-2	107-TF	JOHN MIMS GAS UNIT 1 #1	OAKHILL NW (COTTON VA	72.0	ARMCO STEEL CORP
*8225785	F-03-047685	4248100000		108		MAGNET WITHERS MIOCENE GU 1 3	MAGNET WITHERS	0.0	ARMCO STEEL CORP

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8225743	F-08-046868	4200332854		103		MEANS/SAN ANDRES/UNIT #3560	MEANS	15.0	PHILLIPS PETROLEU
8225824	F-04-048165	4226130634		102-4		MRS S K EAST 125-F (97048)	RITA (10-A II)	548.0	NATURAL GAS PIPEL
8225825	F-04-048167	4226130653		102-4		MRS S K EAST 128 (97046)	RITA (4-Q)	730.0	NATURAL GAS PIPEL
*8225639	F-06-039816	4242330356		107-TF		OVERTON GAS UNIT 19 #1	OVERTON (HAYNESVILLE)	352.0	ARMCO STEEL CORP
*8225848	F-04-048248	4213132508		103		PAUL E WHITE B-106 #05624	LUNDELL (MIRANDO NO 1	2.0	ARMCO STEEL CORP
*8225849	F-04-048249	4213132507		103		PAUL E WHITE B-107 #05624	LUNDELL (MIRANDO NO 1	2.0	ARMCO STEEL CORP
*8225847	F-04-048247	4213134938		103		PAUL E WHITE B-110 #05624	LUNDELL (MIRANDO NO 1	26.0	ARMCO STEEL CORP
*8225733	F-06-046747	4234730520		103		SAM B HAYTER ESTATE #2	DOUGLASS (PETTIT)	170.0	ARMCO STEEL CORP
8225744	F-04-046880	4226130647		102-4		SARITA FLD OIL & GAS UNIT 167 97038	SARITA (9-A)	438.0	NATURAL GAS PIPEL
8225762	F-04-047327	4226130643		103		SARITA OIL & GAS UNIT 165 (09948)	SARITA (11-A&B C)	115.0	NATURAL GAS PIPEL
8225761	F-08-047320	4200332843		103		STATE UNIVERSITY "EH" #3	MC FARLAND (QUEEN)	1.0	
8225745	F-08-046895	4213531336		103		YARBROUGH & ALLEN #91	ARENOSO (STRAWN DETRI	21.0	PHILLIPS PETROLEU
-FAGADAU ENERGY CORP				RECEIVED:	04/01/82	JA: TX			
8225749	F-7B-046990	4236332805		103		D L HART 1-D 17917	PALO PINTO COUNTY REG	50.0	BRAZOS FUEL CO IN
-FOREST OIL CORPORATION				RECEIVED:	04/01/82	JA: TX			
8225588	F-04-029861	4247932850		102-2	107-TF	OLMITOS RANCH INC #9	BELLE JEFFERS (7850)	240.0	TRANSCONTINENTAL
-GENERAL AMERICAN OIL COMPANY OF TEX				RECEIVED:	04/01/82	JA: TX			
8225795	F-08-047935	4213533290		103		R MAURICE #8	COWDEN SOUTH	1.9	ODESSA NATURAL CO
8225796	F-08-047936	4213533290		103		R MAURICE #9	COWDEN SOUTH	2.1	ODESSA NATURAL CO
-GENERAL PRODUCTION CORP				RECEIVED:	04/01/82	JA: TX			
8225655	F-03-041645	4228730954		103		JACKIE BEESON UNIT #1	GIDDINGS (AUSTIN CHAL	0.0	
8225609	F-03-036791	4205100000		103		JAMES HARGROVE #4	WILLARD (NAVARRO)	0.0	FERGUSON CROSSING
8225582	F-03-026093	4205100000		102-4		JONES-LEWIS A #3	INEZ JAMESON (NAVARRO	44.0	FERGUSON CROSSING
-GERALD STEINBERGER				RECEIVED:	04/01/82	JA: TX			
8225899	F-09-048408	4207732187		103		SATTERFIELD #1 - 21212	FREDDIE (CONGL 5600)	35.0	FAGADAU ENERGY CO
-GETTY OIL COMPANY				RECEIVED:	04/01/82	JA: TX			
8225679	F-03-044735	4205100000		102-2		L COLLINS #1	GIDDINGS (AUSTIN CHAL	0.0	FERGUSON CROSSING
8225763	F-08-047350	4237133302		102-4		P T HUDGINS #1	WILDCAT	548.0	INTRATEX GAS CO
8225624	F-06-038856	4236500000		107-TF		WERNER-CLARENCE #2	CARTHAGE (COTTON VALL	355.0	UNITED GAS PIPELI
-GOLDKING PRODUCTION COMPANY				RECEIVED:	04/01/82	JA: TX			
8225621	F-02-038692	4217531477		102-4		GENTRY T POWELL #1-T	HORDES CREEK	146.0	UNITED GAS PIPE L
-GRAND BANKS ENERGY CO				RECEIVED:	04/01/82	JA: TX			
8225717	F-08-046231	4237133466		102-4	103	IRT #1	SEG (WICHITA-ALBANY)	93.6	ADOBE GAS CO
-GULF OIL CORPORATION				RECEIVED:	04/01/82	JA: TX			
8225804	F-00-048061	4219500000		107-PE		ALLAR #1	TEXAS HUGOTON	54.0	DIAMOND SHAMROCK
8225644	F-09-040029	4223700000		108		BILLIE YATES #5	BOONSVILLE BEND CONGL	17.9	NATURAL GAS PIPEL
8225802	F-10-048059	4219500000		107-PE		CLUCK #1	TEXAS HUGOTON	51.0	DIAMOND SHAMROCK
8225860	F-7C-048261	4210500000		108		E R HENDERSON #2	OZONA NORTHWEST (CANY	10.0	SHELL OIL CO
8225803	F-10-048060	4219500000		107-PE		H B HART #1	TEXAS HUGOTON	62.0	DIAMOND SHAMROCK
8225792	F-08-047822	4247532439		103		HUTCHINGS STOCK ASSN #1151	WARD-ESTES NORTH	18.0	CABOT CORP
8225801	F-10-048058	4219500000		107-PE		P F HAWKINS #1	TEXAS HUGOTON	36.0	DIAMOND SHAMROCK
-GULF SANDS OIL CO				RECEIVED:	04/01/82	JA: TX			
8225600	F-02-034311	4202531438		102-4		EDWIN WALLEK JR #1	LITTLE JOHN (2900)	73.0	GULF STATES EQUIT
-GUS EDWARDS CO				RECEIVED:	04/01/82	JA: TX			
8225605	F-03-035343	4247730405		102-2		LANDGRAF #1	UNKNOWN GEORGETOWN	0.0	CLAJON GAS CO
-H L HUFFMAN LTD				RECEIVED:	04/01/82	JA: TX			
8225917	F-7C-048439	4241331146		103		R L HENDERSON "B" #4-X WELL #34431	VELREX (CANYON SAND)	365.0	CRA INC
-HAMMAN OIL & REFINING CO				RECEIVED:	04/01/82	JA: TX			
8225896	F-03-048377	4229131413		102-4		J M NEAL ESTATE LEASE #1	NEAL - HILL (YEGUA 1	110.0	HOUSTON PIPE LINE
-HISSOM DRILLING CO				RECEIVED:	04/01/82	JA: TX			
8225816	F-08-048108	4247532202		103		AVARY #1	QUITO W (CHERRY CANYO	193.0	NORTHERN NATURAL
8225814	F-08-048105	4247532273		103		BARBARA #1	QUITO W (CHERRY CANYO	244.8	NORTHERN NATURAL
8225815	F-08-048106	4247532357		103		MELISSA "A" #1	QUITO W (CHERRY CANYO	252.0	NORTHERN NATURAL

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME
-HNG OIL COMPANY						
8225659	F-10-042050	4248330785		RECEIVED:	04/01/82	JA: TX
8225659	F-10-042050	4248330785		102-2	103	MILLER "2" #1
8225719	F-02-046247	4217531525		107-TF		MILLER "2" #1
-HOU-TEX OIL & GAS CO				103		STELLA JOHNSON #19
8225861	F-06-048263	4240131225		RECEIVED:	04/01/82	JA: TX
-HUMBLE EXPLORATION CO INC				102-2	107-TF	YANDLE UNIT #2 #2 ID NO 96112
8225593	F-03-033224	4214930802		RECEIVED:	04/01/82	JA: TX
-IKE LOVELADY INC				102-2	103	GLADYS BROWN JOHNSON #1
8225725	F-08-046554	4237133371		RECEIVED:	04/01/82	JA: TX
-J M HUBER CORPORATION				103		RAYNER #3
8225821	F-10-048145	4223331057		RECEIVED:	04/01/82	JA: TX
8225868	F-10-048323	4223331160		103		HODGES #6
8225658	F-10-041934	4223330899		103		HODGES #7
-JOHN L COX				103		SANFORD "C" #1A
8225598	F-7C-033926	4246131594		RECEIVED:	04/01/82	JA: TX
8225597	F-7C-033925	4246131658		103		NEAL "36" #1
-JONES CO				103		TAYLOR 31 #1-X (RRC #07908)
8225812	F-7B-048095	4242932981		RECEIVED:	04/01/82	JA: TX
-K L H OIL & GAS INC				102-4		CORBETT #4 (95804)
8225793	F-7B-047861	4204932480		RECEIVED:	04/01/82	JA: TX
-KADANE OIL CO				102-4		O B FOMBY #1 (96816)
8225769	F-09-047394	4223700000		RECEIVED:	04/01/82	JA: TX
-KEITH D GRAHAM				108		LEATHERWOOD S W -A- #2
8225748	F-03-046760	4205132009		RECEIVED:	04/01/82	JA: TX
8225723	F-03-046502	4205131779		102-2		HERMANN UNIT #1
8225747	F-03-046959	4205132872		102-2		SANTA FE "B" #1
8225724	F-03-046503	4205100000		102-2		SANTA FE "D" #1
-KENNEDY & MITCHELL INC				102-2		TRUELOVE UNIT #1
8225701	F-06-045717	4200130902		RECEIVED:	04/01/82	JA: TX
-L R SPRADLING				103		ELKHART 1-212
8225619	F-10-038467	4234100000		RECEIVED:	04/01/82	JA: TX
-LOUISIANA LAND & EXPLORATION CO				103		GOUCHNAUR #1 A
8225845	F-7B-048242	4236730999		RECEIVED:	04/01/82	JA: TX
8225846	F-7B-048243	4236300000		108		ANN TUCKER MOODY #1
8225841	F-7B-048237	4236730988		108		COSTELLO #1
8225842	F-7B-048238	4236730790		108		J G STOUFFER #1
8225843	F-7B-048240	4236731341		108		J W SALLEE #3
8225840	F-7B-048236	4236731490		108		L J WOODY #1
8225844	F-7B-048241	4236731208		108		R P HOWELL #2
-LYONS PETROLEUM INC						THURMAN GRUBIS #1
8225777	F-02-047453	4217531528		RECEIVED:	04/01/82	JA: TX
-MAGNOLIA OIL CORP				103		WELDER-NEWTON #1
8225715	F-03-046164	4236130403		RECEIVED:	04/01/82	JA: TX
-MARSHALL EXPLORATION INC				103		R L & C K AKERS #1
8225751	F-7B-047013	4236332327		RECEIVED:	04/01/82	JA: TX
8225670	F-7B-043541	4236332372		108		ALLEN "A" #2
-MARTIN OIL & GAS CO				103	108	DUNNAWAY "C" #4
8225818	F-03-048118	4205100000		RECEIVED:	04/01/82	JA: TX
8225835	F-03-048222	4205100000		102-2		B BRADY #1
8225834	F-03-048221	4205100000		102-2		GIESENSCHLAG-SEBESTA UNIT #1
8225837	F-03-048226	4205100000		102-2		JOHN FOJT #1
8225838	F-03-048227	4205131949		102-2		LIGHTSEY #4
				102-2		LIGHTSEY #5

FIELD NAME	PROD	PURCHASER
STILES RANCH (ATOKA)	1275.3	
STILES RANCH (ATOKA)	1275.3	
TERRELL POINT (4550)	76.3	TRUNKLINE GAS CO
HENDERSON NORTH (COTT	730.0	DELHI GAS PIPELIN
GIDDINGS	11.0	PHILLIPS PETROLEU
LEHN-APCO S (WICHITA	118.0	ADOBE GAS CO
PANHANDLE	37.0	COLORADO INTERSTA
PANHANDLE	47.0	COLORADO INTERSTA
WEST PANHANDLE	57.0	COLORADO INTERSTA
BENEDUM (FUSSELMAN)	10.0	EL PASO NATURAL G
SPRABERRY (TREND AREA	10.0	PHILLIPS PETROLEU
CORBETT (CONGL MID)	197.0	SOUTHWESTERN GAS
CHAMBERS (CONGL)	287.0	ODESSA NATURAL CO
STEED (BEND CONGLOMER	20.7	SOUTHWESTERN GAS
GIDDINGS (AUSTIN CHAL	115.3	CLAJON GAS CO
GIDDINGS (AUSTIN CHAL	483.6	FERGUSON CROSSING
GIDDINGS (AUSTIN CHAL	351.1	FERGUSON CROSSING
GIDDINGS (AUSTIN CHAL	243.8	CLAJON GAS CO
ELKHART (PETTIT)	150.0	TEXAS UTILITIES F
PANHANDLE WEST	0.0	PHILLIPS PETROLEU
SILVER CREEK	12.0	SOUTHWESTERN GAS
PALO PINTO COUNTY REG	3.3	SOUTHWESTERN GAS
WEATHERFORD	9.0	SOUTHWESTERN GAS
WEATHERFORD	8.0	SOUTHWESTERN GAS
SILVER CREEK	15.5	SOUTHWESTERN GAS
WEATHERFORD	11.7	SOUTHWESTERN GAS
SILVER CREEK	3.0	SOUTHWESTERN GAS
N E DALLAS HUSKY (HET	36.0	TRANSCONTINENTAL
PORT NECHES N (FRIO H	200.0	TEXAS EASTERN TRA
BRANSON N (BIG SALINE	18.0	SOUTHWESTERN GAS
BRANSON NORTH (CONGL	73.0	SOUTHWESTERN GAS
CALDWELL (AUSTIN CHAL	0.0	CLAJON GAS CO
CALDWELL (AUSTIN CHAL	0.0	CLAJON GAS CO
CALDWELL (AUSTIN CHAL	0.0	CLAJON GAS CO
CALDWELL (AUSTIN CHAL	0.0	CLAJON GAS CO
CALDWELL (AUSTIN CHAL	0.0	CLAJON GAS CO

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8225839	F-03-048228	4205131991		102-2		LIGHTSEY #6	CALDWELL (AUSTIN CHAL	0.0	CLAJON GAS CO
-MCOR OIL DEVELOPMENT INC				RECEIVED:		04/01/82 JA: TX			
8225877	F-01-048336	4201331194		102-4		ELVA BOHOT #1	JOURDANTON WEST (ESCO	2.0	VALERO TRANSMISSI
8225881	F-01-048340	4201331187		102-4		GLENN STEINLE #1	JOURDANTON WEST (ESCO	3.0	VALERO TRANSMISSI
8225874	F-01-048333	4201330927		102-4		JOE MEYER #1	JOURDANTON WEST (ESCO	2.0	VALERO TRANSMISSI
8225878	F-01-048337	4201331161		102-4		JOE MEYER #2	JOURDANTON WEST (ESCO	42.0	VALERO TRANSMISSI
8225879	F-01-048338	4201330981		102-4		KARL SCHRUTKA #1	JOURDANTON WEST (ESCO	2.0	VALERO TRANSMISSI
8225882	F-01-048341	4201331160		102-4		LEON STEINLE #1	JOURDANTON WEST (ESCO	11.0	VALERO TRANSMISSI
8225876	F-01-048335	4201331106		102-4		MCDONALD #1	JOURDANTON WEST (ESCO	13.0	VALERO TRANSMISSI
8225875	F-01-048334	4201331180		102-4		MCDONALD #2	JOURDANTON WEST (ESCO	33.0	VALERO TRANSMISSI
8225880	F-01-048339	4201331111		102-4		STEINLE ANLAUF #1	JOURDANTON WEST ESCON	2.0	VALERO TRANSMISSI
8225883	F-01-048342	4201331178		102-4		STIEREN #1	JOURDANTON WEST (ESCO	24.0	VALERO TRANSMISSI
-MITCHELL ENERGY CORPORATION				RECEIVED:		04/01/82 JA: TX			
8225602	F-09-034882	4249700000		103		ASCCU #2-3	ALVORD SOUTH (CADDO C	0.0	NATURAL GAS PIPEL
8225770	F-05-047397	4239430249		103	107-TF	C C RAMBO #1	BALD PRAIRIE (COTTON	27.0	UNITED TEXAS TRAN
8225694	F-09-045533	4249732215		103		CLARENCE BARNETT #2	BOONSVILLE (BEND CONG	33.0	NATURAL GAS PIPEL
8225731	F-09-046666	4223700000		103		FIRST NAT'L BANK-JACKSBORO "B" #1	SOUTHWESTERN (CADDO R	28.0	
8225684	F-09-044869	4249700000		108		M L WAGGONER #19 45164	BOONSVILLE (BEND CONG	5.6	NATURAL GAS PIPEL
8225623	F-05-038769	4239530236		103	107-TF	ROY FISHER #1	BALD PRAIRIE (COTTON	195.0	
8225720	F-09-046339	4249700000		103		TCWB #29	BOONSVILLE(BEND CONGL	0.0	NATURAL GAS PIPEL
8225581	F-09-004048	4223700000		108-ER		W J DURHAM #3 38657	BOONSVILLE BEND CONG	1.4	NATURAL GAS PIPEL
8225683	F-09-044862	4249700000		108		WARREN DONALDSON #2 28632	BOONSVILLE (BEND CONG	10.6	NATURAL GAS PIPEL
-MOBIL PRDG TEXAS & NEW MEXICO INC				RECEIVED:		04/01/82 JA: TX			
8225782	F-7C-047591	4244330238		108-SA		BROWN-MCNINCH ESTATE UNIT #3	BROWN BASSETT (WOLFCA	421.8	EL PASO NATURAL G
8225772	F-8A-047416	4221932628		103		MAPLE WILSON #67	SLAUGHTER	4.3	AMOCO PRODUCTION
*8225918	F-08-048440	4247532427		103		STATE "AL" #6	CAPRITO (DELAWARE MID	33.9	LONE STAR GAS CO
*8225919	F-08-048441	4247532426		103		STATE "AM" #3	CAPRITO (DELAWARE MID	17.2	LONE STAR GAS CO
-MOLE OPERATING COMPANY INC				RECEIVED:		04/01/82 JA: TX			
8225872	F-7B-048330	4222130457		103		LEONARD #3	BARBARA	0.0	LONE STAR GAS CO
-MONSANTO COMPANY				RECEIVED:		04/01/82 JA: TX			
8225580	F-10-002234	4239300000		108-ER		KILLEBREW #1 RRC #22274	KILLEBREW (UPPER MORR	111.0	NORTHERN NATURAL
8225756	F-08-047267	4247532475		103		THORNTON #1	RHODA WALKER (CANYON	230.0	
-MV STEWART/EAGLE PETROLEUM				RECEIVED:		04/01/82 JA: TX			
8225886	F-02-048345	4246931833		102-4		M W MARSHALL #1 #06204	DRY GULCH (5620)	0.0	
-NEUMIN PRODUCTION CO				RECEIVED:		04/01/82 JA: TX			
8225676	F-02-044394	4205731074		102-4		STATE TRACT 52 #1	MAGNOLIA BEACH S (FOE	46.0	ALUMINUM CO OF AM
-NORTEX GAS & OIL CO				RECEIVED:		04/01/82 JA: TX			
8225716	F-8A-046222	4200330701		102-4	103	ZADIE MILLER "46" #2	ZADIE MILLER	13.0	SUN GAS CO
-OIL AND GAS CO				RECEIVED:		04/01/82 JA: TX			
8225675	F-03-044393	4205100000		102-2		SUROVIK #1	GIDDINGS (AUSTIN CHAL	42.1	FERGUSON CROSSING
-OUTLINE OIL CORP				RECEIVED:		04/01/82 JA: TX			
8225604	F-03-035315	4240730436		102-4		BROWDER-ELMORE UNIT #1	OLD WAVERLY	120.0	TEXAS EASTERN TRA
-PARKER & PARSLEY INC				RECEIVED:		04/01/82 JA: TX			
8225611	F-08-036851	4232903074		103		ESTES "B" #1	SPRABERRY (TREND AREA	15.0	PHILLIPS PETROLEU
-PAUL E CAMERON JR INC				RECEIVED:		04/01/82 JA: TX			
8225730	F-03-046665	4208900000		102-4		LEHRER-ROBERTS #1	EASTER (MIOCENE 3700)	92.0	HYDROCARBON GATHE
-PED OIL CORP				RECEIVED:		04/01/82 JA: TX			
8225732	F-08-046742	4222700000		102-2		CHOATE #1	MOSS LAKE (CISCO)	18.3	PHILLIPS PETROLEU
-PENNOVA OIL & GAS & WILES L L JR				RECEIVED:		04/01/82 JA: TX			
8225764	F-10-047352	4206500000		108		WARE (00111) #14	PANHANDLE CARSON COUN	3.0	GETTY OIL CO
-PENNZOIL PRODUCING COMPANY				RECEIVED:		04/01/82 JA: TX			
8225599	F-04-033933	4235506346		108-ER		B B SIMMONDS NO 7	AGUA DULCE (5,400')	20.0	UNITED GAS PIPE L
8225800	F-04-048052	4247932743		107-TF		BMT ALICE B HALL #53-1	AVIATORS N (12000')	493.0	UNITED TEXAS TRAN

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME
8225799	F-04-048051	4247932985		107-TF		BMT-ALICE B HALL GU #38-1
8225727	F-04-046624	4235531827		103		IRENE WALTON #B-6-D
8225728	F-04-046625	4235531827		103		IRENE WALTON #B-6-F
-PHILLIPS PETROLEUM COMPANY				RECEIVED:	04/01/82	JA: TX
8225864	F-08-048288	4213500387		108		MINS #2
8225833	F-7C-048220	4246104046		108		N PEMBROOK S #3-02
8225831	F-08-048218	4200304602		108		UNIV ANDREWS #39
8225832	F-08-048219	4249510752		108		UNIV LANDS N #1
-PRINGLE PETROLEUM INC				RECEIVED:	04/01/82	JA: TX
8225752	F-03-047046	4220100000		102-4		BROWN ESTATE #1-L (ID #92796)
-R E SMITH INTERESTS				RECEIVED:	04/01/82	JA: TX
8225695	F-06-045542	4236531265		103	107-TF	PARKER UNIT #3 #3 #96856
-R H ENGELKE				RECEIVED:	04/01/82	JA: TX
8225726	F-02-046565	4223931692		103		SCHUECH IRMA #1
8225653	F-02-041603	4223931169		102-4	103	UNITED METHODIST GAS UNIT #1
-R L FOREE				RECEIVED:	04/01/82	JA: TX
8225783	F-7C-047619	4235331134		102-4		T R AHREND #1 17898
-RANGER PETROLEUM				RECEIVED:	04/01/82	JA: TX
8225765	F-10-047357	4206531013		103		BURNETT-HALLE #1020A
-REALITOS ENERGY CORP				RECEIVED:	04/01/82	JA: TX
8225637	F-04-039682	4224931427		102-4		BLUNDELL #1
-RIO GAS GATHERING CO INC				RECEIVED:	04/01/82	JA: TX
8225703	F-01-045754	4250700000		107-PE		GEO S WINTERBOTHAM A-1 49746
-RISA ENERGY CORP				RECEIVED:	04/01/82	JA: TX
8225713	F-04-045885	4213135249		102-4		GARZA #1
-RUTHERFORD OIL CORP				RECEIVED:	04/01/82	JA: TX
8225775	F-03-047437	4203900000		102-4		STATE TRACT 340-L #2-U
-S A C OIL & GAS INC				RECEIVED:	04/01/82	JA: TX
8225738	F-7B-046784	4205932882		108		O B EDMONSON #1 (92008)
-SAGE ENERGY CO				RECEIVED:	04/01/82	JA: TX
8225754	F-08-047137	4249531314		103		SEALY & SMITH 14-B RRC #26004
8225797	F-7C-048047	4238331997		103		UNIVERSITY 1-GA #1 RRC 09260
8225898	F-7C-048381	4238332100		103		UNIVERSITY 7-G #2 RRC#08830
8225897	F-7C-048380	4238332126		103		UNIVERSITY 7-GA #3 RRC #08876
-SEAGULL RESOURCES INC				RECEIVED:	04/01/82	JA: TX
8225583	F-03-027181	4215731082		102-4	103	GUNTLE GAS UNIT #1-U
-SEATEX ENERGY CORP				RECEIVED:	04/01/82	JA: TX
8225686	F-7B-044970	4236332659		102-4		D L HART #4
8225687	F-09-044983	4250335364		103		GILMORE #2
-SHA-JAM CORP				RECEIVED:	04/01/82	JA: TX
8225702	F-01-045719	4217730771		103		JAMES L CARNES #1
-SHELL OIL CO				RECEIVED:	04/01/82	JA: TX
*8225820	F-8A-048137	4250132049		103		DENVER UNIT #5820
*8225819	F-8A-048136	4216532078		103		DENVER UNIT #6538
8225591	F-08-032778	4213500000		108		TXL-L-A/C 3 #28
-SOHIO PETROLEUM CO				RECEIVED:	04/01/82	JA: TX
*8225859	F-08-048260	4217331234		103		SPRABERRY DRIVER UNIT #876
8225828	F-08-048189	4238332110		103		SPRABERRY DRIVER UNIT #878
8225920	F-7C-048442	4217331238		103		W B ATKINSON "A" #5
-SPARKMAN PRODUCING CO				RECEIVED:	04/01/82	JA: TX
8225635	F-04-039387	4224900000		103		GALLIMORE & LINDER 1-C
8225668	F-04-043119	4224900000		102-4		GOODE #3 NO I D YET
-STALLWORTH OIL & GAS INC				RECEIVED:	04/01/82	JA: TX

FIELD NAME	PROD	PURCHASER
AVIATORS N (12000')	1022.0	UNITED TEXAS TRAN
AGUA DULCE (8100')	190.0	UNITED GAS PIPE L
AGUA DULCE (7550')	91.0	UNITED GAS PIPE L
GOLDSMITH NORTH (SAN	3.0	EL PASO NATURAL G
SPRABERRY (TREND AREA	0.0	NORTHERN NATURAL
EMBAR (ELLENBURGER)	3.0	EL PASO NATURAL G
LITTLE JOE EAST (DELA	12.0	EL PASO NATURAL G
AMAREX (7,500 YEGUA)	300.0	BADISCHE CORP
CARTHAGE (COTTON VALL	545.0	TEXAS EASTERN TRA
SCHUECH	13.0	
LASALLE (6310)	80.3	TENNESSEE GAS PIP
J & J (CADDO)	0.0	PALO DURO PIPELIN
PANHANDLE-CARSON COUN	127.8	PANHANDLE EASTERN
WILDCAT-PROPOSED CAPT	100.0	NUE WELLS PIPE LI
LEONA RIVER (ESCONDID	5.4	VALERO TRANSMISSI
FITZSIMMONS SE(1500)	10.9	VALERO TRANSMISSI
MIDDLE BANK REEF (MIO	365.0	DOW CHEMICAL CO
FREDDA (DUFFER LIME)	0.0	ODESSA NATURAL CO
SEALY SMITH (PENN)	105.0	EL PASO NATURAL G
FARMER (SAN ANDRES)	0.1	NORTHERN NATURAL
FARMER (SAN ANDRES)	2.2	NORTHERN NATURAL
FARMER (SAN ANDRES)	1.8	NORTHERN NATURAL
ROSENBERG (FRIO 5340)	0.0	UNITED GAS PIPELI
GRAFORD E (STRAWN)	54.8	SOUTHWESTERN GAS
BRYSON SW (CONGL 4275	46.0	SOUTHWESTERN GAS
MAG (AUSTIN CHALK)	31.9	VALERO TRANSMISSI
WASSON	1.8	SHELL OIL CO
WASSON	0.4	SHELL OIL CO
TXL (SAN ANDRES)	12.4	SHELL
SPRABERRY (TREND AREA	9.0	EL PASO NATURAL G
SPRABERRY (TREND AREA	19.0	EL PASO NATURAL G
CALVIN (DEAN)	51.0	EL PASO NATURAL G
MAGNOLIA CITY N (JONE	252.0	ESPERANZA TRANSMI
ALMOND (5260)	16.0	NUE-WELLS PIPELIN

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8225612	F-8A-037305	4250131665		103		OWNBY #2 60269	OWNBY (CLEARFORK UPPE	10.0	AMOCO PRODUCTION
-SUN OIL COMPANY (DELAWARE)				RECEIVED:		04/01/82 JA: TX			
8225629	F-08-039061	4213533507		103		EAST GOLDSMITH SAN ANDRES UNIT #9-4	GOLDSMITH E (SAN ANDR	31.0	PHILLIPS PETROLEU
8225705	F-6E-045782	4218300000		108		J C GRAY #3	EAST TEXAS	0.4	UNITED GAS PIPE L
-SUPERIOR OIL CO				RECEIVED:		04/01/82 JA: TX			
8225706	F-03-045807	4228731105		102-2	103	EDGOMON-CAMERON #5	GIDDINGS (AUTIN CHALK	0.0	PHILLIPS PETROLEU
-T O & G EXPLORATION COMPANY				RECEIVED:		04/01/82 JA: TX			
8225610	F-06-036850	4236500000		108		CLAUDIA KELLER GAS UNIT #1-C	BETHANY	6.0	ARKANSAS LOUISIAN
-TALON OIL CO				RECEIVED:		04/01/82 JA: TX			
8225767	F-02-047378	4217500000		108		BLUNTZER "B" LEASE #1-U (#03150)	MELROSE (7700')	13.5	UNITED GAS PIPELI
-TAMARACK PETROLEUM CO INC				RECEIVED:		04/01/82 JA: TX			
8225862	F-03-048266	4231300000		103		FOSTER GAS UNIT #1 (83926)	CONNOR (GLEN ROSE)	0.0	LONE STAR GAS CO
-TAUBERT & STEED				RECEIVED:		04/01/82 JA: TX			
8225884	F-06-048343	4249931021		102-4		LONGCRIER FARMS "A" #2	NEUHOFF (PALUXY)	0.0	UNITED GAS PIPELI
-TDC EXPLORATION INC				RECEIVED:		04/01/82 JA: TX			
8225709	F-03-045856	4228731023		102-2		BUSH-MIERTSCHIN UNIT #1	GIDDINGS(AUSTIN CHALK	73.0	PHILLIPS PETROLEU
-TEE OPERATING CO				RECEIVED:		04/01/82 JA: TX			
8225601	F-03-034631	4208931202		102-4	103	SHATTO #1-A	SUBLIME NORTH (WILCOX	0.0	
-TEN OIL OPERATING CO				RECEIVED:		04/01/82 JA: TX			
8225893	F-7C-048364	4210533607		103		UNIVERSITY BLOCK 46 #1103	BLOCK 46 EAST (GRAYBU	10.0	
-TENEXPLO FUND III				RECEIVED:		04/01/82 JA: TX			
8225673	F-09-044166	4250300000		102-2		WORTH GRAGG #8	YOUNG COUNTY REGULAR	5523.5	MID-STATES GAS CO
-TENNECO OIL COMPANY				RECEIVED:		04/01/82 JA: TX			
8225865	F-8A-048299	4207931325		103		MALLET LAND & CATTLE #17	SLAUGHTER	0.0	AMOCO PRODUCTION
-TENROC CORP				RECEIVED:		04/01/82 JA: TX			
8225617	F-03-038264	4247730394		102-2		NEINAST #1	GIDDINGS (AUSTIN CHAL	525.0	PHILLIPS PETROLEU
8225630	F-03-039089	4247730421		102-2		NEINAST "A" #2	GIDDINGS (AUSTIN CHAL	525.0	PHILLIPS PETROLEU
-TENS-WOOD OIL & GAS CORP				RECEIVED:		04/01/82 JA: TX			
8225681	F-02-044765	4202531449		102-4		FOJTIK #1	SEELEY (FOJTIK)	100.0	UNITED GAS PIPE L
8225680	F-04-044764	4224931363		102-4		MATILDA SCHRADE #1	ORANGE GROVE (SCHRADE	150.0	UNITED GAS PIPE L
-TEXACO INC				RECEIVED:		04/01/82 JA: TX			
8225909	F-10-048430	4217900000		108		A B WORD #1	PANHANDLE EAST	15.5	WESTAR TRANSMISSI
8225913	F-10-048434	4217900000		108		A B WORD #2	EAST PANHANDLE	1.4	WESTAR TRANSMISSI
8225912	F-10-048433	4217900000		108		B M REEVES "B" #2	EAST PANHANDLE	3.1	WESTAR TRANSMISSI
8225755	F-8A-047216	4221933221		103		BOB SLAUGHTER BLOCK #334	SLAUGHTER	0.1	AMOCO PRODUCTION
8225910	F-10-048431	4217900000		108		G H SAUNDERS NCT-2 #109	EAST PANHANDLE	18.0	COLTEXO CORP
8225636	F-10-039581	4235731166		103		HENRY B PSHIGODA "B" #2-A	ELLIS RANCH (CLEVELAN	108.0	TRANSWESTERN PIPE
8225737	F-8A-046783	4221933301		103		IRA P DELOACHE #30	LEVELLAND	18.2	AMOCO PRODUCTION
8225735	F-10-046779	4206530612		103		J L NOEL #8	PANHANDLE (CARSON)	6.9	GETTY OIL CO
8225739	F-8A-046835	4211531246		103		M B WEAVER #4	GIN (SPRAYBERRY)	9.1	PHILLIPS PETROLEU
8225740	F-8A-046836	4221932931		103		MONTGOMERY ESTATE DAVIES NCT-2 #69	LEVELLAND	28.3	AMOCO PRODUCTION
8225911	F-10-048432	4217900000		108		R E DARSEY "B" #3	EAST PANHANDLE	14.6	WESTAR TRANSMISSI
8225741	F-08-046837	4238930978		103		REEVES "AX" FEE #4	SCREWBEAN NE (DELAWAR	5.1	CONTINENTAL OIL C
8225677	F-8A-044533	4250132064		103		ROBERTS UNIT #2704	WASSON	41.2	SHELL OIL CO
8225714	F-8A-046157	4216532252		103		ROBERTSON UNIT #39	ROBERTSON N (CLEAR FO	0.0	PHILLIPS PETROLEU
8225721	F-7C-046370	4243500000		108		W F BERGER #1	DENISON (CANYON)	5.6	UNITED TEXAS TRAN
8225908	F-10-048429	4217900000		108		W P DIAL "B" NCT-2 #1	PANHANDLE EAST	17.6	WESTAR TRANSMISSI
8225736	F-10-046781	4217930652		103		WILLIAM JACKSON NCT-2 #25	PANHANDLE GRAY	0.4	PHILLIPS PETROLEU
-TEXAS CRUDE INC				RECEIVED:		04/01/82 JA: TX			
8225682	F-06-044776	4207330433		102-2		MARY DECKER GAS UNIT #1 WELL #1	SOUTHERN PINE (TRAVIS	365.0	UNITED TEXAS TRAN
-TEXAS INTERNATIONAL PET CORP				RECEIVED:		04/01/82 JA: TX			
8225661	F-06-042185	4240100000		103	107-TF	G W CHERRY UNIT #1	DIRGIN (COTTON VALLEY	329.0	DELHI GAS PIPELIN
8225667	F-03-043029	4214900000		102-2		MCELROY #1	GIDDINGS (AUSTIN CHAL	350.0	CLAJON GAS CO

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-TEXAS OIL & GAS CORP				RECEIVED:	04/01/82	JA: TX			
8225626	F-02-038940	4246931741		102-4		ADCOCK #2	RICHARD ADCOCK (3500'	0.0	UNITED GAS PIPELI
8225613	F-02-037462	4205730906		103		CLARK H-1	LONG MOTT	0.0	UNITED GAS PIPELI
8225766	F-06-047365	4240131280		102-4		GRADY SANDERS #1	RUFUS (TRAVIS PEAK)	0.0	
8225625	F-03-038939	4208931227		102-4		MATTHEWS E-2	WYLIE	0.0	UNITED GAS PIPELI
-THE DOW CHEMICAL COMPANY				RECEIVED:	04/01/82	JA: TX			
*8225759	F-03-047290	4224531325		103		CEE CROSS #6	GUM ISLAND N (HACKBER	36.0	
*8225758	F-03-047289	4224531238		103		CEE CROSS #7	GUM ISLAND N (HACKBER	360.0	
8225781	F-03-047585	4207330421		103		L L WILCOX GAS UNIT #1	WHITE OAK CREEK (TRAV	183.0	DELMI GAS PIPELIN
-THREE-B OIL CO				RECEIVED:	04/01/82	JA: TX			
8225779	F-08-047549	4247532470		103		POTTS #2 #26775	PAYTON	73.0	PERRY PIPELINE CO
-TIPPERARY OIL AND GAS CORP				RECEIVED:	04/01/82	JA: TX			
8225674	F-03-044289	4228731045		103		KNIGHT #1	GIDDINGS (AUSTIN CHAL	0.0	PHILLIPS PETROLEU
-TOM F MARSH INC				RECEIVED:	04/01/82	JA: TX			
8225657	F-10-041884	4248330739		108		PANNEL #1-2	LOTT RANCH (14500)	4.0	WESTAR TRANSMISSI
-TRAVELERS OIL CO				RECEIVED:	04/01/82	JA: TX			
8225887	F-10-048352	4206530772		103		BURNETT "A" #6 04506	PANHANDLE - CARSON CO	9.0	PHILLIPS PETROLEU
8225888	F-10-048354	4206531034		103		BURNETT "A" #8 04506	PANHANDLE - CARSON CO	9.0	PHILLIPS PETROLEU
8225889	F-10-048355	4206531025		103		BURNETT "A" #9 04506	PANHANDLE - CARSON CO	9.0	PHILLIPS PETROLEU
-TUCKER DRILLING COMPANY INC				RECEIVED:	04/01/82	JA: TX			
8225669	F-7C-043424	4241700000		108		JAMES L POWELL #1	W J B (CANYON)	17.4	LONE STAR GAS CO
-TXO PRODUCTION CORP				RECEIVED:	04/01/82	JA: TX			
8225650	F-04-041249	4224931420		102-4		CHARLIE MUIL #2	CAPTAIN LACEY (3250)	255.0	PETROLEUM MANAGEM
8225665	F-10-042994	4239330865		103		MAHLER "A" #1	MENDOTA NW (GRANITE W	700.0	MICHIGAN WISCONSI
8225718	F-10-046242	4235700000		103		MCCLAIN "A" #1	PAN PETRO (UPPER MORR	22.0	PHILLIPS PETROLEU
8225734	F-10-046760	4229500000		103		THOMAS "B" #1	HORSE CREEK NW (MORRO	55.0	PHILLIPS PETROLEU
-TY-RO OIL & GAS				RECEIVED:	04/01/82	JA: TX			
8225826	F-7B-048175	4213331566		108		KLIENER ESTATE #1 (80238)	EASTLAND COUNTY REGUL	15.0	ENSERCH EXPLORATI
-U S OPERATING INC				RECEIVED:	04/01/82	JA: TX			
8225787	F-03-047711	4228730728		102-4		ROY #1 RRC ID N/A	GIDDINGS (AUSTIN CHAL	0.0	PGP GAS PRODUCTS
-UNC TEXAS INC				RECEIVED:	04/01/82	JA: TX			
8225750	F-02-046992	4217531542		102-4		GRACE RAMSEY 2-A ID #92655	MCKEE (COOK MOUNTAIN)	75.0	UNITED GAS PIPELI
-UNION OIL COMPANY OF CALIF				RECEIVED:	04/01/82	JA: TX			
8225813	F-08-048102	4200332970		103		FUHRMAN-MASCHO UNIT #605 BLK 10	FUHRMAN-MASCHO	2.0	PHILLIPS PETROLEU
-VORTT EXPLORATION CO INC				RECEIVED:	04/01/82	JA: TX			
8225789	F-7B-047784	4236332129		108		RHODES-GREEN 1-T (85175)	MINERAL WELLS S (STRA	0.0	SOUTHWESTERN GAS
-W A MONCRIEF JR				RECEIVED:	04/01/82	JA: TX			
8225817	F-08-048117	4213533807		103		L E WIGHT "G" #1	COWDEN NORTH	21.0	PHILLIPS PETROLEU
-W B TRAMMELL				RECEIVED:	04/01/82	JA: TX			
8225790	F-7B-047815	4215131296		102-4		W B TRAMMELL #1-19	JUDY GAIL EAST (CANYO	0.0	PALO DURO PIPELIN
8225791	F-7B-047816	4215131416		102-4		W B TRAMMELL #1-24	JUDY GAIL EAST (CANYO	0.0	PALO DURO PIPELIN
-W L BRUCE OPERATOR				RECEIVED:	04/01/82	JA: TX			
8225776	F-10-047450	4206531073		103		ANDERWALD "B" #1 (ID#04961)	PANHANDLE CARSON	144.0	GETTY OIL CO
-WAGNER & BROWN				RECEIVED:	04/01/82	JA: TX			
8225870	F-08-048326	4243100000		103		E E BARBEE #1-6	CONGER (PENN)	38.0	VALERO TRANSMISSI
8225634	F-10-039179	4229530893		103		GADBERRY #2	FOLLETT (MORROW UPPER	118.0	NORTHERN NATURAL
*8225691	F-08-045518	4243130340		103		GLASS "E" #2-36	CONGER (PENN)	202.0	VALERO TRANSMISSI
*8225690	F-08-045517	4243130310		103		GLASS "G" #3-14	CONGER (PENN)	136.0	VALERO TRANSMISSI
*8225692	F-08-045520	4243130602		103		GRIGSBY #2-14	CONGER (PENN)	87.0	VALERO TRANSMISSI
8225693	F-08-045522	4243130590		103		HILDEBRAND #8-18	BIG SALUTE (CANYON)	59.0	VALERO TRANSMISSI
*8225698	F-08-045563	4243130591		103		HILDERBRAND #19-12	CONGER (PENN)	175.0	VALERO TRANSMISSI
*8225699	F-10-045864	4243130599		103		HILDERBRAND #20-26	CONGER (PENN)	151.0	VALERO TRANSMISSI
8225869	F-08-048325	4243131067		103		MAHAFFEY "B" #1-10	CONGER (PENN)	123.0	VALERO TRANSMISSI

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME
*8225696	F-08-045560	4243130625		103		RAY "A" #4-31
*8225697	F-08-045562	4243130691		103		RAY "A" #6-31
8225689	F-08-045509	4243130619		103		RAY "B" #1-3
-WARREN PETR CO A DIV OF GULF OIL CO				RECEIVED:		04/01/82 JA: TX
8225774	F-08-047431	4210332680		103		STATE "EG" #20
8225895	F-08-048371	4210332596		103		W N WADDELL #1151
8225894	F-08-048370	4210332661		103		W N WADDELL #1153
-WARRIOR MANAGEMENT CO				RECEIVED:		04/01/82 JA: TX
8225822	F-02-048157	4217531354		103		COUTRET #1
-WESSELY ENERGY CORPORATION				RECEIVED:		04/01/82 JA: TX
8225651	F-06-041392	4206330208		103		L SHRUM #1 ( )
-WHEELER OIL COMPANY				RECEIVED:		04/01/82 JA: TX
8225760	F-10-047291	4248330804		103		GUEST #1 (91905)
-WILIAM PERLMAN				RECEIVED:		04/01/82 JA: TX
8225586	F-7C-028903	4243532074		108		MAYER #6 78402
-WILLIAMS EXPLORATION COMPANY				RECEIVED:		04/01/82 JA: TX
8225823	F-02-048158	4246931677		102-4		FAGAN #1
-WILSON ENERGY INC				RECEIVED:		04/01/82 JA: TX
8225808	F-7C-048075	4210500000		103		UNIVERSITY 2 "B" 7 G
8225807	F-7C-048074	4210500000		103		UNIVERSITY 2 "B" 8 G
8225806	F-7C-048073	4210500000		103		UNIVERSITY 2 "B" 9 G
8225809	F-7C-048076	4210500000		103		UNIVERSITY 2 B 6 G
-WY-VEL CORP				RECEIVED:		04/01/82 JA: TX
8225827	F-10-048186	4206531009		103		PATRICK (04958) #1

FIELD NAME	PROD	PURCHASER
CONGER (PENN)	157.0	VALERO TRANSMISSI
CONGER (PENN)	147.0	VALERO TRANSMISSI
BIG SALUTE (CANYON)	163.0	VALERO TRANSMISSI
DUNE	31.0	EL PASO NATURAL G
DUNE	5.2	EL PASO NATURAL G
DUNE	44.2	EL PASO NATURAL G
ALBRECHT S (YEGUA 450	1.0	CORONADO TRANSMIS
PITTSBURG (SMACKOVER)	1050.0	DELHI GAS PIPELIN
EAST PANHANDLE	23.0	HIGH PLAINS NATUR
SAWYER (CANYON)	20.0	VALERO GAS TRANSM
FAGAN (NORTHEAST) N-9	126.0	
FARMER (SAN ANDRES)	40.0	BIG LAKE GASOLINE
FARMER (SAN ANDRES)	32.0	BIG LAKE GASOLINE
FARMER (SAN ANDRES)	27.0	BIG LAKE GASOLINE
FARMER (SAN ANDRES)	37.0	BIG LAKE GASOLINE
PANHANDLE CARSON COUN	136.0	GETTY OIL CO

OTHER PURCHASERS VOLUME NO :637

8225596	COLUMBIA GAS TRANSMISSION
8225603	COLUMBIA GAS TRANSMISSION
8225639	E I DUPONT DE*NEMOURS & CO INC
8225640	E I DUPONT DE*NEMOURS & CO INC
8225648	E I DUPONT DE NEMOURS & CO INC
8225690	TEXAS UTILITIES FUEL CO
8225691	TEXAS UTILITIES FUEL CO
8225692	TEXAS UTILITIES FUEL CO
8225696	TEXAS UTILITIES FUEL CO
8225697	TEXAS UTILITIES FUEL CO
8225698	TEXAS UTILITIES FUEL CO
8225699	TEXAS UTILITIES FUEL CO
8225733	E I DUPONT DE NEMOURS & CO INC
8225758	UNITED TEXAS TRANSMISSION CO
8225759	UNITED TEXAS TRANSMISSION CO
8225785	E I DUPONT DE NEMOURS & CO INC
8225819	COLTEXO CORP
8225820	COLTEXO CORP
8225847	E I DUPONT DE NEMOURS & CO INC
8225848	E I DUPONT DE NEMOURS & CO INC
8225849	N I DUPONT DE NEMOURS & CO INC
8225859	PHILLIPS PETROLEUM CO
8225918	INTRATEX GAS CO
8225919	INTRATEX GAS CO

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-11152 Filed 4-22-82; 8:45 am]

BILLING CODE 6717-01-C

Office of Assistant Secretary for International Affairs

European Atomic Energy Community, Switzerland; Proposed Subsequent Arrangement

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Additional Agreement for Cooperation Between the Government of the United States of America and the European Atomic Energy Community (EURATOM) Concerning Peaceful Uses of Atomic Energy, as amended, and the Agreement for Cooperation Between the Government of the United States of America and the Government of Switzerland Concerning Civil Uses of Atomic Energy, as amended.

This subsequent arrangement would give approval, which must be obtained under the above mentioned agreements, for the transfer of special nuclear materials of United States origin, or of special nuclear materials produced through the use of materials of United States origin, as follows: From Switzerland to the Compagnie Generale des Matieres Nucleaires (COGEMA), La Hague, France, for the purpose of reprocessing, 68 irradiated fuel assemblies, containing 12,022 kilograms of uranium, enriched to 0.97% in U-235, and 98 kilograms of plutonium from the Muhleberg Nuclear Power Plant, owned by Bernische Kraftwerk AG. This subsequent arrangement is designated as RTD/EU(SD)–38.

The Department of Energy has received letters of assurance from the Government of Switzerland that the recovered uranium and plutonium will be stored within France and will not be transferred from France, nor put to any use, without the prior consent of the United States Government.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that this subsequent arrangement will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice and after fifteen days of continuous session of the Congress, beginning the day after the date on which the reports required by section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) are submitted to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate. The two time periods referred to above shall run concurrently.

Dated: April 20, 1982.

For the Department of Energy.

Jack Ebetino,

Acting Director, Office of International Nuclear and Non-Proliferation Policy.

[FR Doc. 82-11177 Filed 4-22-82; 8:45 am]

BILLING CODE 6450-01-M

European Atomic Energy Community; Switzerland; Proposed Subsequent Arrangement

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Additional Agreement for Cooperation Between the Government of the United States of America and the European Atomic Energy Community (EURATOM) Concerning Peaceful Uses of Atomic Energy, as amended, and the Agreement for Cooperation Between the Government of the United States of America and the Government of Switzerland Concerning Civil Uses of Atomic Energy, as amended.

This subsequent arrangement would give approval, which must be obtained under the above mentioned agreements, for the transfer of special nuclear materials of United States origin, or of special nuclear materials produced through the use of materials of United States origin, as follows: From Switzerland to the Compagnie Generale des Matieres Nucleaires (COGEMA), La Hague, France, for the purpose of reprocessing, 60 irradiated fuel assemblies, containing 23,752 kilograms or uranium, enriched to 0.83% in U–235, and 162 kilograms of ploutonium from the Goesgen Nuclear Power Plant, owned by Kernkraftwerk Goesgen-Daeniken AG. This subsequent arrangement is designated as RTD/EU(SD)–39.

The Department of Energy has received letters of assurance from the Government of Switzerland that the recovered uranium and plutonium will be stored within France and will not be transferred from France, nor put to any use, without the prior consent of the United States Government.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that this subsequent arrangement will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice and after fifteen days of contiunuous session of the Congress, beginning the day after the date on which the reports required by section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) are submitted to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate. The two time periods referred to above shall run concurrently.

Dated: April 20, 1982.

For the Department of Energy.

Jack Ebetino,

Acting Director, Office of International Nuclear and Non-Proliferation Policy.

[FR Doc. 82-11178 Filed 4-22-82; 8:45 am]

BILLING CODE 6450-01-M

European Atomic Energy Community, Japan; Proposed Subsequent Arrangement

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Additional Agreement for Cooperation Between the Government of the United States of America and the European Atomic Energy Community (EURATOM) Concerning Peaceful Uses of Atomic Energy, as amended, and the Agreement for Cooperation Between the Government of the United States of America and the Government of Japan Concerning Civil Uses of Atomic Energy, as amended.

This subsequent arrangement would give approval, which must be obtained under the above mentioned agreements, for the following transfer of special nuclear materials of United States origin, or of special nuclear materials produced through the use of materials of United States origin, as follows: From Japan to the United Kingdom (British Nuclear Fuels, Ltd.) for the purpose of reprocessing, 616 irradiated fuel bundles, containing 114,896 kilograms of uranium, enriched to 1.06% in U-235, and 896 kilograms of plutonium from the Fukushima No. 1 Nuclear Power Station, Units Nos. 1, 2, 3, 4, 5, and 6. This subsequent arrangement is designated as RTD/EU(JA)–40.

The Department of Energy has received letters of assurance from the Government of Japan that the recovered uranium and plutonium will be stored in the United Kingdom, and will not be transferred from the United Kingdom, nor put to any use, without the prior consent of the United States Government.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that this subsequent arrangement will not be

inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen day after the date of publication of this notice and after fifteen days of continuous session of the Congress, beginning the day after the date on which the reports required by section 131 of the Atomic Energy Act of 1954, as amended (42 U.S. 2160) are submitted to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate. The two time periods referred to above shall run concurrently.

Dated: April 20, 1982.

For the Department of Energy.

Jack Ebetino,

Acting Director, Office of International Nuclear and Non-Proliferation Policy.

[FR Doc. 82-11179 Filed 4-22-82; 8:45 am]

BILLING CODE 6450-01-M

European Atomic Energy Community, Peaceful Uses; Proposed Subsequent Arrangements

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of proposed "subsequent arrangements" under the Additional Agreement for Cooperation Between the Government of the United States of America and the European Atomic Energy Community (EURATOM) Concerning Peaceful Uses of Atomic Energy, as amended.

The subsequent arrangements to be carried out under the above mentioned agreement involve approval for shipment of 12 kilograms of irradiated highly enriched fuel from the Saphir II research reactor and 200 grams of irradiated highly enriched fuel from the Isis research reactor to the Department of Energy Savannah River facility for reprocessing and storage.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that these subsequent arrangements will not be inimical to the common defense and security. These arrangements for the return of U.S. origin highly enriched uranium (HEU) are consistent with U.S. non-proliferation policy in that they serve to reduce the amount of HEU abroad.

These subsequent arrangements will take effect no sooner than fifteen days after the date of publication of this notice.

Dated: April 20, 1982.

For the Department of Energy.

Jack Ebetino,

Acting Director, Office of International Nuclear and Non-Proliferation Policy.

[FR Doc. 82-11180 Filed 4-22-82; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[ORD-FRL-2110-3; Doc. No. ECAO-CD-81-2]

Air Quality Criteria Document for Lead

AGENCY: Environmental Protection Agency.

ACTION: Notice of public meeting.

SUMMARY: A series of peer-review workshops will be held at the Environmental Research Center Annex (Beaunit Building), Research Triangle Park, North Carolina, on May 18–20, 1982, to facilitate scientific and technical evaluation of some of the preliminary working draft chapters of the Air Quality Criteria Document for Lead. The workshop beginning at 8:00 a.m. Tuesday, May 18 will deal with the effect of lead on ecosystems. It is expected to end at approximately 5:00 p.m. The workshop which will begin at 8:00 a.m. on Wednesday, May 19, 1982 will deal with the chemical and physical properties, sampling and analytical methodology, sources and emissions, transformation and transport, and environmental concentrations of lead. This workshop is expected to end at approximately 5:00 p.m. on Thursday, May 20. The public is invited to attend as observers.

FOR FURTHER INFORMATION CONTACT: Dr. David Weil, Project Manager, Environmental Criteria and Assessment Office, MD-52, U.S. Environmental Protection Agency, Research Triangle Park, N.C. 27711, telephone: 919/541-4163.

SUPPLEMENTARY INFORMATION: The existing Air Quality Criteria Document for Lead (EPA-600/8-77-017) is being updated and revised pursuant to Section 108 and 109 of the Clean Air Act, as amended, 42 U.S.C., §§ 7408 and 7409, and will be used as a basis for the review and, as appropriate, revision of the National Ambient Air Quality Standard (NAAQS) for lead. As part of this process, EPA is assembling a panel consisting of its consulting authors and contributors, EPA personnel and other scientific and technically qualified persons selected by EPA to discuss the proposed revisions and suggest ways of resolving outstanding issues.

Persons wishing to attend these workshops as observers should contact David Weil (see "Further Information" above). Copies of the preliminarily revised chapters will be provided to such observers, who will have an opportunity at the end of the meeting to make brief oral statements should they so desire. Ample opportunity for public review of the revised chapters and submission of written comments will be provided when the first external review drafts of the entire documents are submitted for EPA Science Advisory Board review.

Notes of the meeting will be kept by EPA, from which a summary of matters discussed and any conclusions reached will be prepared. This summary, preliminary chapter drafts discussed at the meeting, and any other materials provided for or produced collectively at the meeting will be included in the docket established for the review of the lead document. The docket is available for inspection and copying between the hours of 8 and 4 at EPA headquarters in the Central Docket Section (A-130), Gallery 1, West Tower, Waterside Mall, 401 "M" Street, S.W., Washington, D.C. 20460. (The criteria document docket is No. ECAO-CD-81-2).

Dated: April 14, 1982.

Courtney Riordan,

Acting Assistant Administrator for Research and Development (RD-672).

[FR Doc. 82-11171 Filed 4-22-82; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-59086; TSH-FRL 2110-2]

Benzoxazole Carbocyanine; Premanufacture Exemption Application

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA may upon application exempt any person from the premanufacturing notification requirements of section 5 (a) or (b) of the Toxic Substances Control Act (TSCA) to permit the person to manufacture or process a chemical for test marketing purposes under section 5(h)(1) of TSCA. Requirements for test marketing exemption (TME) applications, which must either be approved or denied within 45 days of receipt, are discussed in EPA's revised statement of interim policy published in the **Federal Register** of November 7, 1980 (45 FR 74378). This notice, issued under section 5(h)(6) of TSCA, announces receipt of one application for an exemption, provides a summary, and requests comments on the

appropriateness of granting the exemption.

DATE: Written comments by: May 10, 1982.

ADDRESS: Written comments, identified by the document control number "[OPTS–59086]" and the specific TME number should be sent to: Document Control Officer (TS–793), Office of Pesticides and Toxic Substances, Management Support Division, Environmental Protection Agency, Rm. E–401, 401 M Street SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: David Dull, Acting Chief, Notice Review Branch, Chemical Control Division (TS–794), Office of Toxic Substances, Environmental Protection Agency, Rm. E–216, 401 M Street, SW., Washington, DC 20460.

SUPPLEMENTARY INFORMATION: The following is a summary of informtion provided by the manufacturer on the TME received by the EPA:

TME 82–14

Close of Review Period. May 29, 1982.

Manufacturer. Confidential.

Chemical. (G) Benzoxazole carbocyanine.

Use/Production. Confidential. Prod. range: Confidential.

Toxicity Data. Confidential.

Exposure. Manufacture and processing: dermal, 0–0.1 gm (max). Customer sites: dermal, 0–1 ugm/da, 10 workers, 200 da/yr.

Environmental Release/Disposal. Disposal by publicly owned treatment works (POTW), contract disposal, National Pollution Discharge Elimination System at manufacturing and processing sites, 0–10 gms to water at customer sites.

Dated: April 19, 1982.

Woodson W. Bercaw,

Acting Director Management Support Division.

[FR Doc. 82–11007 Filed 4–22–82; 8:45 am]

BILLING CODE 6560–50–M

[OPTS–51410 TSH FRL 2110–4]

Certain Chemicals; Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in EPA statements of interim policy published in the **Federal Register** of May 15, 1979 (44 FR 28558) and November 7, 1980 (45 FR 74378). This notice announces receipt of thirteen PMNs and provides a summary of each.

DATES: Close of Review Period:

PMN 82–283, 82–284 and 82–285, June 9, 1982.

PMN 82–274 and 82–276, July 11, 1982.

PMN 82–275, 82–277 and 82–278, July 12, 1982.

PMN 82–279, 82–280, 82–281 and 82–282, July 13, 1982.

PMN 82–286, July 4, 1982.

Written comments by: PMN 82–283, 82–284 and 82–285, May 10, 1982.

PMN 82–274 and 82–276, June 11, 1982.

PMN 82–275, 82–277 and 82–278, June 12, 1982.

PMN 82–279, 82–280, 82–281 and 82–282, June 13, 1982.

PMN 82–286, June 14, 1982.

ADDRESS: Written comments, identified by the document control number "[OPTS–51410]" and the specific PMN number should be sent to: Document Control Officer (TS–793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E–409, 401 M Street SW., Washington, DC 20460, (202–382–3532).

FOR FURTHER INFORMATION CONTACT: David Dull, Acing Chief, Notice Review Branch, Chemical Control Division (TS–794), Office of Toxic Substances, Environmental Protection Agency, Rm. E–216, 401 M St., SW:, Washington, DC 20460, (202–382–3729).

SUPPLEMENTARY INFORMATION: The following are summaries of information provided by the manufacturer on the PMNs received by EPA.

PMN 82–274

Manufacturer. Wormald U.S.A., Inc. Ansul Chemical Division.

Chemical. (G) Triethylene glycol ether.

Use/Production. (S) Inert solvent for chemical. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture: a total of 11 workers, up to 4 hrs/da, up to 50 da/yr.

Environmental Release/Disposal. 1,000–10,000 kg/yr released to water. Disposal by publicly owned treatment works (POTW).

PMN 82–275

Manufacturer. The Goodyear Tire and Rubber Company.

Chemical. (G) Saturated linear butylene mixed acids copolyester.

Use/Production. (S) Industrial hot melt adhesive and coating. Prod. range: 25,000–150,000 kg/yr.

Toxicity Data. No data available on the PMN substance.

Exposure. Manufacture: dust, a total of 8 workers, up to 8 hrs/da, up to 50 da/yr.

Environmental Release/Disposal. 100–1,000 kg/yr released to land. Disposal by incineration, approved landfill and settling ponds/water treatment basin.

PMN 82–276

Manufacturer. Confidential.

Chemical. (G) Bis(substituted-6,6,6-triacryloyloxymethyl-4-oxahexyl)ethyl-methyl-disubstituted heteromonocycle.

Use/Production. (G) Coating on supporting substances. Prod. range: Confidential.

Toxicity Data. Acute oral: <1,000 mg/kg, Skin: Moderate irritant, Eye: Severe irritant, Skin Sensitization: Strong sensitizer.

Exposure. Minimal.

Environmental Release/Disposal. No data submitted.

PMN 82–277

Manufacturer. Ashland Chemical Company.

Chemical. (G) Polymer of aliphatic and aromatic diacids and an aliphatic diol.

Use/Production. (G) To form a cured, cross-linked, protective and decorative coating for commercial articles. Prod. range: 30,000–335,000 lbs/yr.

Toxicity Data. Skin: None, Inhalation: None, Skin sensitization: None.

Exposure. Manufacture: an unknown number of workers.

Environmental Release/Disposal. Disposal by incineration or approved landfill.

PMN 82–278

Manufacturer. Thiokol/Specialty Chemicals Division.

Chemical. (G) Di quaternary ammonium salt with formal linkage.

Use/Production. (S) Industrial corrosion inhibitor and anti-clay swellant in drilling muds. Prod. range: 50,000–350,000 kg/yr.

Toxicity Data. Acute oral: 1.62 gm/kg, Acute dermal: >2.0 gm/kg, Skin: Non-irritant, Eye: Primary irritant.

Exposure. Manufacture, use and disposal: dermal, a total of 6 workers, up to 8 hrs/da, up to 22 da/yr.

Environmental Release/Disposal. Less than 10 kg/yr released to land with 100–1,000 kg/yr to water. Disposal by deep well injection, incineration and landfill.

PMN 82–279

Manufacturer. E.I. du Pont de Nemours and Company, Inc.
Chemical. (G) Unsaturated carboxylic amide-carboxylic acid.
Use/Production. (G) Fuel additive. Prod. range: Confidential.
Toxicity Data. Acute oral: >17,000 mg/kg, Skin corrosion: Non-corrosive.
Exposure. No exposure anticipated.
Environmental Release/Disposal. No release. Disposal by inceneration.

PMN 82–280

Manufacturer. E.I. du Pont de Nemours and Company, Inc.
Chemical. (G) Unsaturated carboxylic amide-carboxylic acid.
Use/Production. (G) Fuel additive. Prod. range: Confidential.
Toxicity Data. Acute oral: >17,000 mg/kg, Skin corrosion: Non-corrosive.
Exposure. No exposure anticipated.
Environmental Release/Disposal. No release. Disposal by incineration.

PMN 82–281

Manufacturer. Confidential.
Chemical. (G) Polyether alkanyl esters.
Use/Production. (G) Contained use. Prod. range: 30,000–45,000 kg/yr.
Toxicity Data. No data submitted.
Exposure. Manufacture, processing, use and disposal: dermal, a total of 18 workers, up to 2 hrs/da, up to 250 da/yr.
Environmental Release/Disposal. 100–1,000 kg/yr released to water 1 hr/da, 50 da/yr with 100–1,000 kg/yr to land. Disposal by biological treatment system, landfill and settling sump and aeration basin.

PMN 82–282

Importer. Confidential.
Chemical. (G) Polyhalogenated aromatic poly acrylate.
Use/Import. (S) Industrial flame retardant for plastics. Import range: 5,000–700,000 lbs/yr.
Toxicity Data. Acute oral: Exceeds 5,000 mg/kg, Skin: Mild primary irritant, Eye: Mild irritant.
Exposure. Import: Minimal.
Environmental Release/Disposal. No data submitted.

PMN 82–283

Manufacturer. FMC Corporation.
Chemical. (S) T-butylated triphenyl phosphate residue.
Use/Production. (G) Wood treatment. Prod. range: Confidential.
Toxicity Data. Acute oral: 500 mg/kg, Acute dermal: 2 g/kg, Skin: Moderate irritant, Eye: Non-irritant, LC_{50} 96 hr (bluegil sunfish): 7.0 mg/l, LC_{50} 48 hr (daphnia magna): 2.7 mg/l, BOD 5 day: 0.2 mg/l at 10 parts per million (ppm).
Exposure. Confidential.
Environmental Release/Disposal. Release is negligible. Disposal by approved landfill.

PMN 82–284

Manufacturer. FMC Corporation.
Chemical. (S) Methylated triphenyl phosphate residue.
Use-Production. (G) Wood treatment. Prod. range: Confidential.
Toxicity Data. Acute oral: 500 mg/kg, Acute dermal: 2 g/kg, Skin: Moderate irritant, Eye: Non-irritant, LC_{50} 96 hr (bluegill sunfish): 7.0 mg/l, LC_{50} 48 hr (daphnia magna): 2.7 mg/l, BOD 5 day: 0.2 mg/l at 10 ppm.
Exposure. Confidential.
Environmental Release/Disposal. Release is negligible. Disposal by approved landfill.

PMN 82–285

Manufacturer. FMC Corporation.
Chemical. (S) Isopropylated triphenyl phosphate residue.
Use/Production. (G) Wood treatment. Prod. range: Confidential.
Toxicity Data. Acute oral: 500 mg/kg, Acute dermal: 2 g/kg, Skin: Moderate irritant, Eye: Non-irritant, LC_{50} 96 hr (bluegil sunfish): 7.0 mg/l, LC_{50} 48 hr (daphnia magna): 2.7 mg/l, BOD 5 day: 0.2 mg/l at 10 ppm.
Exposure. Confidential.
Environmental Release/Disposal. Release is negligible. Disposal by approved landfill.

PMN 82–286

Manufacturer. Confidential.
Chemical. (G) Substituted aryl alkyl siloxane.
Use/Production. (S) Chemical intermediate. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

Dated: April 16, 1982.

Woodson W. Bercaw,

Acting Director, Management Support Division.

[FR Doc. 82–11008 Filed 4–22–82; 8:45 am]
BILLING CODE 6560–50–M

[ER–FRL–2111–1]

Availability of Environmental Impact Statements Filed April 12 Through April 16, 1982 Pursuant to 40 CFR Part 1506.9

RESPONSIBLE AGENCY: Office of Federal Activities, Ms. Kathi Wilson (202) 245–3006.

Corps of Engineers:
EIS No. 820205, Draft, COE, NY, Ogdensburg Harbor Navigation Improvements, St. Lawrence County, due: June 14, 1982.
EIS No. 820217, Final, COE, CA, American Canyon Sanitary Landfill Operation, Napa County, Permit, due: June 1, 1982.
EIS No. 820216, FSuppl, COE, WA, Swinomish Channel Maintenance Dredging, Skagit County, due May 24, 1982.
EIS No. 820207, Report, COE, NY, Dunkirk Harbor Operation and Maintenance, Chautauqua County, due:

Department of Commerce:
EIS No. 820212, Draft, EDA, TN, Hamilton County Industrial Park/River Port, Hamilton County, Grant, due: June 7, 1982.
EIS No. 820215, Final, NOA, NH, New Hampshire Coastal Management Program Ocean/Harbor Segment, Grant, due: May 24, 1982.

Department of Interior:
EIS No. 820213, Draft, BLM, NV, Tonopah Resource Area Wilderness Recommendations, Land Use Plan Amendment, Nye County, due: June 9, 1982.
EIS No. 820206, Draft, BLM, WY, Grass Creek Livestock Grazing Management Plan, Big Horn, Hot Spring, Park and Washakie Cos., due: June 11,1982.

Department of Transportation:
EIS No. 820214, Draft, FAA, GA, Hartsfield-Atlanta Airport, Departure Route Change for Runway 9L, Clayton County, due: June 7, 1982.
EIS No. 820204, Draft, FHW, CA, I–580 and I–238 Improvement, Western Pacific Railroad to I–680, Alameda County, due: June 25, 1982.
EIS No. 820203, Final, FHW, OH, US 22 Relocation, Reeds Mill to the Ohio River Bridge, Steubenville, Jefferson County, due: May 24, 1982.

Environmental Protection Agency:
EIS No. 820208, Final, EPA, TN, Sewanee Area Wastewater Treatment Facilities, Franklin County, Grant, due: May 24, 1982.

Department of Housing and Urban Development:
EIS No. 820211, Final, HUD, TX, Booth Creek Subdivision, Mortgage Insurance, Denton County, due: May 24, 1982.

Nuclear Regulatory Commission:
EIS No. 820210, Final, NRC, IL, Byron Station Units 1 and 2, Start-up and Operation, Ogle County, License, due: May 24, 1982.

Department of Agriculture:
EIS No. 820209, Final, SCS, SEV, PA, WV, Wheeling Creek Watershed Flood Control Protection Project, due: May 24, 1982.

Amended Notices:
EIS No. 820190, Final, COE, LA, Red River Parish Water Supply/Grand Bayou Reservoir Construction, due: May 24, 1982.*

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*Published FR 3–16–82—Review period reestablished due to noncompletion, of distribution.

Dated: April 20, 1982.

Louis J. Cordia,

Acting Director, Office of Federal Activities.

[FR Doc. 82-11187 Filed 4-22-82; 8:45 am]

BILLING CODE 6560-50-M

[ER-FRL-2111-1]

EPA Comments on Environmental Impact Statements and Other Actions Impacting the Environment—Availability of Report

AGENCY: Office of Federal Activities (A-104), U.S. Environmental Protection Agency (EPA).

SUMMARY: Pursuant to the requirements of section 102(2)(c) of the National Environmental Policy Act of 1969, and section 309 of the Clean Air Act, as amended, EPA has reviewed and commented in writing on Federal agency actions impacting the environment. A report which identifies EPA's comments released during March 1982 is being prepared and is available upon request. To obtain a copy of this report you should contact: Management Information Unit, Office of Federal Activities (A-104), U.S. Environmental Protection Agency, Washington, D.C. 20460.

Dated: April 20, 1982.

Louis J. Cordia,

Acting Director, Office of Federal Activities.

[FR Doc. 82-11188 Filed 4-22-82; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL MARITIME COMMISSION

Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for review and approval pursuant to Section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement and the justification offered therefor at the Washington Office of the Federal Maritime Commission, 1100 L Street, NW., Room 10427; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California, Chicago, Illinois, and San Juan, Puerto Rico. Interested parties may submit comments on the agreement, including request for hearing, to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, on or before May 3, 1982, in which this notice appears. Comments should include facts and arguments concerning the approval, modification, or disapproval of the proposed agreement. Comments shall discuss with particularity allegations that the agreement is unjustly discriminatory or unfair as between carriers, shippers, exporters, importers, or ports, or between exporters from the United States and their foreign competitors, or operates to the detriment of the commerce of the United States, or is contrary to the public interest, or is in violation of the Act.

A copy of any comments should also be forwarded to the party filing the agreement and the statement should indicate that this has been done.

Agreements Nos.: T-3328-1 and T-3328-2.

Filing Party: John C. Barnett, Deputy Chief, Leases and Operating Agreements, The Port Authority of New York and New Jersey, One World Trade Center, New York, New York 10048.

Summary: Agreements Nos. T-3328-1 and T-3328-2, between the Port Authority of New York and New Jersey (Port) and Puerto Rico Maritime Shipping Authority (PRMSA), modify the basic agreement between the parties which provides for the fifteen-year lease (with options to renew) of premises at Elizabeth Port Authority Marine Terminal, to be used for administrative offices and for the loading, unloading and handling of passengers, baggage and cargo. The purpose of the modifications is to provide for the surrender by PRMSA to Port of a portion of the berthing area, Building 1210, and certain open area at the premises, with a corresponding reduction in rental.

Dated: April 20, 1982.

By order of the Federal Maritime Commission.

Francis C. Hurney,

Secretary.

[FR Doc. 82-11121 Filed 4-22-82; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Acquisition of Bank Shares by Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire voting shares or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c).

Each application may be inspected at the Offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for the application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, indentifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. *First Atlanta Corporation,* Atlanta, Georgia; to acquire 11.1 percent of the voting shares or assets of First South Bankcorp, Columbus, Georgia. Comments on this application must be received not later than May 16, 1982.

2. *Royal Trustco Limited,* Toronto, Canada, and its wholly-owned subsidiary, Royal Trust Bank Corp., Miami, Florida; to acquire 80 percent of the voting shares of assets of First National Bank of Pinellas County, St. Petersburg, Florida. Comments on this application must be received not later than May 13, 1982.

B. **Secretary, Board of Governors of the Federal Reserve System,** Washington, D.C. 20551:

1. *North Shore Capital Corporation,* Wilmette, Illinois; to acquire 80 percent or more of the voting shares or assets of The Morton Grove Bank, Morton Grove, Illinois. Comments on this application must be received not later than May 16, 1982.

Dolores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 82-11085 Filed 4-22-82; 8:45 am]

BILLING CODE 6210-01-M

Formation of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become bank holding companies by acquiring voting shares and/or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing

the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of Cleveland** (Harry W. Huning, Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *Buckeye Associates, Ltd.*, Fostoria, Ohio; to become a bank holding company by acquiring 50 percent or more of the voting shares of Union Commerce Corporation, Cleveland, Ohio, and thereby indirectly acquire Union Commerce Bank, Cleveland, Ohio; Southern Ohio Bank, Cincinnati, Ohio; Port Clinton National Bank, Port Clinton, Ohio; and First National Bank of Nelsonville, Nelsonville, Ohio. Comments on this application must be received not later than May 16, 1982.

B. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. *Philadelphia Capital Corporation*, Philadelphia, Mississippi; to become a bank holding company by acquiring 90 percent or more of the voting shares of Bank of Philadelphia, Philadelphia, Mississippi. Comments on this application must be received not later than May 13, 1982.

2. *Citizens Holding Company*, Philadelphia, Mississippi; to become a bank holding company by acquiring 80 percent or more of the voting shares of The Citizens Bank of Philadelphia, Philadelphia, Mississippi. Comments on this application must be received not later than May 13, 1982.

C. **Federal Reserve Bank of St. Louis** (Delmer P. Weisz, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Valley Capital Corp.*, Rosedale, Mississippi; to become a bank holding company by acquiring 80 percent or more of the voting shares of The Valley Bank, Rosedale, Mississippi. Comments on this application must be received not later than May 16, 1982.

D. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Assistant Vice President) 924 Grand Avenue, Kansas City, Missouri 64198:

1. *State Holding Company*, Thermopolis, Wyoming; to become a bank holding company by acquiring 80 percent or more of the voting shares of First State Bank, Thermopolis, Wyoming. Comments on this application must be received not later than May 16, 1982.

E. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Assistant Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Americo Bancshares, Inc.*, Wolfforth, Texas; to become a bank holding company be acquiring 80 percent of the voting shares of American Bank of Commerce at Wolfforth, Texas, Wolfforth, Texas. Comments on this application must be received not later than May 16, 1982.

F. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 400 Sansome Street, San Francisco, California 94120:

1. *La Jolla Bancorp*, La Jolla, California; to become a bank holding company by acquiring 100 percent of the voting shares of La Jolla Bank and Trust Company, La Jolla, Califonia. Comments on this application must be received not later than May 13, 1982.

G. **Secretrary, Board of Governors of the Federal Reserve System**, Washington, D.C. 20551:

1. *Cambria State Bankshares, Inc.*, Cambria, Wisconsin; to become a bank holding company by acquiring 80 percent of the voting shares of The Cambria State Bank, Cambria, Wisconsin. Comments on this application must be received not later than May 16, 1982.

Board of Governors of the Federal Reserve System, April 19, 1982.

Dolores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 82-11084 Filed 4-22-82; 8:45 am]

BILLING CODE 6210-01-M

Bank Holding Companies; Proposed de Novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8)) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than May 12, 1982.

A. **Federal Reserve Bank of New York** (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

1. *Barclays Bank Limited* and its subsidiary, *Barclays Bank International Limited*, each a bank holding company whose principal office is in London, England (the sale at retail of travelers checks; Ohio): To engage through their subsidiary, BarclaysAmerican/Financial, Inc., a North Carolina corporation ("BAF"), in selling at retail travelers checks issued by Barclays Bank International Limited. This activity will be conducted from the following existing consumer finance offices of BAF; Ste. 101, 1717 Brittain Rd., Akron, Ohio; 2819 East Waterloo Rd., Akron, Ohio; 2115 West State St., Alliance, Ohio; 4702 Main St., Ohio; 155 Wooster Rd. N, Barberton, Ohio; 503 W. Main St., Batavia, Ohio; 6259 Glenway Ave., Cincinnati, Ohio; 11622 Springfield Pike, Cincinnati, Ohio; 9806 Colerain Ave., Cincinnati, Ohio; 88 Cherry Grove, Cincinnati, Ohio; 7525 Kenwood Rd., Room 205, Cincinnati, Ohio; 1286 S. High St., Columbus, Ohio; 5025 Arlington Centre Blvd., Ste. 100, Columbus, Ohio; 5055-59 N. High St., Columbus, Ohio; 3425 South Blvd., Columbus, Ohio; 21895 Lorain Ave., Fairview Park, Ohio; 321 S. Main St., Findlay, Ohio; 3076 Southwest Blvd., Grove City, Ohio; 633 High St., Hamilton, Ohio; 3636 Main St., Hilliard, Ohio; 3024 Woodman Dr., Kettering, Ohio; 42783 N. Ridge Rd., Lorain, Ohio; 400 Loveland-Maderia Rd., Loveland, Ohio; 5304 Warrensville Center Rd., Maple Heights, Ohio; 46 N. Erie St., Massilon, Ohio; 127 W. Wayne St., Maumee, Ohio; 963 Lila Ave., Milford, Ohio; 792 North Main St., North Canton, Ohio; 2912 Woodville Rd., Northwood, Ohio; 1472 Mentor Ave., Painesville, Ohio; 5333 Ridge Rd., Parma, Ohio; 6789 West 130th St., Parma Heights, Ohio; 1812 Brice Rd., Reynoldsburg, Ohio; 72 West Main St., Springfield, Ohio; 123 S. Fourth St., Steubenville, Ohio; 2503 Sylvania Ave., Toledo, Ohio; 4839 Robinhood Dr., Willoughby, Ohio; 36 North Fourth St., Zanesville, Ohio; each such office serving portions of the county in which such office is located

and in certain cases portions of contiguous counties.

2. *Citicorp*, New York, New York (consumer finance and insurance activities; California): To expand the activities and service area of an existing office of its subsidiary, Citicorp Person-to-Person Financial Center, Inc., located in City of Industry, California. The office of the subsidiary currently engages in the following previously approved activities: the making or acquiring of loans and other extensions of credit, secured or unsecured, for consumer and other purposes; the extension of loans to dealers for the financing of inventory (floor planning) and working capital purposes; the purchasing and servicing for its own account of sales finance contracts; the sale of credit related life and accident and health or decreasing or level (in the case of single payment loans) term life insurance by licensed agents or brokers, as required; the sale of credit related property and casualty insurance protecting real and personal property subject to a security agreement with Citicorp Person-to-Person Financial Center, Inc., to the extent permissible under applicable state insurance laws and regulations; the sale of consumer oriented financial management courses; and the servicing, for any person, of loans and other extensions of credit. The new activities in which the office proposes to engage *de novo* are: the making, acquiring and servicing, for its own account and for the account of others, of extensions of credit to individuals secured by liens on residential or non-residential real estate; and the sale of mortgage life and mortgage disability insurance directly related to extensions of mortgage loans. The proposes expanded service area for all aforementioned previously approved and proposed activities is the entire State of California. Credit related life, accident, and health insurance may be written by Family Guardian Life Insurance Company, an affiliate of Citicorp Person-to-Person Financial Center, Inc.

3. *Manufacturers Hanover Corporation*, New York, New York, (consumer finance and credit insurance activities; New Mexico): To engage through its *de novo* indirect subsidiary, Finance One Mortgage of New Mexico, Inc., in the activities of making or acquiring loans and other extensions of credit, secured and unsecured, such as would be made or acquired by a finance company under state law; servicing such loans and other extensions of credit; and offering credit-related life insurance such activities will include, but not be limited to, making consumer installment loans and other extensions of credit secured by a real and personal property, and offering credit-related life insurance and decreasing or level term (in the case of single payment loans) life insurance by licensed agents or brokers to the extent permissible under applicable state insurance laws and regulations directly related to extensions of credit made or acquired by Finance One Mortgage of New Mexico, Inc. These activities would be conducted from an office located in Albuquerque, New Mexico, serving the entire State of New Mexico.

4. *Manufacturers Hanover Corporation, and* New York, New York (expansion of service area for real personal property leasing and financing activities; New York): To continue to hold the shares of Manufacturers Hanover Leasing Corporation ("MHLC") after MHLC expands the service area of its office located at 3 Landmark Square, Stamford, Connecticut, to include the County of Westchester, New York. MHLC would engage in the following activities in the expanded part of the service area: Leasing real and personal property on a full payout basis; and acting as agent, broker or advisor in leasing of such property in accordance with the provisions of regulations promulgaged by the Board of Governors of the Federal Reserve System and making and acquiring for its own account or for the account of others loans and other extensions of credit with respect to such property and servicing such leases, loans or other extensions of credit. Such activities will generally involve substantial dollar amounts and property used for commercial/business purposes by the lessee/borrower concerned.

5. *Manufacturers Hanover Corporation*, New York, New York, (consumer finance, sales finance, and credit insurance activities; South Carolina): To engage through a *de novo* office of its indirect subsidiaru Finance One Mortgage of South Carolina, Inc., to be located at 2420 Mall Drive, Charleston, South Carolina, in the activities of making or acquiring loans and other extensions of credit, secured or unsecured, such as would be made or acquired by a finance company under state law; servicing such loans and other extensions of credit; and offering credit-related life insurance; such activities will include, but not be limited to, making consumer installment loans, purchasing installment sales finance contracts, making loans and other extensions of credit secured by real and personal property, and offering credit-related life insurance and decreasing or level term (in the case of single payment loans) life insurance by licensed agents or brokers to the extent permissible under applicable state insurance laws and regulations directly related to extensions of credit made or acquired by Finance One Mortgage of South Carolina, Inc. This office will serve the entire State of South Carolina.

6. *The Hongkong and Shanghai Banking Corporation*, Hong Kong, Kellett N.V., Curacao, Netherlands Antilles, HSBC Holdings B.V., Amsterdam, The Netherlands, and Marine Midland Banks, Inc., Buffalo, New York, (financing and investment advising activities; California); To engage through their subsidiary, Marine Midland Realty Credit Corporation, in the following activities: originating, making, acquiring, and servicing, for its own account or for the account of others, loans and other extensions of credit, either unsecured or principally secured by mortgages on residential or commercial properties or lease-hold interests therein and acting as investment or financial adviser to the extent as serving as the advisory company for a mortgage or real estate investment trust, furnishing general economic information and advice on real estate matters, and providing portfolio investment advice on real estate matters. These activities are to be conducted from an office located in Newport Beach, California, and will serve the entire State of California.

B. **Other Federal Reserve Banks:** None.

Board of Governors of the Federal Reserve System, April 16, 1982.

Dolores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 82-11081 Filed 4-22-82; 8:45 am]

BILLING CODE 6210-01-M

Bank Holding Companies; Proposed de Novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce

benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must inlcude a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank Indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than May 13, 1982.

Federal Reserve Bank of Boston (Richard E. Randall, Vice President) 300 Atlantic Avenue, Boston, Massachusetts 02106:

CBT Corporation, Hartford, Connecticut (financing activities; Illinois, Michigan, Indiana, Kentucky, Missouri, Iowa, Wisconsin and Minnesota): To engage, through its subsidiary, Lazere Financial Corporation, in commercial financing, including the making of secured loans to finance accounts receivable, inventories and imports for business customers. These activities will be conducted from an office at 208 LaSalle Street, Chicago, Illinois, serving the States of Illinois, Michigan, Indiana, Kentucky, Missouri, Iowa, Wisconsin and Minnesota.

Federal Reserve Bank of Kansas City (Thomas M. Hoenig, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

First Healdton Bancorporation, Inc., Healdton, Oklahoma (insurance activities; Oklahoma): To engage, through a proposed subsidiary, First Healdton Insurance Co., in the sale of life, accident and health insurance in connection with extensions of credit by the Bank of Healdton, the subsidiary bank of First Healdton Bancorporation. This activity would be conducted from an office at 313 West Main Street, Healdton, Oklahoma, serving the two of Healdton and the surrounding rural area which extends approximately 25 miles North, West and South, and 10 miles East.

Federal Reserve Bank of San Francisco (Harry W. Green, Vice President) 400 Sansome Street, San Francisco, California 94120:

BankAmerica Corporation, San Francisco, California (financing, servicing, and insurance activities; *de novo* office; Louisiana): To engage, through its indirect subsidiary, FinanceAmerica Corporation, a Louisiana corporation, in the activities of making or acquiring for its own account loans and other extensions of credit such as would be made or acquired by a finance company; servicing loans and other extensions of credit; and offering credit-related life insurance, credit-related accident and health insurance and credit-related property insurance in the State of Louisiana. Such activities will include, but not be limited to, purchasing installment sales finance contracts, making loans and other extensions of credit to consumers and small businesses, making loans and other extensions of credit secured by real property, and offering credit-related life, credit-related accident and health and credit-related property insurance directly related to extensions of credit made or acquired by FinanceAmerica Corporation. These activities will be conducted from a *de novo* office located at 104A Constitution Boulevard, Alexandria, Louisiana, serving the entire State of Louisiana.

U.S. Bancorp, Portland, Oregon (insurance activities: Oregon): To engage, through its subsidiary, Mt. Hood Credit Life Insurance Agency, Inc., in the offering of homeowners insurance directly related to extensions of credit of U.S. Bancorp and its subsidiaries. These activities would be conducted from an office in Portland, Oregon, serving Oregon.

Other Federal Reserve Banks: None.

Board of Governors of the Federal Reserve System, April 16, 1982.

Dolores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 82-11082 Filed 4-22-82; 8:45 am]

BILLING CODE 6210-01-M

Central National Chicago Corp.; Acquisition of Bank

Central National Chicago Corporation, Chicago, Illinois, has applied for the Board's approval under section 3(a)(5) of the Bank Holding Company Act (12 U.S.C. 1842(a)(5)) to merge with Exchange International Coporation, Chicago, Illinois, simultaneously effecting a merger of their subsidiary banks, Central National Bank in Chicago, and Exchange National Bank of Chicago, both located in Chicago, Illinois.

The application may be inspected at the offices of Board of Governors or the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than May 14, 1982. Any comment on an application that request a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, April 16, 1982.

Dolores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 82-11083 Filed 4-22-82; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Alcohol, Drug Abuse, and Mental Health Administration

Notice of Meetings

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. Appendix I), announcement is made of the following national advisory bodies scheduled to assemble during the month of May 1982.

- National Advisory Council on Drug Abuse, May 18–19; 9:00 a.m., National Institutes of Health, Conference Room 10, Building 31C, Bethesda, Maryland 20205

Open—May 18, 9:00 a.m.–12 Noon, May 19, 9:00 a.m.–5:00 p.m.

Closed—Otherwise

Contact: Mrs. Bee Hamlin, Parklawn Building, Room 10A–03, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–6460

Purpose: The National Advisory Council on Drug Abuse advises and makes recommendations to the Secretary of Health and Human Services; the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, and the Director, National Institute on Drug Abuse, on the development of new initiatives and priorities and the efficient administration of drug abuse research, research training, demonstration and prevention. The Council also gives advice on policies and priorities for drug abuse grants and contracts, and reviews and makes recommendations on grant applications.

Agenda: From 9:00 a.m.–12 Noon, May 18, and from 9:00 a.m.–5:00 p.m., May 19,

the meeting will be open to the public for discussion of program development and policy issues. Otherwise, the Committee will be performing final review of applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of 5 U.S.C. 552b(c)(6), and Section 10(d) of Public Law 92–463 (5 U.S.C. Appendix I).

- National Advisory Mental Health Council, May 24–26

Open—May 24; 9:30 a.m., National Institutes of Health, Building 31C, Conference Room 10, Rockville Pike, Bethesda, Maryland 20205

Closed—May 25–26; 9:00 a.m., Parklawn Building, PHS Conference Room 17–09B, 5600 Fishers Lane, Rockville, Maryland 20857

Contact: Ms. Helen W. Garrett, Committee Management Officer, Parklawn Building, Room 9–95, 5600 Fishers Lane, Rockville, Maryland 20857

Purpose: The National Advisory Mental Health Council advises the Secretary of Health and Human Services, the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, and the Director, National Institute of Mental Health, regarding policies and programs of the Department in the field of mental health. The Council reviews applications for grants-in-aid relating to research and training in the field of mental health and makes recommendations to the Secretary with respect to approval of applications for, and amount of, these grants.

Agenda: On May 24, the meeting will be open for discussion of NIMH policy issues and will include current administrative, legislative, and program developments. Attendance by the public for the open session will be limited to space available. Otherwise, the Council will conduct a final review of applications for assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of 5 U.S.C. 552b(c)(6), and Section 10(d) of Public Law 92–463 (5 U.S.C. Appendix I).

- National Advisory Council on Alcohol Abuse and Alcoholism, May 27; 9:00 a.m., National Institutes of Health, Conference Room 4, Building 31A, 9000 Rockville Pike, Bethesda, Maryland 20205

Open—9:00 a.m.

Closed—1:30 p.m. to adjournment

Contact: Mr. James Vaughan, Parklawn Building, Room 16C06, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–3887

Purpose: The Council advises the Secretary, Department of Health and Human Services regarding policy direction and program issues of national significance in the area of alcohol abuse and alcoholism. It reviews all grant applications submitted, evaluates these applications in terms of scientific merit and coherence with Department policies, and makes recommendations to the Secretary with respect to approval and amount of award.

Agenda: The morning session on May 27 will be devoted to general business of the Council and a discussion of current budget, legislative and program activities. From 1:30 p.m. to adjournment the Council will conduct a final review of grant applications for Federal Assistance and this session will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of 5 U.S.C. 552b(c)(6), and Section 10(d) of Public Law 92–463 (5 U.S.C. Appendix I).

Substantive information may be obtained from the contact persons listed above. Summaries of the meetings and rosters of Committee members may be obtained as follows: NIAAA: Mrs. Diana Widner, Committee Management Officer, Room 16C–21, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–2860. NIDA: Ms. Claudette Wright, Committee Management Officer, Room 10–22, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–1644. NIMH: Ms. Helen W. Garrett, Committee Management Officer, Room 9–95, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–4333.

Dated: April 19, 1982.

Elizabeth A. Connolly,

Committee Management Officer, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc. 82–11086 Filed 4–22–82; 8:45 am]

BILLING CODE 4160–20–M

Centers for Disease Control

Project Grants for Veneral Disease Control; Availability of Funds

Correction

In FR Doc. 82–10117, published on page 15903, on Tuesday, April 13, 1982, in the third column, in the fifth paragraph, in the tenth line, "cosequences" should be corrected to read "consequences".

BILLING CODE 1505–01–M

Food and Drug Administration

[Docket No. 82F–0098]

Ciba-Geigy Corp.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Ciba-Geigy Corp. has filed a petition proposing that the food additive regulations be amended to provide for the safe use of acrylic acid polymer with sodium phosphinate as a boiler water additive used in the preparation of steam that will contact food.

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

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 2A3607) has been filed by the Ciba-Geigy Corp., Plastics and Additives Division, Three Skyline Drive, Hawthorne, NY 10532, proposing that § 173.310 (21 CFR 173.310) be amended to provide for the safe use of acrylic acid polymer with sodium phosphinate as a boiler water additive used in the preparation of steam that contacts food.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulations in the Federal Register in accordance with 21 CFR 25.40(c) (proposed December 11, 1979; 44 FR 71742).

Dated: April 12, 1982.

Sanford A. Miller,

Director, Bureau of Foods.

[FR Doc. 82–10839 Filed 4–22–82; 8:45 am]

BILLING CODE 4160–01–M

[Docket No. 82F–0075]

JSR America, Inc.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that JSR America, Inc., has filed a petition proposing that the food additive regulations be amended to provide for the safe use of 1,2-polybutadiene as a food-packaging film that will contact food.

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

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 2B3620) has been filed by JSR America, Inc., 350 Fifth Ave., New York, NY 10001, proposing that the food additive regulations be amended to provide for the safe use of 1,2-polybutadiene as a food-packaging film that will contact food.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the Federal Register in accordance with 21 CFR 25.40(c) (proposed December 11, 1979; 44 FR 71742).

Dated: April 12, 1982.

Sanford A. Miller,

Director, Bureau of Foods.

[FR Doc. 82-10838 Filed 4-22-82; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 77N-0240; DESI 1786]

Certain Single-Entity Coronary Vasodilators; Drug Efficacy Study Implementation; Revocation of Exemption and Notice of Opportunity for Hearing

AGENCY: Food and Drug Administration.

ACTION: Notice

SUMMARY: This notice revokes the temporary exemption for continued marketing of certain single-entity coronary vasodilators. Under the exemption, the drugs have been allowed to remain on the market for continued study beyond the time limit scheduled for implementation of the Drug Efficacy Study. This notice also reclassifies the drugs to lacking substantial evidence of effectiveness, proposes to withdraw approval of the new drug applications, and offers an opportunity for hearing on the proposal.

DATES: The revocation of exemption is effective April 23, 1982; hearing requests on proposal to withdraw approval due on or before May 24, 1982.

ADDRESSES: Communications in response to this notice should be identified with Docket No. 77N–0240 and the reference number DESI 1786 and directed to the attention of the appropriate office named below:

Requests for hearing, supporting data, and other comments: Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

Requests for opinion of the applicability of this notice to a specific product: Division of Drug Labeling Compliance (HFD–310), Bureau of Drugs, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Mary E. Catchings, Bureau of Drugs (HFD–32), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3650.

SUPPLEMENTARY INFORMATION: In a notice (DESI 1786) published in the Federal Register of February 25, 1972 (37 FR 4001), the Food and Drug Administration classified certain coronary vasodilators as possibly effective for the management, prophylaxis, or treatment of anginal attacks.

In a notice published in the Federal Register of December 14, 1972 (37 FR 26623), as amended July 11, 1973 (38 FR 18477), August 26, 1977 (42 FR 43127), October 21, 1977 (42 FR 56156), and September 15, 1978 (43 FR 41282), certain single-entity coronary vasodilators were temporarily exempted from the time limits established for the Drug Efficacy Study Implementation (DESI) program, pending completion of clinical studies to determine effectiveness and a commitment from each manufacturer to conduct bioavailability studies on its product.

Recognizing that the development of adequate protocols for, and the conduct of, clinical studies was difficult and would necessarily require several years, FDA established a two-stage study requirement. Manufacturers would first need to show that their products were bioavailable (i.e., had some chance of ultimately being classified effective), and then demonstrate clinical effectiveness. Because there were no grounds for limiting marketing to new drug application (NDA) holders, the amended exempting notice established conditions not only for continued marketing of DESI drug products, but also for marketing of other products substantially the same as the DESI drug products manufactured by other firms, whether or not these had previously been marketed. Those conditions included dates by which to submit an abbreviated new drug application (ANDA) if the product was not already the subject of an approved NDA, to begin bioavailability studies, to obtain conditional approval of ANDA's, to submit bioavailability data, to begin clinical trials, and to report the results of clinical studies. If one drug sponsor was conducting clinical studies on a product, that was considered sufficient to permit marketing of all firms' products containing the same chemical entity in a similar dosage form provided each product met the other conditions. Because bioavailability is specific for an individual product, each firm was required to conduct a bioavailability study on its own product.

The August 26, 1977 and September 15, 1978 notices stated that FDA would initiate proceedings to withdraw (or refuse) approval of any product if data do not show that the drug is bioavailable. The September 15, 1978 notice further stated that if no person elected to conduct clinical studies on a particular kind of product, all such products would fail to meet a condition that established eligibility to remain on the market.

As a result of the exempting notices and conditions described therein, more than 130 ANDA's for coronary vasodilators have received conditional approval. Many bioavailability study protocols, as well as subsequent data, have been submitted and reviewed. Similarly, many efficacy study protocols were reviewed and studies initiated. Several active ingredients are not the subject of any clinical study, however, and numerous specific products have never been the subject of a bioavailability study.

The Director of the Bureau of Drugs now proposes to withdraw approval or conditional approval of those NDA's and ANDA's that are not in compliance with the conditions for marketing because (1) no sponsor is conducting clinical studies on any of the products containing the drug entity, or (2) no bioavailability data have been submitted for specific products covered by an NDA or ANDA. In the first group are the drug entities mannitol hexanitrate and trolnitrate phosphate. This notice lists all approved single-entity products containing either of these ingredients, because none of them complies with the conditions for continued marketing. As for the second group, this notice pertains to some, but not all, single-entity products containing

one of the following drug entities: dipyridamole, isosorbide dinitrate, nitroglycerin, of pentaerythritol tetranitrate. Some of the products in this group are the subject of ANDA's that were conditionally approved after December 1, 1978, and before July 1, 1981. Although no time limits were established for the submission of bioavailability data for products entering the market after December 1, 1978, the amended exempting notices allowed six months for the submission of such data for those products on the market before December 1, 1978. Thus, manufacturers of products that were conditionally approved after December 1, 1978, and before July 1, 1981, have had ample time to conduct the required bioavailability studies and submit the resulting data. This notice, therefore, includes all those products conditionally approved before July 1, 1981, for which no bioavailability data have been submitted.

In order to implement actions on coronary vasodilators in an orderly manner, the following actions in the order listed, have been taken or are planned:

1. Remove from the market all products not the subject of an approved NDA or conditionally approved ANDA. (This has been accomplished.)

2. Remove from the market all products that are the subject of an approved NDA or conditionally approved ANDA and for which no bioavailability data have been received. (This notice proposes that action for products conditionally approved before July 1, 1981; products conditionally approved on or after that date will be the subject of a future Federal Register notice.)

3. Remove from the market all products that are the subject of an approved NDA or conditionally approved ANDA and that contain a drug entity whose effectiveness has not been under study by any firm. (This notice also proposes that action.)

4. Remove from the market all products that are the subject of an approved NDA or conditionally approved ANDA and for which bioavailability data have been submitted and are inadequate to show that the drug is bioavailable. (This action will be taken in a future Federal Register notice.)

5. Upgrade those drug products that are determined to be effective and remove from the market the remaining products determined to lack substantial evidence of effectiveness. (These actions will be taken when FDA has completed its review of data resulting from clinical investigations.)

Revocation of Exemption

No person has expressed an intention to conduct clinical studies of effectiveness or bioavailability studies on any products containing mannitol hexanitrate or trolnitrate phosphate as listed below. The manufacturers of the other drug products listed below have not conducted the required bioavailability studies. Therefore, the drug products described below do not meet the conditions of the exemption for continued marketing and are now reclassified to lacking substantial evidence of effectiveness. The temporary exemption as it pertains to all drug products containing mannitol hexanitrate or trolnitrate phosphate and to the other specific products listed below is hereby revoked.

Future Bioavailability Requirements

This notice also modifies the bioavailability requirements for products that (1) were conditionally approved on or after July 1, 1981, but before April 23, 1982, and (2) will be conditionally approved after April 23, 1982. As stated above, the amended exempting notices provided for conditional approval pending the completion of bioavailability studies if other information in the abbreviated application was satisfactory. Because the time allowed for completing studies of effectiveness has now lapsed and evaluation of those studies is underway, the agency believes it is appropriate to provide a time limit for submission of bioavailability data for recently approved ANDA's and for any future ANDA's. Thus, this notice modifies that requirement, as set forth below.

1. For products that were conditionally approved on or after July 1, 1981, and before April 23, 1982. Any sponsor who has not submitted bioavailability data must do so on or before October 20, 1982.

2. For a product that is to be placed on the market after April 23, 1982, the sponsor must submit and obtain conditional approval of an ANDA before marketing the product. Before the application may be approved, the sponsor must submit data adequate to demonstrate the bioavailability of the product.

Opportunity for Hearing

The products that are known by FDA to be subject to this notice are listed below, and begin with products reviewed by the National Academy of Sciences-National Research Council (NAS–NRC).

DESI 1786

1. NDA 1–786; Maxitate Tablets containing mannitol hexanitrate; Penwalt Prescription Products Division, P.O. Box 1710, Rochester, NY 14603.

2. NDA 3–193; Nitranitol Tablets containing mannitol hexanitrate; Merrell-Dow Pharmaceutical, Inc. (formerly Merrell-National Laboratories), 2110 East Galbraith Rd., Cincinnati, OH 45215.

3. NDA 4–730; Mannitol Hexanitrate Tablets; S. F. Durst & Co., Inc., Division of O'Neal, Jones, & Feldman, Inc., 1304 Ashby Rd., St. Louis, MO 63132.

4. NDA 8–294; Metamine Tablets containing trolnitrate phosphate; Pfizer Laboratories, Division of Charles Pfizer & Co., Inc., 235 East 42d St., New York, NY 10017.

5. NDA 8–852; Pencard and Pencard No. 2 Tablets containing pentaerythritol tetranitrate; Cole Pharmacal Co., P.O. Box 14404, St. Louis, MO 63178.

6. NDA 9–196; Nitretamine and Nitretamine-10 Tablets containing trolnitrate phosphate; Squibb Pharmaceutical Co., Division of E. R. Squibb & Sons, Inc., P.O. Box 4000, Princeton, NJ 08540.

7. NDA 10–131; Metamine Sustained Tablets containing trolnitrate phosphate; Pfizer, Inc.

8. NDA 12–317; Penta-Erythritol Tetranitrate Nyscaps containing pentaerythritol tetranitrate; USV Laboratories, Division of USV Pharmaceutical Corp., 1 Scarsdale Rd., Tuckahoe, NY 10707.

9. NDA 12–450; Tetrasule-80 Timesules containing pentaerythritol tetranitrate; Storck Pharmaceuticals, Inc., Division of Arnar-Stone Laboratories, Inc., 601 East Kensington Rd., Mount Prospect, IL 60056.

10. NDA 12–488; Pentestan-80 Timesules containing pentaerythritol tetranitrate; Standex Laboratories, 585 West Second Ave., Columbus, OH 43215.

11. NDA 12–646; Timed Pentryate Stronger Capsules containing pentaerythritol tetranitrate; Fellows-Testagar, Subdivision of Chromalloy Pharmaceuticals, Inc., 12741 Capital Ave., Oak Park, MI 48237.

The following drug products were neither reviewed by the NAS–NRC nor included in the initial notice of February 25, 1972, but the conclusions described herein apply to them.

1. NDA 8–789; Metamine Tablets containing trolnitrate phosphate; Leeming/Pacquin, Division of Charles Pfizer & Co., Inc., 235 East 42d St., New York, NY 10017.

2. NDA 12–317; Perispan Timed Disintegration Capsules containing pentaerythritol tetranitrate; USV Laboratories.

3. NDA 12–519; Corodyl Forte Sustained Release Tablets containing pentaerythritol tetranitrate; Bock Pharmacal Co., 5435 Highland Park Dr., St. Louis, MO 63110.

4. NDA 12–613; Pent-T-80 Sustained Release Capsules containing pentaerythritol tetranitrate; Moricon Industries, Inc., 420 S.W. Washington St., Peoria, IL 61602.

5. NDA 13–303; Tetrate-80 Time Disintegrating Capsules containing pentaerythritol tetrantirate; Pasadena Research Laboratories, Inc., 2107 E. Villa St., Pasadena, CA 91107.

6. NDA 16–425; Pentaerythritol Tetranitrate Tablets; Philips Roxane Laboratories, Division of Philips Roxane, Inc., P.O. Box 1738, Columbus, OH 43216.

7. NDA 16–445; Tranite Tablets containing pentaerythritol tertanitrate; Westerfield Laboratories, Inc., Division of O'Neal, Jones, & Feldman, Inc., 3941 Brotherton Rd., Cincinnati, OH 45209.

8. NDA 16–449; Dipentrate Tablets containing pentaerythritol tertranitrate; Invenex Pharmaceuticals, Division of the Mogul Corp., 3175 Stanley Rd., Grand Rapids, NY 14072.

9. NDA 16–459; Pentaerythritol tertranitrate; Tablets; Kirkman Laboratories, Inc., P.O. Box 3929, Portland, OR 97208.

10. NDA 16–499; Tranite D–Lay Sustained Release Capsules containing pentaerythritol tertranitrate; Westerfield Laboratories, Inc.

11. NDA 16–502; Nitrin Tablets containing pentaerythritol tertranitrate; The Valo Chemical Co., Inc., 1201 Liberty St., Allentown, PA 18102.

12. NDA 16–537; Pentaerythritol Tertranitrate Tablets; Davis-Edwards Pharmacal Corp., Backus Ave., Danbury, CT 06810.

13. NDA 16–545; Pentaerythritol Tertranitrate Tablets; Lit Drug Co., 2530 Polk St., Union, NJ 07083.

14. NDA 16–533; Pentran Tablets containing pentaerythritol tertranitrate; Halsey Drug Co., Inc., 1827 Pacific St., Brooklyn, NY 11233.

15. NDA 16–558; Pentaerythritol Tertranitrate Tablets; West-Ward, Inc., 465 Industrial Way West, Eatontown, NJ 07724.

16. NDA 16–561; Pentaerythritol Tertranitrate Tablets; Stanlabs, Inc., Box 3108, Portland, OR 97208.

17. NDA 16–567; Pentaerythritol Tertranitrate Tablets; Reid-Provident Laboratories, Inc., 640 Tenth St., NW., Atlanta, GA 30318 (formerly held by Tutag Pharmaceuticals, Inc.).

18. NDA 16–593; Pentaerythritol Tertranitrate Tablets; American Pharmaceutical Co., Inc., P.O. Box 448, Passaic, NJ 07055.

19. NDA 16–661; Dilivas Tablets containing pentaerythritol tertranitrate; Ferndale Laboratories, Inc., 780 West Eight Mile Rd., Ferndale, MI 48220.

20. ANDA 84–204; Isosorbide Dinitrate (sublingual) Tablets containing 2.5 mg isosorbide dinitrate per tablet; Barr Laboratories, Inc., 265 Livinston St., Northvale, NJ 07647.

21. ANDA 84–473; Isosorbide Dinitrate (sublingual) Tablets containing 2.5 mg isosorbide dinitrate per tablet; Zenith Laboratories, Inc., 140 Le Grand Ave., Northvale, NJ 07647.

22. ANDA 84–474; Isosorbide Dinitrate (sublingual) Tablets containing 5 mg isosorbide dinitrate per tablet; Zenith.

23. ANDA 86–035; Isosorbide Dinitrate Tablets containing 10 mg isosorbide dinitrate per tablet; Zenith.

24. ANDA 86–044; Isosorbide Dinitrate Tablets containing 10 mg isosorbide dinitrate per tablet; Bolar Pharmaceutical Co., Inc., 130 Lincoln St., Copiague, NY 11726.

26. ANDA 86–048; Isosorbide Dinitrate Tablets containing 20 mg isosorbide dinitrate per tablet; Bolar.

27. ANDA 86–051; Isosorbide Dinitrate (sustained release) Tablets, containing 40 mg of isosorbide dinitrate per tablet; Bolar.

28. ANDA 86–071; Isosorbide Dinitrate (sublingual) Tablets containing 5 mg isosorbide dinitrate per tablet; Chelsea Laboratories, Inc., 428 Doughty Blvd., Inwood, NY 11696.

29. ANDA 86–072; Isosorbide Dinitrate Tablets containing 5 mg isosorbide dinitrate per tablet; Chelsea.

30. ANDA 86–073; Isosorbide Dinitrate (sublingual) Tablets, containing 2.5 mg isosorbide dinitrate per tablet; Chelsea.

31. ANDA 86–078; Isosorbide Dinitrate Tablets containing 10 mg isosorbide dinitrate per tablet; Chelsea.

32. ANDA 86–166; Isosorbide Dinitrate Tablets containing 5 mg isosorbide dinitrate per tablet; Barr.

33. ANDA 86–167; Isosorbide Dinitrate Tablets containing 20 mg isosorbide dinitrate per tablet; Barr.

34. ANDA 86–168; Isosorbide Dinitrate (sublingual) Tablets containing 5 mg of the drug per tablet; Barr.

35. ANDA 86–169; Isosorbide Dinitrate Tablets containing 10 mg of the drug per tablet; Barr.

36. ANDA 86–186; Isosorbide Dinitrate (sustained release) Capsules, containing 40 mg of the drug per capsule; The Vitarine Co., Inc., 227–15 N. Conduit Ave., Springfield Gardens, NY 11413.

37. ANDA 86–191; Isosorbide Dinitrate (sublingual) Tablets, containing 5 mg of the drug per tablet; Bolar.

38. ANDA 86–193; Pentaerythritol Tetranitrate (sustained release) Tablets containing 80 mg of the drug per tablet; Bolar.

39. ANDA 86–302; Isosorbide Dinitrate Tablets containing 10 mg of the drug per tablet; Purepak Pharmaceutical Co., 200 Elmora Ave., Elizabeth, NJ 07207.

40. ANDA 86–304; Isosorbide (sublingual Tablets containing 5 mg of the drug per tablet; Purepak.

41. ANDA 86–362; Isosorbide Dinitrate (sublingual) Tablets containing 2.5 mg of the drug per tablet; Bolar.

42. ANDA 86–855; Isosorbide Dinitrate (sublingual) Tablets containing 5 mg of the drug per tablet; Lederle Laboratories, Inc., North Middletown Rd., Pearl River, NY 10965.

43. ANDA 86–858; Isosorbide Dinitrate Tablets containing 5 mg of the drug per tablet; Lederle Laboratories, Inc.

44. ANDA 86–861; Isosorbide Dinitrate (sublingual) Tablets containing 2.5 mg of the drug per tablet; Lederle.

45. ANDA 86–862; Isosorbide Dinitrate (sublingual) Tablets containing 10 mg of the drug per tablet; Lederle.

46. ANDA 86–891; Nitroglycerin (sustained release) Capsules containing 2.5 mg of the drug per capsule; Lederle.

47. ANDA 86–894; Nitroglycerin (sustained release) Capsules containing 6.5 mg of the drug per capsule; Lederle.

48. ANDA 86–908; Dipyridamole Tablets containing 25 mg of the drug per tablet; Lemmon Co., P.O. Box 30, Sellersville, PA 18960 (formerly held by Premo Pharmaceutical Laboratories, Inc.).

49. ANDA 86–922; Isosorbide Dinitrate (sublingual) Tablets containing 5 mg of the drug per tablet; Par Pharmaceutical, Inc., 12 Industrial Ave., Upper Saddle River, NJ 07458.

50. ANDA 86–923; Isosorbide Dinitrate Tablets containing 5 mg of the drug per tablet; Par Pharmacuetical, Inc.

51. ANDA 86–924; Isosorbide Dinitrate (sublingual) Tablets containing 5 mg of the drug per tablet; Par Pharmaceutical, Inc.

52. ANDA 86–925; Isosorbide Dinitrate (sublingual) Tablets containing 10 mg of the drug per tablet; Par Pharmaceutical, Inc.

53. ANDA 86–944; Dipyridamole Tablets containing 25 mg of the drug per tablet; Cord Laboratories, Inc., 2555 West Midway Blvd., Broomfield, CO 80020.

54. ANDA 86–981; Dipyridamole Tablets containing 25 mg of the drug per tablet; Bolar.

55. ANDA 87-008; Dipyridamole Tablets containing 25 mg of the drug per tablet; Zenith.

56. ANDA 87-039; Dipyridamole Tablets containing 25 mg of the drug per tablet; Chelsea.

57. ANDA 87-094; Dipyridamole Tablets containing 25 mg of the drug per tablet; Par Pharmaceutical, Inc.

58. ANDA 87-184; Dipyridamole Tablets containing 25 mg of the drug per tablet; Barr.

Approval of the following new drug applications had already been withdrawn on the ground of failure to submit required reports under section 505(j) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(j)). At the time the notices withdrawing approval were published, no conclusions concerning the products' effectiveness had been reached. Although final conclusions about effectiveness are deferred until all studies have been reviewed, these products are included in this notice because they, too, did not meet the conditions of the exemption notice. This notice offers the applicants an opportunity to request a hearing concerning all issues relating to the legal status of the products.

1. NDA 12-529; Metranil Duracap containing pentaerythritol tetranitrate; Meyer Laboratories, Inc., 1900 West Commercial Blvd., Ft. Lauderdale, FL 33309.

2. NDA 16-436; Vasitol Tablets containing pentaerythritol tetranitrate; Rowell Laboratories, 210 Main St. West, Baudette, MN 56623.

3. NDA 16-498; Pentaerythritol Tetranitrate Tablets, Arnar-Stone Laboratories, Inc., 601 East Kensington Rd., Mount Prospect, IL 60056.

4. NDA 16-855; Pentaerythritol Tetranitrate Tablets, Philips Roxane Laboratories.

On the basis of all of the data and information available to him, the Director of the Bureau of Drugs is unaware of any adequate and well-controlled clinical investigation, conducted by experts qualified by scientific training and experience, meeting the requirements of section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) and 21 CFR 314.111(a)(5), demonstrating the effectiveness of these drugs that are not in compliance with the conditions established for continued marketing.

Therefore, notice is given to the holders of the new drug applications listed above and to all other interested persons that the Director of the Bureau of Drugs proposes to issue an order under section 505(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(e)), withdrawing approval of the new drug applications and all amendments and supplements thereto on the ground that new information before him with respect to the drug products, evaluated together with the evidence available to him when the applications were approved, shows there is a lack of substantial evidence that the drug products will have the effect they purport or are represented to have under the conditions of use prescribed, recommended, or suggested in the labeling.

In addition to the holders of the new drug applications specifically named above, this notice of opportunity for hearing applies to all persons (except those in compliance with the terms of the exemption) who manufacture or distribute a drug product that is identical, related, or similar to a drug product named above, as defined in 21 CFR 310.6. It is the responsibility of every drug manufacturer or distributor to review this notice of opportunity for hearing to determine whether it covers any drug product that the person manufactures or distributes. Such person may request an opinion of the applicability of this notice to a specific drug product by writing to the Division of Drug Labeling Compliance (address given above).

In addition to the ground(s) for the proposed withdrawal of approval stated above, this notice of opportunity for hearing encompasses all issues relating to the legal status of the drug products subject to it (including identical, related, or similar drug products as defined in 21 CFR 310.6) e.g., any contention that any such product is not a new drug because it is generally recognized as safe and effective within the meaning of section 201(p) of the act or because it is exempt from part or all of the new drug provisions of the act under the exemption for products marketed before June 25, 1938, contained in section 201(p) of the act, or under section 107(c) of the Drug Amendments of 1962 or for any other reason.

In accordance with section 505 of the act (21 U.S.C. 355) and the regulations promulgated thereunder (21 CFR Parts 310, 314), the applicants and all other persons subject to this notice under 21 CFR 310.6 are hereby given an opportunity for a hearing to show why approval of the new drug applications should not be withdrawn and an opportunity to raise, for administrative determination, all issues relating to the legal status of a drug product names above and of all identical, related or similar drug products.

An applicant or any other person subject to this notice under 21 CFR 310.6 who decides to seek a hearing shall file (1) on or before May 24, 1982, a written notice of appearance and request for hearing, and (2) on or before June 22, 1982, the data, information, and analyses relied on to justify a hearing, as specified in 21 CFR 314.200. Any other interested person may also submit comments on this notice. The procedures and requirements governing this notice of opportunity for hearing, a notice of appearance and request for hearing, a submission of data, information, and analyses to justify a hearing, other comments, and a grant or denial of hearing, are contained in 21 CFR 314.200.

The failure of an applicant or any other persons subject to this notice under 21 CFR 310.6 to file a timely written appearance and request for hearing as required by 21 CFR 314.200 constitutes an election by the person not to make use of the opportunity for a hearing concerning the action proposed with respect to the product and constitutes a waiver of any contentions concerning the legal status of any such drug product. Any such drug product may not thereafter lawfully be marketed, and the Food and Drug Administration will initiate appropriate regulatory action to remove such drug products from the market. Any new drug product marketed without an approved new drug application is subject to regulatory action at any time.

A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that there is a genuine and substantial issue of fact that requires a hearing. If it conclusively appears from the face of the data, information, and factual analyses in the request for the hearing that there is no genuine and substantial issue of fact that precludes the withdrawal of approval of the application, or when a request for hearing is not made in the required format or with the required analyses, the Commissioner of Food and Drugs will enter summary judgment against the person(s) who requests the hearing, making fimdings and conclusions, denying a hearing.

All submissions pursuant to this notice shall be filed in four copies. Such submissions, except for data and information prohibited from public disclosure under 21 U.S.C. 331(j) or 18 U.S.C. 1905, may be seen in the office of the Hearing Clerk between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (sec. 505, 52 Stat. 1052-1053, as amended (21 U.S.C. 355)), and under authority

delegated to the Director of the Bureau of Drugs (21 CFR 5.70, 5.82).

Dated: April 13, 1982.

J. Richard Crout,

Director, Bureau of Drugs.

[FR Doc. 82-11076 Filed 4-22-82; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 80N-0012; DESI Nos. 8884, 8924, 9049, 9405, 10367, 10826, 50168, 50234]

Prescription Topical Anti-Infective Drug Products; Drugs for Human Use; Drug Efficacy Study Implementation; Withdrawal of Approval of New Drug Applications

AGENCY: Food and Drug Administration (FDA).

ACTION: Notice.

SUMMARY: This notice withdraws approval of certain new drug applications for prescription topical anti-infective drug products for which FDA offered an opportunity for a hearing, but for which no hearing was requested. The drugs lack substantial evidence of effectiveness.

EFFECTIVE DATE: May 3, 1982.

ADDRESS: Requests for opinion of the applicability of this notice to a specific product should be directed to the Division of Drug Labeling Compliance (HFD-310), Bureau of Drugs, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Suzanne O'Shea, Bureau of Drugs (HFD-32), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3650.

SUPPLEMENTARY INFORMATION: In a notice of opportunity for hearing (NOOH) published in the Federal Register of September 25, 1981 (46 FR 47408), the Director of the Bureau of Drugs proposed to withdraw approval of the new drug applications (NDA's) of 112 prescription topical anti-infective drug products and offered an opportunity to request a hearing on the proposal. The basis of the proposal was that the products lack substantial evidence of effectiveness.

The NOOH listed two products erroneously. They are ophthalmic preparations and are not covered by the NOOH or by this notice.

1. NDA 50-368; sterile Ophthalmic Ointment, Ilotycin containing erythromycin; manufactured by Dista Products Co., Division of Eli Lilly & Co., P.O. Box 1407, Indianapolis, IN 46206.

2. NDA 50-378; NeoHydeltrasol Ophthalmic Ointment containing neomycin sulfate and prednisolone sodium phosphate; manufactured by Merck Sharp & Dohme Research Laboratories, Division of Merck & Co., Inc., West Point, PA 19101.

Products for Which No Hearing Was Requested

The manufacturers of 57 products did not request a hearing on their products. As stated in th NOOH, the failure to request a hearing constitutes an election not to make use of the opportunity for a hearing. Accordingly, approval is withdrawn from the NDA's listed below.

a. *Abbott Laboratories*, Abbott Park, 14th and Sheridan Rd., North Chicago, IL 60064.

NDA 50-184; Erythrocin Ointment containing erythromycin.

b. *American Pharmaceutical Co.*, P.O. Box 448, Passaic NJ 07055.

NDA 60-387; Neomycin Sulfate-Hydrocortisone Acetate Ointment.

c. *Biocraft Laboratories, Inc.*, 92 Route 46, East Paterson, NJ 07407.

NDA 60-920; Bacitracin-Neomycin Sulfate-Polymyxin B Sulfate-Hydrocortisone Acetate Ointment.

NDA 60-922; Neomycin Sulfate-Hydrocortisone Acetate Ointment; (0.5%, 1%, and 2.5%).

d. *Bryant Pharmaceutical Corp.*, 70 MacQueston Pkwy., South Mount Vernon, NY 10550.

NDA 60-205; Cortomycin Ointments (1% and 2.5%) containing neomycin sulfate and hydrocortisone.

e. *Burroughs-Wellcome & Co.*, 3030 Cornwallis Rd., Research Triangle Park, NC 27749.

NDA 50-175; Neosporin Lotion containing polymyxin B sulfate and neomycin sulfate.

f. *Dermik Laboratories*, 500 Virginia Dr., Fort Washington, PA 19034.

NDA 50-284; Neo-Hytone Cream containing hydrocortisone and neomycin sulfate.

g. *Dista Products Co.*, Division of Eli Lilly & Co., P.O. Box 618, Indianapolis, IN 46207.

NDA 50-164; Cordran-N Lotion containing neomycin sulfate and flurandrenolone.

h. *Doak Pharmacal Co., Inc.*, 700 Shames Dr., Westbury, L.I., NY 11590.

NDA 61-106; Neomycin Sulfate-Hydrocortisone Ointment.

i. *The Dow Chemical Co.*, P.O. Box 68511, Indianapolis, IN 46268.

NDA 60-335; Bacitracin-Neomycin Sulfate-Polymyxin B Sulfate-Hydrocortisone Acetate Ointment.

NDA 60-338, Neo-Polycin HC Ointment containing bacitracin zinc, neomycin sulfate, polymyxin B sulfate, and hydrocortisone.

j. *Ferndale Laboratories, Inc.*, 780 West Eight Mile Rd., Ferndale, MI 48220.

NDA 61-319; Neomycin Sulfate-Hydrocortisone Ointment.

k. *ICN Pharmaceuticals*, 222 N. Vincent Ave., Covina, CA 91722.

NDA 60-795; Bacitracin Zinc-Neomycin Sulfate-Polymyxin B Sulfate-Hydrocortisone Acetate Ointment.

NDA 61-299; Bacitracin-Neomycin Sulfate-Polymyxin B Sulfate-Hydrocortisone Acetate Ointment.

l. *Lederle Laboratories*, North Middletown Rd., Pearl River, NY 10965.

NDA 60-710; Neo-Aristocort Cream containing neomycin sulfate and triamcinolone acetonide.

NDA 61-064; Neo-Aristocort Ointment containing neomycin sulfate and triamcinolone acetonide.

NDA 61-065; Neo-Aristoderm Foam containing neomycin sulfate and triamcinolone acetonide.

m. *Merck Sharp & Dohme*, Division of Merck & Co., Inc., West Point, PA 19101.

NDA 10-116; Hydroment Lotion (listed as Hydromet in NOOH) containing neomycin sulfate and hydorcortisone.

NDA 10-990; Neo-Hydeltrasol Lotion containing neomycin sulfate and prednisolone sodium phosphate.

NDA 11-124; NeoHydeltrasol Topical Ointment (listed as NDA 50-378 NeoHydeltrasol Ointment in HOOH), containing neomycin sulfate and prednisolone sodium phosphate.

NDA 13-539; Decaderm N Cream (listed as Neo-Decadron Cream in NOOH) containing neomycin sulfate and dexamethasone sodium phosphate.

NDA 50-325; Neo-Decaspray Aerosol containing neomycin sulfate and dexamethasone.

NDA 60-295; Hydroderm Ointment containing hydrocortisone, neomycin sulfate, and bacitracin zinc.

n. *Miles Pharmaceuticals*, Division of Miles Laboratories, Inc., 400 Morgan Ln., West Haven, CT 06516.

NDA 10-822; Cor-Tar-Quin Cream (0.5% and 1%) containing coal tar solution, diiodohydroxyquin, and hydrocortisone.

NDA 11-207; Cor-Tar-Quin Lotion (0.5% and 1%) containing coal tar solution, diiodohydroxyquin, and hydrocortisone.

NDA 50-234; Nystaform-HC Ointment containing hydrocortisone, nystatin, and iodochlorhydroxyquin.

NDA 50-236; Nystaform-HC Lotion containing hydrocortisone, nystatin, and iodochlorhydroxyquin.

NDA 50-242; Neo-Nysta-Cort Ointment containing hydrocortisone, neomycin sulfate, and nystatin.

NDA 50-243; Neo-Domeform-HC Creme containing hydrocortisone, neomycin sulfate, and iodochlorhydroxyquin.

NDA 50–244; Nysta-Cort Lotion containing hydrocortisone and nystatin.

o. *Penwalt Corp.*, Pharmaceutical Division, P.O. Box 1710, Rochester, NY 14603.

NDA 10–959; Caldecort Ointment containing calcium undecylenate 3% and hydrocortisone acetate 1%.

NDA 60–651; Caldecort Ointment containing neomycin sulfate, hydrocortisone acetate, and calcium undecylenate.

p. *Pfizer Laboratories*, Division of Charles Pfizer & Co., Inc. 235 East 42d St., New York, NY 10017.

NDA 10–697; Neo-Magnacort Ointment containing neomycin sulfate and hydrocortamate hydrochloride.

NDA 60–632; Terra-Cortril Topical Aerosol containing oxytetracycline hydrochloride, ploymyxin B sulfate, and hydrocortisone.

q. *Reed & Carnrick*, 30 Boright Ave., Kenilworth, NJ 07033.

NDA 10–826; Neo-Tarcortin Ointment containing neomycin sulfate, hydrocortisone, and coal tar extract.

r. *Schering Corp.*, Galloping Hill Road, Kenilworth, NJ 07033.

NDA 12–303; Neo-Diloderm Cream containing neomycin sulfate and dichlorisone.

NDA 50–187; Meti-Derm with Neomycin Aerosol containing neomycin sulfate and prednisolone.

NDA 50–340; Celestone Cream with Neomycin containing neomycin sulfate and betamethasone.

NDA 50–361; Meti-Derm with Neomycin Ointment containing neomycin sulfate and prednisolone.

s. *Schieffelin & Co.*, 562 Fifth Ave., New York, NY 10036.

NDA 50–373; Neo-Resulin-F Cream containing hydrocortisone, neomcyin sulfate, resorcinol monoacetate, and sulfur.

t. *Schlicksup Drug Co., Inc.*, 420–22 Southwest Washington St., Peoria, IL 61602.

NDA 60–410; Nycin-HC Ointment containing neomycin sulfate and hydrocortisone.

u. *E. R. Squibb & Sons, Inc.*, P.O. Box 191, New Brunswick, NJ 08903.

NDA 9–554; Florinef-S Lotion (listed as Florinef Lotion in NOOH) containing neomycin sulfate, gramicidin, and fludrocortisone acetate.

NDA 60–650; Myconef Ointment containing nystatin, neomycin sulfate, gramicidin, and fludrocortisone acetate.

NDA 60–928; Kenalog-S Cream containing neomycin sulfate, gramicidin and triamcinolone acetonide.

NDA 60–929; Kenalog-S Lotion containing neomycin sulfate, gramicidin, and triamcinolone acetonide.

NDA 60–935; Kenalog-S Ointment containing neomycin sulfate, gramicidin, and triamcinolone acetate.

v. *The Ulmer Pharmacal Co.*, Division of Physicians and Hospitals Supply Co., 2440 Fernbrook Ln., Minneapolis, MN 55441.

NDA 12–454; Neomycin Sulfate-Hydrocortamate Hydrochloride Ointment.

w. *The Upjohn Co.*, 7171 Portage Rd., Kalamazoo MI 49001.

NDA 8–945; Erythromycin Ointment containing erythromycin.

NDA 61–038; Neo-Delta-Cortef Lotion containing neomycin sulfate and prednisolone acetate.

x. *Warner-Chilcott Laboratories*, Division Warner-Lambert Co., 201 Tabor Rd., P.O. Box W, Morris Plains, NJ 07950.

NDA 50–350; Amphocortrin Cream containing calcium amphomycin, neomycin sulfate, and hydrocortisone acetate.

Any drug products that are identical, related, or similar to these products and are not the subject of an approved NDA are covered by the NDA's listed above, and are subject to this notice. Any person who wishes to determine whether a specific product is covered by this notice should write to the Division of Drug Labeling Compliance at the address given above.

The Director of the Bureau of Drugs, under the Federal Food, Drug, and Cosmetic Act (sec. 505, 52 Stat. 1052–1053, as amended (21 U.S.C. 355)), and under authority delegated to him (21 CFR 5.82) finds that, on the basis of new information before him with respect to the products, evaluated together with the evidence available to him when the applications listed above were approved, there is a lack of substantial evidence that the drug products will have the effects they purport or are represented to have under the conditions of use prescribed, recommended, or suggested in their labeling. Therefore, pursuant to this finding, approval of the NDA's listed above and all amendments and supplements applying to them is withdrawn effective May 3, 1982. Shipment in interstate commerce of the above products or of any identical, related, or similar product that is not the subject of an approved new drug application will then be unlawful.

No hearing was requested for the following products also named in the NOOH. The products are not the subject of new drug applications, and may no longer be marketed. Both products are manufactured by Dermik Laboratories.

Ze-Tar-Quin Cream (no NDA) containing diiodohydroxyquin, coal tar, and hydrocortisone.

Zetone Cream (no NDA) containing coal tar and hydrocortisone.

Many of the antibiotic drug products listed above were originally certified or released under section 507 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 357). However, in the **Federal Register** of October 28, 1980 (45 FR 71354), FDA amended the antibiotic regulations to exempt dermatologic drug products from certification requirements. Antibiotics exempted from batch certification are considered new drugs subject to the requirements of section 505 of the act (21 U.S.C. 355).

The NOOH stated that FDA would maintain the certification regulations in the Code of Federal Regulations as public standards until the effectiveness of all products formerly certified under them is finally resolved. A **Federal Register** notice will be published in the near future to revoke the regulations under which the products listed above were formerly certified, if there are no other approved products (i.e., products for which a hearing was requested) to which the regulations pertain.

Products for Which a Hearing Was Requested.

The manufacturers of 53 products listed in the NOOH requested hearings. The products, which are listed below, may be marketed pending a final determination of their effectiveness.

a. *Ambix Laboratories*, Division of Organic Corporation of America, 1615 East 51st St., North Bergen, NJ 07047.

NDA 61–154; Neomycin Sulfate-Hydrocortisone Acetate Ointment.

b. *Burroughs-Wellcome Co.*

NDA 50–166; Neosporin Topical Powder containing bacitracin zinc, neomycin sulfate, and polymyxin B sulfate.

NDA 50–167; Neosporin Aerosol containing bacitracin zinc, neomycin sulfate, and polymyxin B sulfate.

NDA 50–168; Cortisporin Ointment containing bacitracin zinc, neomycin sulfate, polymyxin B sulfate, and hydrocortisone.

NDA 50–176; Neosporin–G Cream containing polymyxin B sulfate, neomycin sulfate, and gramicidin.

NDA 50–218; Cortisporin Cream containing hydrocortisone, neomycin sulfate, polymyxin B sulfate, and gramicidin.

c. *Byk-Gulden, Inc.*, P.O. Box 730, Hicksville, NY 11802.

Iodochlorhydroxyquin with Hydrocortisone Cream (no NDA).

NDA 60–202; Neomycin Sulfate Hydrocortisone Ointment (1% and 2.5%); Kasco-Efco Laboratories, Inc., Division of Byk-Gulden, Inc.

NDA 60–315; Neomycin Sulfate Hydrocortisone Ointment (0.5%, 1%, and 2.5%).

NDA 60–319; Hydrocortisone-Neomycin Cream (0.5% and 1%) containing hydrocortisone acetate and neomycin sulfate.

NDA 62–135; Nystatin-Neomycin Sulfate-Gramicidin-Triamcinolone Acetonide Ointment.

NDA 62–136; Nystatin-Neomcyin Sulfate-Gramicidin-Triamcinolone Acetonide Cream.

NDA 60–215; Bacitracin-Neomycin Sulfate-Polymyxin B Sulfate-Hydrocortisone Acetate Ointment.

d. *Ciba-Geigy Corp.*, 566 Morris Ave., Summit, NJ 07901.

NDA 10–412; Vioform-Hydrocortisone Cream and Ointment and Vioform-HC Mild Cream and Ointment containing iodochlorhydroxyquin and hydrocortisone.

e. *Clay-Park Laboratories, Inc.*, 3339 Park Ave., Bronx, NY 10456.

NDA 62–104; Neomycin Sulfate-Hydrocortisone Ointment.

NDA 62–186; Tri-Statin Topical Cream containing nystatin, neomycin sulfate, gramicidin, and triamcinolone acetonide.

NDA 62–280; Nystatin-Neomycin Sulfate-Gramicidin-Triamcinolone Acetonide Ointment.

f. *Dermik Laboratories.*

Vytone Cream (no NDA) containing diiodohydroxyquin with hydrocortisone.

g. *Dista Products Co.*

NDA 50–345; Cordran-N Ointment containing neomycin sulfate and flurandrenolide.

NDA 50–346; Cordran-N Cream containing neomycin sulfate and flurandrenolide.

NDA 60–646; Ilotycin No. 90 Ointment containing erythromycin.

h. *Lemmon Pharmacal Co.*, P.O. Box 30, Sellersville, PA 18960.

Racet Cream (0.5% and 1%) (no NDA) containing iodochlorhydroxyquin and hydrocortisone.

Racet LCD Cream (no NDA—not listed in NOOH) containing iodochlorhydroxyquin, hydrocortisone, and coal tar solution.

i. *Merck Sharp and Dohme.*

NDA 50–323; NeoDecadron Cream containing neomycin sulfate and dexamethasone sodium phosphate.

j. *Miles Pharmaceuticals.*

NDA 50–237; Neo-Cort-Dome Creme (0.5% and 1%) containing hydrocortisone and neomycin sulfate.

NDA 50–307; Neo-Cort-Dome Lotion (0.5% and 1%) containing neomycin sulfate and hydrocortisone.

Iodochlorhydroxyquin and Hydrocortisone Cream and Ointment (no NDA—not listed in NOH).

k. *Pfizer Laboratories*

NDA 61–011; Terra-Cortril Topical Ointment containing oxytetracycline hydrochloride and hydrocortisone.

l. *Premo Pharmaceutical Laboratories, Inc.*, 111 Leunig St., South Hackensack, NJ 07606.

NDA 60–904; Neomycin Sulfate-Hydrocortisone Ointment.

NDA 61–954; Myco Triacet Cream containing nystatin, neomcyin sulfate, gramicidin, and triamcinolone acetonide.

NDA 62–045; Myco Triacet Ointment containing nystatin, neomcyin sulfate, gramicidin, and triamcinolone acetonide.

m. *E. R. Squibb & Sons.*

NDA 60–572; Mycolog Ointment containing nystatin, neomycin sulfate, gramicidin, and triamcinolone acetonide.

NDA 60–576; Mycolog Cream containing nystatin, neomycin sulfate, gramicidin, and triamcinolone acetonide.

n. *Syntex Laboratories, Inc.*, 3401 Hillview Ave., Palo Alto, CA 94304.

NDA 60–700; Neo-Synalar Cream containing neomycin sulfate and fluocinolone acetonide.

o. *The Upjohn Co.*

NDA 50–374; Neo-Cortef Lotion containing neomycin sulfate and hydrocortisone acetate.

NDA 60–480; Neo-Oxylone Ointment containing neomycin sulfate and fluorametholone.

NDA 60–611; Neo-Medrol Acetate (.25% and 1%) containing neomycin sulfate and methylprednisolone acetate.

NDA 60–751; Neo-Cortef Ointment (0.5%, 1%, and 2.5%) containing neomycin sulfate and hydrocortisone acetate.

NDA 61–036; Neo-Delta-Cortef Ointment containing neomycin sulfate and prednisolone acetate.

NDA 61–049; Neo-Cortef Cream (1% and 2.5%) containing neomycin sulfate and hydrocortisone acetate.

Requests for hearings were also submitted by manufacturers of products for which there are no NDA's and which were not listed in the NOOH. These requests were received from:

1. Hyrex Pharmaceuticals, P.O. Box 18355, Memphis, TN 38118.

2. Mallard, Inc., 3021 Wabash Ave., Detroit, MI 48216.

3. Marnel Pharmaceuticals, Inc., 206 Luke Dr., Lafayette, LA 70506.

4. Mayrand, Inc., 4 Dundas Cir., P.O. Box 20426, Greensboro, NC 27420.

5. NMC Laboratories, Inc., 70–32 83rd St., Glendale, NY 11385.

6. Reid-Provident Laboratories, Inc., 25 Fifth St., N.W. Atlanta, GA 30308.

7. Saron Pharmacal, P.O. Box 25436, Tampa, FL 33622.

8. UAD Laboratories, P.O. Box 794, 1400 Commerce St., Minden, LA 71055.

In addition, the American Academy of Dermatology and the National Pharmaceutical Alliance requested a hearing on topical anti-infective drug products generally, rather than on any specific drug product. Only NDA holders and manufacturers of identical, similar, or related drugs are entitled to request hearings on the products they manufacture, and to participate as parties in any evidentiary hearing that may be held. However, the agency's regulations specifically allow interested persons to submit comments in response to an NOOH (21 CFR 314.200(c)(3)). Thus, the agency may consider relevant data and information submitted by these two organizations in determining whether a hearing is justified and in the event a hearing is held on a particular product.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (sec. 505, 52 Stat. 1050–1053 as amended (21 U.S.C. 355)) and under authority delegated to the Director of the Bureau of Drugs (21 CFR 5.82).

Dated: March 19, 1982.

J. Richard Crout,

Director, Bureau of Drugs,

[FR Doc. 82–11075 Filed 4–22–82; 8:45 am]

BILLING CODE 4160–01–M

Public Health Service

Assistant Secretary for Health; General Powers and Duties Under Title III of the Public Health Service Act; Delegation of Authority

Notice is hereby given that in furtherance of the delegation of January 14, 1981 (46 FR 10016) by the Secretary of Health and Human Services to the Assistant Secretary for Health, the Assistant Secretary for Health has delegated to the Administrator, Health Services Administration, with authority to redelegate, the following authorities delegated to the Assistant Secretary for Health under Title III of the Public Health Service Act (42 U.S.C. 241 *et seq.*), as amended, concerning General Powers and Duties pertaining to the functional responsibilities of the Health Services Administration.

Authority under section 301 (42 U.S.C. 241) relative to research, investigation, and testing functions;

Authority under section 311 (42 U.S.C. 243) concerning Federal-State cooperation;

Authority under section 320 (42 U.S.C. 255) concerning receipt, apprehension, retention, treatment, and release of lepers;
Authority under section 321 (42 U.S.C. 248) relative to hospitals;
Authority under section 322 (42 U.S.C. 249) relative to the care and treatment of persons under quarantine and other persons except 322(e) as it relates to providing mental health care for the Haitian/Cuban Initiative insofar as the authority applies to the functional responsibility assigned to the Alcohol, Drug Abuse, and Mental Health Administration;
Authority under section 323 (42 U.S.C. 250) concerning the care and treatment of Federal prisoners;
Authority under section 324 (42 U.S.C. 251) concerning the examination and treatment of Federal employees;
Authority under section 325 (42 U.S.C. 252) concerning the examination of aliens;
Authority under section 326 (42 U.S.C. 253) concerning services to Coast Guard, Coast and Geodetic Survey, and Public Health Service;
Authority under section 327 (42 U.S.C. 254) concerning interdepartmental work;
Authority under section 327A (42 U.S.C. 254a) as it pertains to the sharing of medical care facilities and resources under the jurisdiction of the Administrator, Health Services Administration;
Authority under section 328 (42 U.S.C. 254a–1) relative to hospital affiliated primary care centers;
Authority under section 329 (42 U.S.C. 247d) relative to Migrant Health Centers;
Authority under section 330 (42 U.S.C. 254c) relative to Community Health Centers;
Authority under section 331 (42 U.S.C. 254d) relative to the National Health Service Corps;
Authority under section 332h (42 U.S.C. 254e(h)) relative to information programs pertinent to the designation of health manpower shortage areas;
Authority under section 333 (42 U.S.C. 254f) relative to the asssignment of corps personnel to provide health services in or to a health manpower shortage area;
Authority under section 334 (42 U.S.C. 254g) relative to cost sharing factors regarding the National Health Service Corps Program;
Authority under section 335 (42 U.S.C. 254h) as it pertains to the provision of health services by Corps members;
Authority under section 338A (42 U.S.C. 294t) relative to the National Health Service Corps Scholarship Program;
Authority under section 338B (42 U.S.C. 294u) concerning obligated service of an individual as a member of the National Health Service Corps;
Authority under section 338C (42 U.S.C. 294v) concerning release from Corps service obligation to enter into private practice;
Authority under section 338D (42 U.S.C. 294w) to take action relative to an individual's breach of Corps scholarship contract;
Authority under section 338E (42 U.S.C. 294x) concerning special loans for former Corps members to enter private practice;
Authority under section 338G (42 U.S.C. 294y–1) concerning the Indian Health Scholarship Program;
Authority under section 340 (42 U.S.C. 256) relative to Primary Care Research and Demonstration Projects subject to the limitations set forth in section 340(c)(1) and section 340(g)(4) of the Public Health Service Act; and
Authority under section 340A (42 U.S.C. 256a) concerning Technical Assistance Demonstration Grants and Contracts.

The following delegations to the Administrator, Health Services Administration, as they pertain to authorities administered by the Health Services Administration under Title III of the Public Health Service Act, have been superseded:

(1) The July 1, 1973 delegation (38 FR 18260) by the Assistant Secretary for Health as it pertains to the authorities herein delegated;

(2) The July 24, 1979 delegation (44 FR 45759) by the Assistant Secretary for Health insofar as it relates to section 301

(3) The November 23, 1979 delegation (44 FR 70571) by the Assistant Secretary for Health as it relates to section 317(a)(1);

(4) The October 8, 1980 delegation (45 FR 74064–74065) by the Assistant Secretary for Health as it relates to section 322;

(5) The September 24, 1980 delegation (45 FR 65679–65680) by the Assistant Secretary for Health as it relates to section 327A;

(6) The August 20, 1980 delegation (45 FR 63359–63360) by the Assistant Secretary for Health as it relates to section 328;

(7) The April 2, 1980 delegation (45 FR 27017–27018) by the Assistant Secretary for Health as it relates to section 329;

(8) The August 27, 1980 delegation (45 FR 65678) by the Acting Assistant Secretary for Health as it relates to section 330;

(9) The June 20, 1977 delegation (42 FR 36311–36312) by the Assistant Secretary for Health as it relates to sections 331–335;

(10) The November 13, 1979 delegation (44 FR 69732) by the Assistant Secretary for Health as it relates to section 339;

(11) The August 22, 1980 delegation (45 FR 65678–65679) by the Assistant Secretary for Health as it relates to section 340;

(12) The September 29, 1980 delegation (45 FR 80908–80909) by the Assistant Secretary for Health as it relates to section 340A; and

(13) The March 27, 1981 delegation (46 FR 21699–21700) by the Acting Assistant Secretary for Health as it relates to Part C, Subpart IV, Title VII of the Public Health Service Act.

Provision has been made for previous delegations and redelegations made to other officials within the Health Services Administration under Title III of the Public Health Service Act to continue in effect pending durther redelegation provided they are consistent with the delegation to the Administrator, Health Services Administration.

The delegation to the Administrator, Health Services Administration, became effective April 12, 1982.

Dated: April 12, 1982.

E. N. Brandt, Jr.,

Assistant Secretary for Health.

[FR Doc. 82-11120 Filed 4-22-82; 8:45 am]

BILLING CODE 4160-16-M

Office of the Secretary

Agency Forms Submitted to the Office of Management and Budget for Clearance

Each Friday the Department of Health and Human Services (HHS) publishes a list of information collection packages it has submitted to the Office of Management and Budget (OMB) for clearance in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). The following are those packages submitted to OMB since the last list was published by that office.

Public Health Service

National Institutes of Health

Subject: NIH Fellowship Health Insurance Plan Forms—NEW
Respondents: Individuals or households

Health Services Administration

Subject: National Health Service Corps Site Selection Questionnaire for Physicians and Dentists—NEW
Respondents: NHSC scholarship recipients OMB Desk Officer: Fay S. Iudicello

Health Care Financing Administration

Subject: Preclearance of Proposed Contract to Assess Making Services of Clinical Social Workers Available Under Social Security Act Title XVIII—NEW
Respondents: Individuals or households/businesses
Subject: Licensure Forms for the Clinical Laboratories Improvement ACT—REVISION
Respondents: Businesses
OMB Desk Officer: Fay S. Iudicello

Social Security Administration

Subject: Current Version of Statement for Determining Continuing Eligibility for Supplemental Security Income Payments (SSA–8200–F4 (5–80))—EXTENSION
Respondents: Individuals or households
Subject: Proposed New Version of Statement for Determining Continuing Eligibility for Supplemental Security Income Payments (SSA–8200–BK (Test))—NEW
Respondents: Individuals or households
OMB Desk Officer: Richard Eisinger

Office of the Secretary

Subject: Instructions for Applying for Grants from the Office of Community Services Programs
Respondents: State or local governments/businesses or other institutions
OMB Desk Officer: Gwendolyn Pla

Copies of the above information collection clearance packages can be obtained by calling the HHS Reports Clearance Officer on 202–245–6511.

Written comments and recommendations for the proposed information collections should be sent directly to both the HHS Reports Clearance Officer and the appropriate OMB Desk Officer designated above at the following addresses:

J. J. Strnad, HHS Reports Clearance Officer, Hubert H. Humphrey Building, Room 524.F, Washington, D.C. 20201
OMB Reports Management Branch, New Executive Office Building, Room 3208, Washington, D.C. 20503; Attn: (name of OMB Desk Officer).

Dated: April 16, 1982.

Dale W. Sopper,

Assistant Secretary for Management and Budget.

[FR Doc. 82–11005 Filed 4–22–82; 8:45 am]

BILLING CODE 4150–04–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

National Petroleum Reserve—Alaska; Oil and Gas Lease Sale No. 822; Notice of Sale; Correction

In the **Federal Register** Document 82–9716, Friday, April 9, 1982, the following corrected legal descriptions are made on pages 15519, 15521, and 15524 to read:

Tract No.	Township/range	Acreage
	Umiat Meridian	
822–69	T. 3 N., R. 24 W., Secs. 1 to 18, inclusive	11,393
70	T. 3 N., R. 25 W., Secs. 1 to 18, inclusive	11,393
71	T. 3., R. 26 W., Secs. 1 to 18, inclusive	11,393
140	T. 2S., R. 16 W., Secs. 22 to 27, inclusive; Secs. 34 to 36, inclusive	5,760
212	T. 12S., R. 24., Umiat Meridian, Secs. 1 to 30, inclusive; T. 12S., R. 25 W., Umiat Meridian, Secs. 1 to 3, inclusive; Secs. 10 to 15, inclusive; Secs. 22 to 27, inclusive; T. 34 N., R. 6E., Kateel River Meridian, Secs. 7 to 18, inclusive; T. 34 N., R 5 E., Kateel River Meridian, Secs. 10 to 15, inclusive, excluding those lands outside the National Petroleum Reserve in Alaska boundary	40,220

On page 15524, approximate aggregate total should be changed to read 3,527,155 acres.

James M. Parker,

Associate Director.

April 20, 1982.

[FR Doc. 82–11087 Filed 4–22–82; 8:45 am]

BILLING CODE 4310–84–M

[F–14879–A]

Alaska Native Claims Selection

Correction

In FR Doc. 82–8756 appearing at page 13899 in the issue for Thursday, April 1, 1982, please make the following corrections:

(1) On page 13899, in the middle column, in the first complete paragraph, in the tenth line, "convenience" should have been "conveyance".

(2) On page 13899, in the third column, in the land description beginning "T 27 S., R. 27 W", the last line reading "Containing approximately 8.735 acres." should have read "Containing approximately 8,735 acres.".

(3) On page 13899, in the third column, under *"Kateel River Meridian, Alaska (Unsurveyed)"*, in the fifth line, "F–1837" should have read "F–18737".

(4) On page 13900, in the middle column, in the land description for "T. 27 S., R. 26 W." the first line reading "Sec. 24" should be deleted. The second line should be corrected by inserting "24" between "Sec." and "(fractional)".

(5) On page 13900, in the middle column, the land description beginning "T. 26 and S., R. 26 W." should have begun "T. 28 S., R. 26 W.".

(6) On page 13900, in the middle column, near the bottom of the column, the land description beginning "T. 29 S., R. 25 W." should have begun "T. 29 S., R. 26 W.".

(7) On page 13900, in the third column, the seventh line from the top of the column should have read "T. 29 S., R. 27 W.".

(8) On page 13900, in the third column, in the third line from the bottom of the column, "adjustication" should have been "adjudication".

(9) On page 13901, in the first column, in the tenth line, the last two words should have been "United States".

BILLING CODE 1505–01–M

[F–14948–A]

Alaska Native Claims Selection

Correction

In FR Doc. 82–8759 appearing at page 13905 in the issue for Thursday, April 1, 1982, please make the following corrections:

(1) On page 13906, in the middle column, paragraph "b." should have been designated as paragraph "a." and the paragraph "a." which follows should have been designated "b.".

(2) In the correctly designated paragraph a., in the sixth line, "northwesterly" should have been "northeasterly".

(3) In the correctly designated paragraph b., in the third line, please insert "the village of" immediately before "Toksook Bay".

(4) Also in the correctly designated paragraph b., in the fifth line, "northeasterly" should have been "northwesterly".

BILLING CODE 1505–01–M

Alaska; Notice of Office Hours

Alaska; Notice of Office Hours. The Bureau of Land Management Alaska State Office, 701 "C" Street, Box 13, Anchorage, Alaska, 99513, is open to the public for the filing of applications and other documents and inspection of records on Monday through Friday during the regular business hours of 7:30 a.m. to 4:15 p.m.; the Fairbanks District Office, North Post, Fort Wainwright, Box 1150, Fairbanks, Alaska 99707, is open from 7:45 a.m. to 4:30 p.m. with the exception of those days when the offices may be closed because of a National

holiday or by Presidential or other administrative order.

Curtis V. McVee,

State Director.

[FR Doc. 82-11089 Filed 4-22-82; 8:45 am]

BILLING CODE 4310-84-M

[W-72270]

Conveyance of Public Land: Sublette County, Wyoming

April 13, 1982.

Notice is hereby given that pursuant to Sec. 203 of the Act of October 21, 1976 (90 Stat. 2743; 43 U.S.C. 1713), White Acorn Sheep Company has purchased by noncompetitive sale public land in Sublette County, Wyoming, described as:

Sixth Principal Meridian

T. 30 N., R. 103 W.,
Sec. 34, E½NE¼SW¼NE¼.
Containing 5.0 acres.

The purpose of this notice is to inform the public and interested state and local governmental officials of the issuance of the conveyance document to White Acorn Sheep Company.

Harold G. Stinchcomb,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 82-11088 Filed 4-22-82; 8:45 am]

BILLING CODE 4310-84-M

National Park Service

National Register of Historic Places; Notification of Pending Nominations

Nomination for the following property being considered for listing in the National Register was received by the National Park Service before April 16, 1982. Waiver of the 15-day public commenting period following this publication is necessary for the Mississippi nomination listed below in order for listing to be accomplished before April 29, 1982, the beginning of a festival calebrating the cultural heritage of Greenville, Mississippi. Waiver of the public commenting period will allow timely listing which is necessary to assist in the preservation of this property.

Carol D. Shull,

Acting Keeper of the National Register.

MISSISSIPPI

Washington County

Greenville, *Finlay House,* 137 N. Poplar St.

[FR Doc. 82-11313 Filed 4-22-82; 8:45 am]

BILLING CODE 4310-70-M

INTERSTATE COMMERCE COMMISSION

Motor Carriers; Intent To Engage in Compensated Intercorporate Hauling Operations

This is to provide notice as required by 49 U.S.C. 10524(b)(1) that the named corporations intend to provide or use compensated intercorporate hauling operations as authorized in 49 U.S.C. 10524(b). (1) Name and address of parent corporation or organization: CERTIFIED OIL COMPANY (An Ohio Corporation), 303 South Front St., Columbus, OH 43215. (2) Wholly-owned subsidiaries and affiliates: (All companies are based at Columbus, OH. All are Ohio corporations, unless otherwise noted.) (a) Certified Gasoline Company (A Partnership); (b) Certified Oil Company—Southwest; (c) Certified Oil Corporation; (d) Certified Oil Co.—Northwest ;(e) Certified Sales Co.; (f) Certified Transport Company; (g) Certified Oil Company—South; (h) Certified Oil Company—Southeast (i) Certified Oil Company—Northeast; (j) Certified of Charleston, Inc. (A West Virginia Corporation); (k) Baker, Inc.; (l) Certified Distributing Company (A Partnership); (m) Douglass Oil Company (A Kentucky Corporation); (n) Certified Oil Company—North; (o) Certified Refining Company; (p) X-Tra Oil Company. (1) Parent Corporation: THE DUCHOSSOIS/THRALL GROUP, INC., P.O. Box 218, Chicago Heights, IL 60411. (2) Wholly-owned subsidiaries and State of incorporation: Thrall Car Manufacturing Company (Delaware); Chamberlain Manufacturing Corporation (Iowa); Chamberlain-Featherlite Inc. (Delaware); Western Stoneware Company (Illinois). (1) Parent Corporation and address of principal office: EATON CORPORATION, 100 Erieview Plaza, Cleveland, OH 44114. (2) Wholly-owned subsidiaries which will participate in the operations: (a) Eaton Yale Ltd., P.O. Box 160, Woodstock, Ontario, Canada N4S 7X1 (Incorporation, Date—3/31/70, Ontario); (b) Eaton-Kenway, Inc., 100 Erieview Plaza, Cleveland, OH 44114. (Incorporation, Date—8/22/77, Ohio). (1) Parent corporation and address of principal office: ENDICOTT JOHNSON CORPORATION, 1100 East Main Street, Endicott, NY 13760. (2) Wholly-owned subsidiaries which will participate in the operations, and states of incorporation: (a) Endicott Johnson Shoe Co. (Delaware); (b) Father & Son Shoe Co. (Delaware); (c) Lehigh Safety Shoe Co. (Delaware); (d) Nobil Shoe Co. (Delaware); (e) Nosco Shoe Co. (Delaware); (f) Trent Shoe Co. (Delaware); (g) Trimfoot Co. (Delaware). (1) Parent corporation and address of principal office: GENUINE PARTS COMPANY, 2999 Circle 75 Parkway, Atlanta, Georgia 30339 and GENUINE PARTS COMPANY dba: NAPA Distribution Center, Albany, New York; NAPA Distribution Center, Albuquerque, New Mexico; NAPA Distribution Center, Atlanta, Georgia; NAPA Distribution Center, Birmingham, Alabama; NAPA Distribution Center, Boston, Massachusetts; NAPA Distribution Center, Buffalo, New York; NAPA Distribution Center, Carrollton, Ohio; NAPA Distribution Center, Charleston, West Virginia; NAPA Distribution Center, Charlotte, North Carolina; NAPA Distribution Center, Cincinnati, Ohio; NAPA Distribution Center, Cleveland, Ohio; NAPA Distribution Center, Columbus, Ohio; NAPA Distribution Center, Middletown, Connecticut; NAPA Distribution Center, Denver, Colorado; NAPA Distribution Center, Fresno, California; NAPA Distribution Center, High Point, North Carolina; NAPA Distribution Center, Jackson, Mississippi; NAPA Distribution Center, Jacksonville, Florida; NAPA Distribution Center, Little Rock, Arkansas; NAPA Distribution Center, Los Angeles, California; NAPA Distribution Center, Memphis, Tennessee; NAPA Distribution Center, Miami, Florida; NAPA Distribution Center, Minneapolis, Minnesota; NAPA Distribution Center, Morgan Hill, California; NAPA Distribution Center, New Orleans, Louisiana; NAPA Distribution Center, South Plainfield, New Jersey; NAPA Distribution Center, Omaha, Nebraska; NAPA Distribution Center, Owatonna, Minnesota; NAPA Distribution Center, Phoenix, Arizona; NAPA Distribution Center, Portland, Oregon; NAPA Distribution Center, Richmond, Virginia; NAPA Distribution Center, Roanoke, Virginia; NAPA Distribution Center, Sacramento, California; NAPA Distribution Center, Salt Lake City, Utah; NAPA Distribution Center, San Diego, California; NAPA Distribution Center, Seattle, Washington; NAPA Distribution Center, Spokane, Washington; NAPA Distribution Center, Sylvester, Georgia; NAPA Distribution Center, Syracuse, New York; NAPA Distribution Center, Tampa, Florida; The Automotive Parts Co., Charleston, West Virginia; The Automotive Parts Company, Cincinnati, Ohio; The Automotiye Parts Company, Columbus, Ohio; Beck & Gregg Industries, Atlanta, Georgia; Clarke Siviter, St. Petersburg, Florida; Odell Hardware Company, Greensboro, North Carolina; S. B. Hubbard, Jacksonville,

Florida; Rayloc-Atlanta, Atlanta, Georgia; Rayloc-Hancock, Hancock, Maryland; Rayloc-Memphis, Memphis, Tennessee; Rayloc-Payson, Payson, Utah; Rayloc-R.M.D.S., Atlanta, Georgia. (2) List the wholly-owned subsidiaries that will participate in the operations and the address of their respective principal offices: (a) General Automotive Parts Corp., 451 South Decker Drive, Irving, TX 75062 and General Automotive Parts Corp. d.b.a.: NAPA Distribution Center, Dallas, Texas; NAPA Distribution Center, Detroit, Michigan; NAPA Distribution Center, Ft. Wayne, Indiana; NAPA Distribution Center, Grand Rapids, Michigan; NAPA Distribution Center, Houston, Texas; NAPA Distribution Center, Indianapolis, Indiana; NAPA Distribution Center, Kansas City, Kansas; NAPA Distribution Center, Knoxville, Tennessee; NAPA Distribution Center, Louisville, Kentucky; NAPA Distribution Center, Milwaukee, Wisconsin; NAPA Distribution Center, Mt. Vernon, Illinois; NAPA Distribution Center, Nashville, Tennessee; NAPA Distribution Center, San Antonio, Texas; NAPA Distribution Center, St. Louis, Missouri; NAPA Distribution Center, Stevens Point, Wisconsin; Motor Parts Center; Motor Parts Depot; Greenway Auto Parts; Parts City. Subsidiaries of General Automotive Parts Corp.: Authorized Motor Parts Corp., 525 S. Jefferson, St. Louis, MO. 63178–0230; Automotive Parts Company, Inc., 30550 Ecorse Road, Romulus, MI 48174–3596; Bearing Chain & Supply, Inc., 2221 W. Mockingbird Lane, Dallas, TX. 75235; Central Automotive Supply Corp., 1000 South 45th St., Mt. Veron, IL. 62864; Central Motor Parts Company, 2000 W. Coliseum Blvd., Ft. Wayne, IN. 46801–1210; 5421 W. Southern Ave., Indianapolis, IN. 46241; 421 N. Capitol Ave., Indianapolis, IN. 46206; 3710 Illinois Rd., Ft. Wayne, IN. 46856–1263; Corpus Automotive Supply Corp., 3225 S. Padre Island Drive, Corpus Christi, TX. 78415; Genaut Industries, Inc., Highway 377, Stephenville, TX. 76401; Highway 60E, Morganfield, KY. 42437; Grand Rapids Automotive Supply Corp., 3402 Patterson S.E., Grand Rapids, MI. 49501-2085; 235 Market Ave., S.W., Grand Rapids, MI. 49503; Lexington Automotive Supply Corp., 1251 Georgetown Rd., Lexington, KY. 40511; 996 New Circle Rd., Lexington, KY. 40505; 361 Southland Dr., Lexington, KY. 40503; Lubbock Automotive Supply Corp., 1820 Texas Ave., Lubbock, TX. 79408; Metropolitan Automotive Supply Corp., 2379 S. Venoy Rd., Westland, MI. 48185; Motor Parts Depot, Inc., 3033 Military Parkway, Mesquite, TX. 75149; 1231 Hahlo, Houston, TX. 77052–0458; 1700 N. Alamo St., San Antonio, TX. 78294–1230; Smith & Decker, Inc., 2035 LaFayette Ave., Terre Haute, IN. 47805; 201 N. Michigan St., Marshall, IL. 62441; 3420 S. Dixie Bee Hwy., Terre Haute, IN. 47802; 815 W. National Ave., West Terre Haute, IN. 47885; Spradling Auto Parts, Inc., 8043 E. 46th St., Lawrence, IN. 46226; 471 S. Ritter Ave., Indianapolis, IN. 46219; Standard Units Parts Company, Inc., 5001 W. State St., Milwaukee, WI. 53201–0746; 5555 Coye Dr., Stevens Point, WI. 54481–0807; Tennessee Automotive Supply Corp., 5937 Middlebrook Pike, Knoxville, TN. 37919; 111 Oldham St., Nashville, TN. 37206–0007; Travis Automotive Supply Corp., 1416 S. Lamar, Austin, TX. 78704; 260 Bastrop, Austin, TX. 78741. (b) Motion Industries, Inc., formerly Bearing Specialty Co., 185 Berry Street, San Francisco, California 94107 and Motion Industries, Inc. d/b/a/ Teglin-Airdraulics. (c) Motion Industries, Inc., 741 Alton Road, Brimingham, Alabama 35210. (d) Motion Industries—Midwest, Inc., 1700 East Avis Drive, Madison Heights, Mchigan 48071 and Motion Industries—Midwest, Inc., d.b.a. Michigan Bearing Co., Buckeye Bearing and Transmission; Hoosier Bearing and Transmission. (e) S.P. Richards Company, 1130 Bankhead Avenue, N.W., Atlanta, Georgia 30318. (1) The parent corporation and address of the principal office: SOUTHERN CHAMPION TRAY COMPANY, Compress Street, P.O. Box 4066, Chattanooga, TN 37405. (2) Wholly-owned subsidiary which will participate in the operations, and State of incorporation: Tri-State Recycle Center, Inc., P.O. Box 4066, Chattanooga, TN 37405, a Tennessee corporation. (1) Parent corporation and address of principal office: TRI-CITY TIRES, INC., 1016 Butt Street, Chesapeake, Virgina 23324. (2) Wholly-owned subsidiaries which will participate in the operation, and States of incorporation: (a) Twin City Tire Service, Inc., 2625 Northwest Boulevard, Newton, North Carolina 28658 (North Carolina). (b) Custom Retreading, Inc., Route 2 Box A–10, Wakefield, Virginia 23888 (Virginia). (c) Intermodal Tire and Supply of Georgia, Inc., P.O. Box 364, Sumner, Georgia 31789 (Georgia). (d) Tri-City Tires, Inc., trading as Intermodal Tire and Supply of New Jersey, 701 Spring Street, Elizabeth, New Jersey 07201 (Virginia). (e) Tri-City Tires, Inc., trading as Intermodal Tire and Supply of Maryland, 8227 Fisher Road, Baltimore, Maryland 21222 (Virginia). (f) Tri-City Tires, Inc., trading as Intermodal Tire and Supply of Illinios, 4335 Southwestern Boulevard, Chicago, Illinois 60609 (Virginia). (g) Tri-City Tires, Inc., trading as Intermodal Tire and Supply of Savannah, 2228 Gamble Road, Savannah, Georgia 31405 (Virginia). (h) Tri-City Tires, Inc., trading as Albany Tread Sales and Service, 133 Holly Drive, Albany, Georgia 31701 (Virginia). (1) Name of parent corporation and address of principal office: TRI/VALLEY GROWERS, 100 California Street, San Francisco, California 94111. (2) Wholly-owned subsidiaries which will participate in the operations, and addresses of their respective principal offices are listed below (all are incorporated in California): (a) S&W Fine Foods, Inc., 1730 South el Camino Real, San Mateo, California 94403. (b) S&W Tree Nuts, Inc., 217 Tenth Street, Modesto, California 95353. (c) Redwood Food Packing Company, Inc., 736 Mariposa Street, Modesto, California 95353. (d) Valley Forklift Company, Inc., 760 Riverside Drive, Modesto, California 95355. (e) West Coast Consolidation Company, 2336 Nathan Avenue, Modesto, California 95354.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82–11158 Filed 4–22–82; 8:45 am]

BILLING CODE 7035–01–M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after February 9, 1981, are governed by Special Rule of the Commission's Rules of Practice, see 49 CFR 1100.251. Special Rule 251 was published in the **Federal Register** on December 31, 1980, at 45 FR 86771. For compliance procedures, refer to the **Federal Register** issue of December 3, 1980, at 45 FR 80109.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.252. Applications may be protested *only* on the grounds that applicant is not fit, willing, and able to provide the transportation service or to comply with the appropriate statutes and Commission regulations. A copy of any application, including all supporting evidence, can be obtained from applicant's representative upon request and payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated a public need for the proposed operations and that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication (or, if the application later becomes unopposed), appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract."

Please direct status inquiries to the Ombudsman's Office, (202) 275–7326.

Volume No. OP1–68

Decided: April 16, 1982.

By the Commission, Review Board No. 1, members Parker, Chandler, and Fortier. (Member Parker not participating.)

MC 34631 (Sub-12), filed April 6, 1982. Applicant: A. ARNOLD & SON TRANSFER & STORAGE CO., INC., 12201 Westport Rd., Louisville, KY 40223. Representative: Robert J. Gallagher, 1000 Connecticut Ave., NW., Suite 1200, Washington, DC 20036; (202) 785–0024. Transporting (1) *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, and (2) *used household goods* for the account of the United States Government incident to the performance of a pack-and-crate service on behalf of the Department of Defense, between points in the U.S. (except AK and HI).

MC 84751 (Sub-6), filed April 1, 1982. Applicant: BLUE WATER TRANSPORT, 4965 Mountain Road, Pasadena, MD 21122. Representative: David M. Dawson (same address as applicant); (301) 255–8961. Transporting (1) for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), and (2) *used household goods* for the account of the United States Government incident to the performance of a pack-and-crate service on behalf of the Department of Defense, between points in the U.S. (except AK and HI).

MC 139800 (Sub-2), filed February 4, 1982. Applicant: LARRY W. CZERNIAK, 7267 Eaton Circle, Arvada, CO 80003. Representative: Richard P. Kissinger, Steele Park, Suite 330, 50 South Steele St., Denver, CO 80209; (303) 320–6100. Transporting *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S. (except AK and HI).

MC 161310, filed April 1, 1982. Applicant: ROBERT M. HAMILTON, d.b.a. HAMILTON–DRAGTON–HAMILTON, INC., 105 Spring Way, Woodstock, GA 30188. Representative: Robert M. Hamilton (same address as applicant); (404) 928–2841. As a broker of *general commodities* (except household goods), between points in the U.S.

MC 161351, filed April 5, 1982. Applicant: MERVIN W. McKAY, 15510 S.W. 109 Ave., Tigard, OR 97223. Representative: Mervin W. McKay (same address as applicant). Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

MC 161380, filed April 6, 1982. Applicant: PACKAGING CONCEPTS, INC., P.O. Box 470, 10 South Jefferson, Harvard, IL 60033. Representative: Dwight L. Koerber, Jr., P.O. Box 1320, 110 North Second Street, Clearfield, PA 16830; (814) 765–9611. Transporting (1) *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, and (2) for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S. (except AK and HI).

MC 161401, filed April 7, 1982. Applicant: CLARENCE KRUGER, Route 3, Pipestone, MN 56164. Representative: A. J. Swanson, P.O. Box 1103, Sioux Falls, SD 57101. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

Volume No. OP3–061

Decided: April 15, 1982.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams. (Member Fisher not participating.)

MC 139545 (Sub-5), filed April 2, 1982. Applicant: HENRY C. KOCOT & SONS, INC., Whately Road, Box 783, South Deerfield, MA 01373. Representative: David M. Marshall, 101 State Street, Suite 304, Springfield, MA 01103. Transporting (1) for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), (2) *shipments weighing 100 pounds or less* if transporting in a motor vehicle in which no one package exceeds 100 pounds, and (3) *food and other edible products and byproducts* intended for human consumption, *agricultural limestone and fertilizers and other soil conditioners*, by the owner of the motor vehicle in such vehicle, between points in the U.S.

MC 144474 (Sub-5), filed April 9, 1982. Applicant: MORGAN MOVING & STORAGE, INC., 301 North Street, Booneville, MS 38829. Representative: Robert J. Gallagher, 1000 Connecticut Avenue, NW., Suite 1200, Washington, DC 20036; (202) 785–0024. Transporting (1) for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), (2) shipments weighing 100 pounds or less if transported in a motor vehicle in which no package exceeds 100 pounds, (3) *food*

and other edible products and byproducts intended for human consumption (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, (4) *used household goods* for the account of the United States Government incident to the performance of a pack-and-crate service on behalf of the Department of Defense, and (5) as a *broker of general commodities* (except household goods), between points in the U.S. (except AK and HI)

MC 161395, filed April 6, 1982. Applicant: GAIL'S ON THE GO COURIER DELIVERY, Rt. 2 Box 526, Picayune, MS 39466. Representative: Gail Fowler (same address as applicant); (601) 798–0054. Transporting *shipments weighing 100 pounds* or less if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S. (except AK and HI).

MC 161404, filed April 7, 1982. Applicant: VIRGINIA A. MILLER d.b.a. VIRGINIA A. MILLER & COMPANY, 6945 Clinton Dr., Houston, TX 77020. Representative: Virginia A. Miller (same address as applicant); (713) 674–8200. As a *broker of general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 161425, filed April 9, 1982. Applicant: M. W. McDANIEL, Rt. 3, Box 373, Needville, TX 77461. Representative: M. W. McDaniel (same address as applicant); (713) 793–6978. Transporting *food and other edible products and byproducts intended for human comsumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S.

Volume No. OP4–133

Decided: April 12, 1982.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams.

MC 139587 (Sub-29), filed March 29, 1982. Applicant: BROWN REFRIGERATED EXPRESS, INC., Route 4, Box 601, Carthage, MO 64836. Representative: Patricia F. Scott, P.O. Box 258, Liberty, MO 64068; (816) 781–6000. Transporting, for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S. (except AK and HI).

Volume No. OP5–87

Decided: April 15, 1982.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 161318, filed April 1, 1982. Applicant: MELVIN B. WEIR, 146 W 233 St., Carson, CA 90745. Representative: Melvin B. Weir (same address as applicant); 213–830–8199. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

MC 161379, filed April 6, 1982. Applicant: HARPER, ROBINSON & CO., 545 Sansome St., San Francisco, CA 94111. Representative: W. O. Locke (same address as applicant); (415) 983–9600. As a *broker of general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 161389, filed April 6, 1982. Applicant: R. G. MATHEWS, P.O. Box 522, Lexington, NE 68850. Representative: Max H. Johnston, P.O. Box 6597, Lincoln, NE 68506; 402–488–4841. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

MC 161399, filed April 6, 1982. Applicant: DARREL E. NOYES, d.b.a. NOYES TRUCKING, 17421 S.W. Hill Way, Lake Oswego, OR 97034. Representative: Darrel E. Noyes (same address as applicant); (503) 635–6057. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners*, by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82–1160 Filed 4–22–82; 8:45 am]

BILLING CODE 7035–01–M

[Volume No. 250]

Permanent Authority Decisions; Restriction Removals; Decision-Notice

Decided: April 12, 1982.

The following restriction removal applications, filed after December 28, 1980, are governed by 49 CFR 1137. Part 1137 was published in the **Federal Register** of December 31, 1980, at 45 FR 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 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 retrictions 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 auithority, compliance must be made with the normal statutory and regulatory requirements for common and contract carriers.

By the Commission, Restriction Removal Board, Members Sporn, Ewing, and Shaffer.

Agatha L. Mergenovich,

Secretary.

MC 95612 (Sub-8)X, filed April 5, 1982. Applicant: M.W. LEAHY CO., INC., P.O. Box 187, Ayer, MA 01432. Representative: Joseph M. Klements, Richardson and Tyler, 89 State St., Boston, MA 02109. Sub 4 permit Broden: granite to "clay, concrete, glass or Stone products" Westford to "clay, concrete, glass or stone products", Westford to Middlesex County, MA; to radial authority.

MC 142398 (Sub-3)X, filed April 1, 1982. Applicant: FAST FORWARD, INC., 17 Delaware Avenue, West Long Branch, NJ 07764. Representative: Morton E. Kiel, Suite 1832, Two World

Trade Center, New York, NY 10048–0640. Subs 1F and 2F: (1) broaden territorial description to between points in the U.S. (except AK and HI) under continuing contract(s), with a named shipper in each permit; and (2) remove the except commodities in bulk restrictions.

MC 152390 (Sub-7)X, filed November 24, 1982, published in the Federal Register of December 10, 1981, republished as follows: Applicant: MURRAY TRUCKING, INC., P.O. Box 2138, Calcutta Branch, East Livepool, OH 43920. Representative: Stephen J. Habash, 100 E. Broad St., Columbus, OH 43215. Sub 5 (embracing MC–121223 Subs 3F, 6, 8F, 9F, 10F, and 12F transferred in MC–FC–79239). Applicant previously broadened these authorities with the exception of Sub 10F which was inadvertently omitted from the original Federal Register notice. Notice is hereby given that applicant proposes to (1) broaden railway car parts to "transportation equipment," (2) expand facilities at Youngstown, OH to Mahoning and Trumball Counties, OH and (3) authorize radial movements, in Sub 10F.

MC 153140 (Sub-4)X, filed March 30, 1982. Applicant: PIONEER FREIGHT SYSTEMS, INC., 144 Parsippany Rd., P.O. Box 5, Whippany, NJ 07981. Representative: Dixie C. Newhouse, 1329 Pennsylvania Ave., P.O. Box 1417, Hagerstown, MD 21740. Sub 3: (1) broaden (a) general commodities (with usual excetions) to "general commodities (except classes A and B explosives, household goods and commodities in bulk); (b) cut flowers and plants and supplies and equipment to "such commodities as are dealt in by nurseries and florists, and materials, equipment and supplies"; (c) apples and dairy products to "foodstuffs and related products"; and (d) plastic granules in containers, and ingredients used in the manufacture and coloring of plastic granules to "chemicals and materials, equipment and supplies; (2) authorize service at all intermediate points on regular routes; (3) remove except in bulk restriction, Part (F); and (4) change cities to counties on irregular routes: Madison, Chatham, and Florham, NJ (Morris County); New Castle, DE (New Castle County), Berkeley Heights, NJ (Union County); Newark, NJ (Morris, Middlesex, Essex, Union, Passaic, Bergen, Hudson, Somerset Counties, NJ and Kings, Queens, Richmond, Bronx and New York Counties, NY); and broaden off-route points of Basking Ridge, Bernardsville, Berkeley Heights, Brookside, Booton, Chatham, Chester, Convent, Denville, Dover, Far Hills, Gladstone; Hilton, Irvington, Lake Hopatong, Madison, Maplewood, Mendham, Millburn, Mountain Lakes, Millington, Morristown, Morris Plains, New Providence, Netcong, Peapack, Port Norris, Rockway, Springfield, and Summit, NJ to "points in Essex, Somerset, Sussex, Union, Warrenton and Hunterdon Counties, NJ."

[FR Doc. 82–11159 Filed 4–22–82; 8:45 am]

BILLING CODE 7035–01–M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after February 9, 1981, are governed by Special Rule of the Commission's Rules of Practice, see 49 CFR 1100.251. Special Rule 251 was published in the Federal Register of December 31, 1980, at 45 FR 86771. For compliance procedures, refer to the Federal Register issue of December 3, 1980, at 45 FR 80109.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.252. A copy of any application, including all supporting evidence, can be obtained from applicant's representative upon request and payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated a public need for the proposed operations and that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication, (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract."

Please direct status inquiries to the Ombudsman's Office, (202) 275–7326.

Volume No. OP1–67

Decided: April 16, 1982.

By the Commission, Review Board No. 1. Members Parker, Chandler, and Fortier. (Member Parker not participating.)

MC 62601 (Sub-12), filed April 6, 1982. Applicant: ALBERT L. RING, ANDREW C. RING, BERNARD J. RING, and RONALD J. RING, d.b.a. FRANK RICHARD RING, P.O. Box 96, Neola, IA 51559. Representative: James F. Crosby, 7363 Pacific St., Suite #210B, Omaha, NE 68114; (402) 397–9900. Transporting *general commodities* (except household goods and classes A and B explosives), between points in MI, IN, KY, WI, IL, MN, IA, MO, ND, SD, NE, KS, and CO.

MC 120991 (Sub-2), filed April 6, 1982. Applicant: FLEMING-SHAW TRANSFER & STORAGE, INC., 1020 Winston St., P.O. Box 20685, Greensboro, NC 27420. Representative: Dean N. Wolfe, Suite 200, 444 N. Frederick Ave., Gaithersburg, MD 20877; (301) 840–8565. Transporting (1) *machinery*, (2) *those commodities which because of their size or weight require the use of special handling or equipment*, and (3) *household goods* as defined by the Commission, between points in VA, NC, SC, and GA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 127550 (Sub-11), filed April 5, 1982. Applicant: BOSCH TRUCKING COMPANY, INC., 5600 South Washington St., Bartonville, IL 61607.

Representative: Edward G. Bazelon, 29 South LaSalle St., Chicago, IL 60603; (312) 236–9375. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Growmark, Inc., of Bloomington, IL.

MC 133350 (Sub-8), filed April 5, 1982. Applicant: AQUA GULF CORPORATION, 63–69 Hood Road, Bayonne, NJ 07002. Representative: Thomas F. X. Foley, P.O. Box F, Colts Neck, NJ 07722; (201) 780–0300. Transporting *general commodities* (except classes A and B explosives and household goods as defined by the Commission), between points in AL, CT, DE, FL, GA, IA, IL, IN, KS, KY, LA, ME, MD, MA, MI, MN, MO, MS, NC, NH, NJ, NY, OH, OK, PA, RI, SC, TN, TX, VT, VA, WV, WI, and DC.

MC 135231 (Sub-70), filed March 19, 1982. Applicant: NORTH STAR TRANSPORT, INC., Rt. 1 Highway 59 North, Thief River Falls, MN 56701. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118; (612) 452–8770. Transporting *such commodities* as are dealt in by farmers cooperative associations, between those points in the U.S. in and west of WI, IL, MO, AR, and TX (except AK and HI), on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 140650 (Sub-2), filed April 5, 1982. Applicant: PENINSULA MEAT CO., INC., 4401 N. Westshore Blvd., P.O. Box 15592, Tampa, FL 33684. Representative: Rudy Yessin, P.O. Drawer B, 113 W. Main St., Frankfort, KY 40602; (502) 227–7326. Transporting *bananas*, between Louisville, KY, on the one hand, and, on the other, Tampa, FL, and Mobile, AL.

MC 141160 (Sub-7), filed April 1, 1982. Applicant: NEWTON TRANSPORTATION, INC., R.D. #2, Box 2153, Orwigsburg, PA 17961. Representative: Joseph A. Keating, Jr., 121 South Main St., Taylor, PA 18517, (717) 562–1202. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S. (except AK and HI), under continuing contract(s) with Exxon Chemical Americas, of Pottsville, PA.

MC 143591 (Sub-6), filed April 6, 1982. Applicant: FLOYD WILD, INC., P.O. Box 91 Marshall, MN 56258. Representative: Samuel Rubenstein, P.O. Box 5, Minneapolis, MN 55440. Transporting *such commodities* as are dealt in or used by manufacturers and distributors of cabinets and vanity sets, between points in the U.S. (except AK and HI), under continuing contract(s) with Bertch Wood Specialities, of Waterloo, IA; Building Materials, Inc., of Minneapolis, MN; Imperial Marble, of Somonauk, IL; Plato Woodwork, Inc., of Plato, MN and Riviera Kitchens, of Red Wing, MN.

MC 145121 (Sub-1), filed April 6, 1982. Applicant: FULMER BROTHERS INTERNATIONAL, INC., 5325 South Orange Blossom Trail, Orlando, Florida 32809. Representative: David L. Capps, P.O. Box 924, Douglasville, GA 30133, (404) 949–7756. Transporting *general commodities*, (except classes A & B explosives and household goods), between points in the U.S.

MC 146820 (Sub-20), filed April 6, 1982. Applicant: B & G TRUCKING, INC., P.O. Box 581, 579 N. High St., Worthington, OH 43085. Representative: James M Burtch, 100 E. Broad St., Columbus, OH 43215, (614) 228–1541. Transporting *general commodities* (except classes A and B explosives, commodities in bulk, and household goods as defined by the Commission), between points in the U.S. (except AK and HI), under continuing contract(s) with Scott Paper Company of Philadelphia, PA.

MC 147201 (Sub-4), filed April 5, 1982. Applicant: MARLOR ENTERPRISES, LTD., 17–1583 Pemberton Ave., No. Vancouver, BC, Canada V7P 2S4. Representative: William J. Monheim, P.O. Box 1756, Whittier, CA 90609, (213) 945–2745. Transporting *lumber and wood products*, between points in CA, ID, MT, OR, and WA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 147551 (Sub-3), filed March 29, 1982. Applicant: EL SYD, INC., 1250 Menaul NE, Albuquerque, NM 87107. Representative: James C. Ash, 2524 Vermont NE Albuquerque, NM 87110 (505) 298–7511. Transporting *such commodities* as are dealt in or used by distributors of beer, wine and alcoholic beverages, between points in the U.S., under continuing contract(s) with New Mexico Beverage Company and Richard Distributing Company, both of Albuquerque, NM.

MC 150991, filed April 6, 1982. Applicant: ROBERT H. CRONER, d.b.a. CRONER CARTAGE, RD 3, Berlin, PA 15530. Representative: James F. Beener, 146 W. Main St. Somerset, PA 15501. Transporting *food and related products*, between Berlin and points in Somerset County, PA, on the one hand, and, on the other, points in OH, WV, KY, NY, NJ, CT, MD, VA, DC, NC, IN, IL, DE, TN, MI, and SC, under continuing contract(s) with Snyder's Potato Chips, Division of Curtice-Burns, Inc., of Berlin, PA.

MC 152640 (Sub-4), filed April 1, 1982. Applicant: RAPID DISTRIBUTION SERVICE, INC., 2392 N. Dupont Highway, Dover, DE 19901. Representative: Chester A. Zyblut, 366 Executive Building, 1030 Fifteeth St., N.W., Washington, DC 20005. Transporting *such merchandise* as is dealt in and distributed by retail department stores and chain stores, between points in the U.S., (except AK and HI), under continuing contract(s) with Nexus Marketing Group, of Wabash, IN.

MC 152730 (Sub-15), filed March 29, 1982. Applicant: DEPENDABLE TRANSIT, INC., P.O. Box 349, County Road 300 South, Hartford City, IN 47348–0349. Representative: Larry Garrett (same address as applicant) (317) 348–0051. Transporting *materials, equipment, and supplies* used in the manufacture and distribution of dairy products, between points in Marion County, IN, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 154460 (Sub-6), filed March 30, 1982. Applicant: "Q" CARRIERS INC., 14086 Rutgers St., N.E., Prior Lake, MN 55372. Representative: Randall D. Quiring (same address as applicant) (612) 445–8718. Transporting *steel wire rope*, between points in the U.S. under continuing contract(s) with Macwhyte Wire Rope Company, of Kenosha, WI.

MC 159541, filed March 24, 1982. Applicant: MID TERMINAL LEASING, INC., P.O. Box 149, Clear Lake, IA 50248. Representative: Larry D. Knox, 600 Hubbell bldg., Des Moines, IA 50309, (515) 244–2329. Transporting *metals and machinery*, between Minneapolis, MN, Chicago, IL, Detroit, MI, and points in Whiteside County, IL, Washington and Hennepin Counties, MN, Beaver County, PA, and Wayne County, MI, on the one hand, and, on the other, points in the U.S. (except AK and HI). Condition: The person or persons who apper to be engaged in common control of another regulated carrier must either file an application under 49 U.S.C. § 11343(A) or submit an affidavit indicating why such approval is unnecessary to the Secretary's office. In order to expedite issuance of any authority please submit a copy of the affidavit or proof of filing the application(s) for common control to team 1, Room 6358.

MC 159541 (Sub-1), filed April 1, 1982. Applicant: MID TERMINAL LEASING, INC., P.O. Box 149, Clear Lake, IA 50248. Representative: Larry D. Knox, 600 Hubbell Bldg., Des Moines, IA 50309 (515) 244–2329. Transporting *building materials, metal, and machinery*, between Minneapolis, MN, Sioux Falls,

SD, and points in Steel and Anoka Counties, MN, Rock, Crawford, and LaCrosse Counties, WI, Worth and Cerro Gordo Counties, IA, Cass County, ND, Cass County, TX, and Union County, AR, on the one hand, and, on the other, points in the U.S. (except AK and HI). Condition: The person or persons who appear to be engaged in common control of another regulated carrier must either file an application under 49 U.S.C. § 11343(A) or submit an affidavit indicating why such approval is unnecessary to the Secretary's office. In order to expedite issuance of any authority please submit a copy of the affidavit or proof of filling the application(s) for common control to team 1, Room 6358.

MC 160141, filed April 1, 1982. Applicant: CAIL & CAIL, INC., 237 Wickham Drive, Columbus, GA 31907. Representative: C. E. Walker, P.O. Box 1085, Columbus, GA 31902. Transporting *asphalt, rock, gravel, stone, and soil conditioners,* between points in Chattahoochee, Marion, Muscogee and Sumter Counties, GA, on the one hand, and, on the other, points in Barbour, Lee and Russell Counties, AL.

MC 160410, filed April 5, 1982. Applicant: ROSEDALE TRANSPORT LIMITED, P.O. Box 363, 161 Brockley Drive, Hamilton, Ontario, Canada L8N 3C8. Representative: Robert D. Gunderman, Can-Am Bldg. 101 Niagara St., Buffalo, NY 14202 (716) 854–5870. Transporting *floor and wall coverings,* between ports of entry on the international boundary line between the U.S. and Canada in NY and MI, on the one hand, and, on the other, those points in the U.S. in and east of ND, SD, NE, KS, OK, and TX.

MC 160910, filed April 7, 1982. Applicant: OHIO SOIL TRANSPORTATION, INC., 110 S. Mill St., Milford Center, OH 43045. Representative: Owen B. Katzman, 1828 L St., NW, Suite 1111, Washington, DC 20036 (202) 822–8200. Transporting *chemicals,* between points in the U.S., under continuing contract(s) with Ohio Soil Service, Inc., of Milford Center, OH.

MC 161301, filed March 30, 1982. Applicant: PAUL L. FANSON, d.b.a. TOTEM COACHES, INC. PO Box 1283, Puyallup, WA 98371. Representative: Jim Pitzer, 15 S. Grady Way, Suite 321, Renton, WA 98055–3273 (206) 235–1111. Transporting *passengers and their baggage* in the same vehicle with passengers, in special or charter operations, between points in WA, on the one hand, and, on the other, points in OR, CA NV, ID, and MT.

MC 161381, filed April 6, 1982. Applicant: PRIVATE TRAIL CORP., 1414 39th St., Brooklyn, NY 11218. Representative: Larsh B. Mewhinney, 555 Madison Ave., New York, NY 10022 (212) 838–0600. Transporting *passengers and their baggage,* in the same vehicle with passengers, in charter and special operations, beginning and ending at New York, NY, and points in Nassau County, NY, and extending to points in CT, NJ, NY and PA.

Volume No. OP 2–78

Decided: April 14, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier, (Member Parker not participating.)

MC 263 (Sub–243), Filed March 30, 1982. Applicant: GARRETT FREIGHTLINES, INC., P.O. Box 4048, Pocatello, ID 83201. Representative: Bruce A. Bullock, One Woodward Avenue, 26th Floor, Detroit, MI 48226 (313) 965–2577. Transporting *general commodities* (except classes A and B explosives, commodities in bulk, and household goods), between points in the U.S. (except AK and HI) under continuing contract(s) with J. C. Penney Company, Inc., of New York, NY.

MC 20802 (Sub–6), filed April 5, 1982. Applicant: WHEELER MOTOR EXPRESS, INC., 279 Lake Shore Dr. W. Dunkirk, NY 14048. Representative: Ronald W. Malin, Bankers Trust Bldg. 4th Floor, Jamestown, NY 14701 716–664–5210. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in Allegany, Cattaraugus, Chautauqua, Erie, Genesee, Monroe, Niagara, and Orleans Counties, NY, and Crawford, Erie, McKean, Venango, and Warren Counties, PA, on the one hand, and, on the other, points in NJ, NY, OH, and PA.

MC 107002 (Sub–593), filed March 25, 1982. Applicant: MILLER TRANSPORTERS, INC., P.O. Box 1123 (U. S. Highway 80 West), Jackson, MS 39205. Representative: Larry M. Ford (same address as applicant) (601) 922–8331. Transporting *rice hull ash,* between the facilities utilized by Uncle Ben's, Inc., and its division, at points in the U.S. (except AK and HI), on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 118143 (Sub-3), filed March 30, 1982. Applicant: EARLE E. HARRIS BANANA TRANSPORT, INC., P.O. Box 262, McKees Rocks, PA 15136. Representative: Stephen J. Habash, 100 E. Broad St., Columbus, OH 43215, 614–228–1541. Transporting *food and related products,* between Albany and New York, NY, Charleston, SC, Wilmington, DE, Tampa, FL, Galveston, TX, Mobile, AL, Baltimore, MD, Philadelphia, PA, and Norfolk, VA, on the one hand, and, on the other, points in IL, IN, KY, MD, MI, NJ, NY, OH, PA, WV, and WI.

MC 136012 (Sub-14), filed March 29, 1982. Applicant: UNITED STATES TRANSPORTATION, INC. d.b.a. STROTHMAN TANK LINES, 4963 Provident Dr., Cincinnati, OH 45246. Representative: David Earl Tinker, 1000 Connecticut Ave, N.W., Suite 1112, Washington, DC 20036–5391 (202) 887–5868. Transporting *commodities in bulk,* between points in the U.S. (except AK and HI).

MC 139973 (Sub-99), filed March 29, 1982. Applicant: J. H. WARE TRUCKING, INC., 909 Brown St., P.O. Box 398, Fulton, MO 65251. Representative: Larry D. Knox, 600 Hubbell Bldg., Des Moines, IA 50309, 515–244–2329. Transporting *food and related products,* between points in the U.S., under continuing contract(s) with Swift & Company and Swift Independent Packing Company, both of Chicago, IL.

MC 139973 (Sub-100), filed April 1, 1982. Applicant: J. H. WARE TRUCKING, INC., P.O. Box 398, Fulton, MO 65251. Representative: Ronald R. Adams, 600 Hubbell Bldg., Des Moines, IA 50309, 515–244–2329. Transporting *charcoal briquets,* between points in Dent County, MO, and Lunenburg County, VA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 140163 (Sub-5), filed March 29, 1982. Applicant: POST & SONS TRANSFER, INC., 2326 Milwaukee Rd., Tacoma, WA 98421. Representative: George R. LaBissoniere, 15 S. Grady Way, Suite 233, Renton, WA 98055, 206–228–3807. Transporting (1) *paper and paper products,* between points in AZ, CA, CO, ID, MT, NV, NM, OR, UT, WA, and WY, and (2) *such commodities* as are dealt in and used by food business houses, between points in CA and OR, on the one hand, and, on the other, points in WA.

MC 143512 (Sub-7), filed March 29, 1982. Applicant: ALL CORPS, 838 Hutchison St., Vista, CA 92083. Representative: Milton W. Flack, 8484 Wilshire Blvd., Suite 840, Beverly Hills, CA 90211 (213) 655–3573. Transporting *rubberr and plastic products and chemicals and related products* (except classes A and B explosives), between points in the U.S., (except AK and HI), under continuing contract(s) with General Electric Company, Silicone Products Division, of Waterford, NY.

MC 145102 (Sub-86), filed March 29, 1982. Applicant: FREYMILLER TRUCKING, INC., 1400 S. Union Ave.

Bakersfield, CA 93307. Representative: Wayne W. Wilson, 150 E. Gilman St., Madison, WI 53703 (608) 256–7444. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S., (except AK and HI), under continuing contract(s) with Ralston Purina Company, of St. Louis, MO.

MC 145783 (Sub-2), filed April 1, 1982. Applicant: ALPINE TRANSPORTATION CO., INC., P.O. Box 740, Tenafly, NJ 07670. Representative: Ronald I. Shapss, 450 7th Ave., New York, NY 10123, 212–239–4610. Transporting *toilet preparations and pharmaceuticals,* between points in the U.S. (except AK and HI), under continuing contract(s) with Schering Plough, Inc., of Kenilworth, NJ.

MC 145022 (Sub-9), filed March 29, 1982. Applicant: MARSH BROS. TRUCKING SERVICE, INC., P.O. Box 7398, Station B, Dayton, OH 45407. Representative: Paul F. Beery, 275 E. State St., Columbus OH, 43215 (614) 228–8575. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in WI, NY, KY, MD, MA, GA, MI, TN, MO, SC, NC, VA, CT, NJ, DE, OH, IL, PA, WV, and IN.

MC 146553 (Sub-30), filed April 5, 1982. Applicant: ADRIAN CARRIERS, INC., 1822 Rockingham Rd., Davenport, IA 52808. Representative: James M. Hodge, 3730 Ingersoll Ave., Des Moines, IA 50312, 515–274–4985. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in Scott County, IA, and Rock Island, IL, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 150103 (Sub-16), filed April 2, 1982. Applicant: SCHWEIGER INDUSTRIES, INC., 116 West Washington St., Jefferson, WI 53549. Representative: Wayne W. Wilson, 150 E. Gilman St., Madison, WI 53703, 608–256–7444. Transporting *machinery,* between points in the U.S. (except AK and HI), under continuing contract(s) with Lakeshore Machinery, Inc., of Brookfield, WI.

MC 150103 (Sub-17), filed April 5, 1982. Applicant: SCHWEIGER INDUSTRIES, INC., 116 West Washington St., Jefferson, WI 53549. Representative: Wayne W. Wilson, 150 E. Gilman St., Madison, WI 53703, 608–256–7444. Transporting *furniture and fixtures and textile mill products,* between points in the U.S. (except AK and HI), under continuing contract(s) with Leath and Company, of Chicago, IL.

MC 151802 (Sub-1), filed March 29, 1982. Applicant: JOSEPH R. NEWSOME d.b.a. TRAIL-CON TRANSPORT, 22638 Nichols Dr., Saulk Village, IL 60411. Representative: Anthony E. Young, 29 South LaSalle St., Suite 350, Chicago, IL 60603, (312) 782–8880. Transporting *general commodities* (except classes A and B explosives, commodities in bulk, and household goods), between Chicago, IL, on the one hand, and, on the other, points in IA, KY, MO, NE, OH, and TN.

MC 152393 (Sub-2), filed April 6, 1982. Applicant: SCOTT B. WARN d.b.a. OVERNITE EXPRESS, P.O. Box 24, Danville, CA 94526. Representative: Armand Karp, 743 San Simeon Dr., Concord, CA 94518, 415–825–1774. Transporting *wallpapers and wallpaper supplies,* between points in the U.S. (except AK and HI), under continuing contract(s) with Wallpapers To Go, of Hayward, CA.

MC 153273 (Sub-5), filed April 1, 1982. Applicant: SCHREIBER TRANSIT, INC., 425 Pine St., Green Bay, WI 54305. Representative: John H. Sage (same address as applicant), 414–437–7601. Transporting *food and related products,* between points in the U.S. (except AK and HI), under continuing contract(s) with Jeno's, Inc., of Duluth, MN.

MC 155062 (Sub-1), filed March 25, 1982. Applicant: AVERY PRUITT AND SON, INC., Route 1, Box 1A, Jasper, AR 72641. Representative: Jay C. Miner, P.O. Box 313, Harrison, AR 72601, 501–741–3501. Transporting (1) *oil and oil products,* between points in AR, on the one hand, and, on the other, points in the U.S. (except AK and HI), (2) *such commodities* as are dealt in by chain grocery stores between points in the U.S. (except AK and HI), (3) *clothing,* between points in Marion, Baxter, Stone, Searcy, Izard and Fulton Counties, AR, on the one hand, and, on the other, points in the U.S. (except AK and HI), and (4) *charcoal briquets,* between points in the U.S. (except AK and HI).

MC 157042 (Sub-1), filed March 22, 1982. Applicant: L & L LEASING, INC., P.O. Box 516, Waterloo, IN 46793. Representative: Donald W. Smith, P.O. Box 40248 Indianapolis, IN 46240 (317) 846–6655.. Transporting *machinery and such commodities* as are used in the installation of fertilizer storage and mixing plants, between points in the U.S. (except AK and HI), under continuing contract(s) with Sulpher Springs Agri-Products & Equipment, Inc., of Sulpher Springs, IN.

MC 161352, filed April 5, 1982. Applicant: REEDY OIL COMPANY, P.O. Box 630, Redlands, CA 92373. Representative: Earl N. Miles, 3704 Candlewood Dr., Bakersfield, CA 93306, 805–872–1106. Transporting *petroleum, natural gas and their products and coal tar emulsions,* between points in Los Angeles and San Bernardino Counties, CA, on the one hand, and, on the other, points in AZ, NV, and UT.

Volume No. OP4–138

Decided: April 16, 1982.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams. (Member Fisher not participating.)

MC 107586 (Sub-26), filed April 6, 1982. Applicant: TRAILWAYS BUS SYSTEMS, INC., 1500 Jackson St., Dallas, TX 75201. Representative: George W. Hanthorn (Same address as applicant) (214) 655–7937. Over regular routes, transporting *passengers and their baggage and express and newspapers* in the same vehicle with passengers between Olney and Wichita Falls, TX, over TX Hwy 79, serving all intermediate points.

Note.—Applicant intends to tack.

MC 121496 (Sub-79), filed April 6, 1982. Applicant: ENTERPRISE TRANSPORTATION COMPANY, 2727 N. Loop West, P.O. Box 4324, Houston, TX 77210. Representative: John E. Smith, II (Same address as applicant) (713) 880–6562. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S., under continuing contract(s) with Celanese Corporation, of New York, NY, and Celanese Chemical Company Inc., of Dallas, TX.

MC 138746 (Sub-8), filed April 6, 1982. Applicant: SUN-VALLEY STAGES, INC., P.O. Box 936, Twin Falls, ID 83301. Representative: Irene Warr, 311 S. State St., Suite 280, Salt Lake City, UT 84111, (801) 531–1300. Transporting *passengers and their baggage,* in charter and special operations (a) between points in UT, ID, NV, WY, MT, CO, and AZ, (b) beginning at points in UT, ID, NV, WY, MT, CO, and AZ and extending to points in the U.S.

MC 158196 (Sub-1), filed March 5, 1982, previously noticed in the Federal Register issue of March 29, 1982, and republished this issue. Applicant: BANKS WRIGHT, d.b.a. WRIGHT MOTOR LINES, Box 177, Armagh, PA 15920. Representative: Dixie E. Newhouse, 1329 Pennsylvania Ave., P.O. Box 1417, Hqagerstown, MD 21740, (301) 797–6060. Transporting (1) *iron and steel and related products,* between points in IN, IL and OH, on the one hand, and, on the other, points in NY and PA, (2) *prefabricated buildings and building materials,* between points in OK, CA, GA, and PA, on the one hand, and, on

the other, points in the U.S. (except AK and HI), and (3) *mining locomotives,* between points in Indiana County, PA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

Note.—The purpose of this republication is to include the state of CA to part(s) of the requested authority.

Volume No. OP4–139

Decided: April 19, 1982.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams. (Member Fisher not participating.)

MC 136916 (Sub-27), filed April 12, 1982. Applicant: LENAPE TRANSPORTATION CO., INC., P.O. Box 227, Lafayette, NJ 07848. Representative: Morton E. Kiel, Suite 1832, Two World Trade Center, New York, NY 10048, (212) 466–0220. Transporting *commodities in bulk,* between points in CT, DE, ME, MD, MA, NH, NJ, NY, OH, PA, RI, VT, VA, WV, and DC.

MC 140366 (Sub-4), filed April 7, 1982. Applicant: CREASY TRUCKING, INC., Hwy 231, 31A, Westmoreland, TN 37186. Representative: Henry E. Seaton, 1024 Pennsylvania Bldg., 425 13th St., NW, Washington, DC 20004, (202) 347–8862. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in Sumner, Wilson, Robertson, Davidson, and Trousdale Counties, TN, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 146436 (Sub-1), filed March 26, 1982. Applicant: SIERRA HIGHLANDS BUS CO., INC., d.b.a. SIERRA HIGHLANDS TRAILWAYS, 2015 E Hammond, Fresno, CA 93703. Representative: Lawrence E. Lindeman, 4660 Kenmore Ave., Suite 1203, Alexandria, VA 22304 (703) 751–2441. Over regular routes, transporting (1) *passengers and their baggage, and express and newspapers,* in the same vehicle, (a) between Merced and Bass Lake, CA: from Merced over CA Hwy 140 to junction CA Hwy 49, then over CA Hwy 49 to junction CA Hwy 41, then over CA Hwy 41 to junction Bass Lake Road, then over Bass Lake Road to Bass Lake, (b) between Fresno and Paso Robles, CA: from Fresno over CA Hwy 41 to junction CA Hwy 46, then over CA Hwy 46 to Paso Robles, (c) between Fresno and Reedley, CA: from Fresno over CA Hwy 180 to junction unnumbered highway, then over unnumbered highway to Reedley, (d) between Hanford and Avenal, CA: from Hanford over CA Hwy 198 to junction CA Hwy 269, then over CA Hwy 269 to Avenal, and (e) between the junction CA Hwy 198 and CA Hwy 269, and the junction CA Hwy 33 and CA Hwy 41: from junction CA Hwy 198 and 269, over CA Hwy 198 to junction CA Hwy 33, then over CA Hwy 33 to junction CA Hwy 41, serving all intermediate points, on all the above-specified routes, and (2) transporting *passengers and their baggage,* In charter and special operations, between points in Fresno, Kings, Maderia, Mraiposa, Merced, Stanislaus, and Tulare Counties, CA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 148296 (Sub-3), filed April 7, 1982. Applicant: MARINE DROPBOX COMPANY, 6849 N E 47th, Portland, OR 97218. Representative: Lawaence V. Smart, Jr., 419 N W 23rd Ave., Portland, OR 97210 (503) 226–3755. Transporting *general commodities* (except classes A and B explosives), between points in CA, on the one hand, and, on the other, points in OR and WA.

MC 148326 (Sub-7), filed April 12, 1982. Applicant: THIES TRANSPORTATION, INC., P.O. Box 49, Great Bend, KS 67530. Representative: John E. Jandera, P.O. Box 1979, Topeka, KS 66601 (913) 234–0565. Transporting *food and related products,* between points in the U.S. (except AK and HI), under continuing contract(s) with John Morrell & Co., of Chicago, IL.

MC 150996 (Sub-1), filed April 12, 1982. Applicant: FRANK GONZALES d.b.a. RELIABLE DRIVEWAY, 125 Given Place, Montebello, CA 90640. Representative: C. N. Urevich, 727 W. 7th St., Suite 1000, Los Angeles, CA 90017 (213) 629–1832. Transporting *trucks, tractors, chassis and semitrailers,* in driveaway service, between points in CA, on the one hand, and, on the other, points in AZ, CO, DE, FL, GA, IN, MI NY, NV, OR, PA, TN, TX, UT, and WA.

MC 153106, filed April 9, 1982. Applicant: THORNTON FURNITURE CARRIERS, INC., 840 Winston St., Greensboro, NC 27405. Representative: John N. Fountain, P.O. Box 2246, Raleigh, NC 27602, (919) 828–0731. Transporting *furniture and fixtures,* between points in NC, on the one hand, and, on the other, points in AL, AR, CT, DE, FL, GA, IL, IN, IA, KS, KY, LA, MD, MI, MN, MS, MO, NE, NJ, NY, OH, OK, PA, SC, TN, TX, VA, WV, WI, and DC.

MC 159026 (Sub-2), filed April 12, 1982. Applicant: U.S. CONTRACT TRUCKING, INC., P.O. Box 2120, Irving, TX 75061. Representative: B. W. Huie, (Same address as applicant), (214) 438–0550. Transporting *sprayer tanks and sprayers,* between points in the U.S. (except AK and HI), under continuing contract(s) with Root-Lowell, Inc., of Lowell, MI.

MC 161436, filed April 9, 1982. Applicant: ALLEN F. LEAGHTY, d.b.a. LEAGHTY TRUCKING, R. D. 2, Box 210B, Export, PA 15632. Representative: Arthur J. Diskin, 806 Frick Bldg., Pittsburgh, PA 15219, (412) 28–9494. Transporting *paper, plastics, printed material, paint, ink, and advertising displays,* between those points in the U.S. in an east of MN, IA, MO, AR, and LA, under continuing contract(s) with IDL, Inc., of Pittsburgh, PA.

MC 161486, filed April 13, 1982. Applicant: DOUG JAQUES AND RICHARD GATES, d.b.a. SERENDIPITY TRAVEL, 12078 Balsam Circle, Granger, IN 46530. Representative: F. Gerard Fenney, 305 JMS Bldg., South Bend, IN 46601, (219) 233–9449. Transporting *passengers and their baggage,* in the same vehicle with passengers, in special and charter operations in round trip tours, limited to the transportation of no more than 12 passengers in any one vehicle, not including the driver, beginning and ending at points in St. Joseph County, IN, and extending to points in the U.S. (except AK and HI).

MC 161496, filed April 13, 1982. Applicant: BALTIMORE INTERNATIONAL TRANSPORT, INC., 1017 E. Patapsco Ave., Baltimore, MD 21225. Representative: Robert J. Gallagher, 1000 Connecticut Ave., N.W., Suite 122, Washington, DC 20036, (202) 785–0024. Transporting (1) *furnaces and furnace parts,* between points in the U.S., under continuing contract(s) with Powermatic, Inc., of Finksburg, MD; (2) *chemicals,* between point in the U.S. (except AK and HI), under continuing contract(s) with Mineral Pigments Corp., of Beltsville, MD; (3) *machinery,* between points in the U.S. (except AK and HI), under continuing contract(s) with C. M. Kemp Manufacturing Co., of Glen Burnie, MD.

Volume No. OP5–86

Decided: April 15, 1982.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 109448 (Sub-43), filed April 5, 1982. Applicant: PARKER TRANSFER COMPANY, 1539 Lowell St., P.O. Box 256, Elyria, OH 44036. Representative: David A. Turano, 100 E. Broad St., Columbus, OH 43215, 614–228–1541. Transporting *such commodities* as are dealt in or used by manufacturers and distributors of building materials, between Cleveland, and points in Media County, OH; Baltimore, MD; points in York County, PA; Erie County, NY; Lincoln County, OK; and San Joaquin

County, CA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 141119 (Sub-8), filed April 6, 1982. Applicant: MERCHANT'S 5 STAR, INC.; Moore's Junction, Box 541, Marietta, OH 45750. Representative: John L. Alden, 1396 W. Fifth Ave., Columbus, OH 43212, (614) 481–8821. Transporting *plastic articles,* between points in Guernsey County, OH, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 141489 (Sub-19), filed April 1, 1982. Applicant: HUNTER TRUCKING, INC., 2230 32nd Ave., Council Bluffs, IA 51501. Representative: Donald L. Stern, Suite 610, 7171 Mercy Rd., Omaha, NE 68106, 402–392–1220. Transporting *such commodities* as are dealt in or used by manufacturers and distributors of *clay, concrete, glass or stone products,* between points in the U.S. under continuing contract(s) with Sioux City Brick & Tile Company of Sioux City, IA; United Brick & Tile Co. of Iowa of Adel, IA, and Ballou Brick Company of Sergent Bluff, IA.

MC 145359 (Sub-42), filed March 23, 1982. Applicant: THERMO TRANSTPORT, INC., P.O. Box 41587, Indianapolis, IN 46240. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240, 317–846–6655. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), under continuing contract(s) with Schering Plough, Inc. of Memphis, TN, and its wholly owned subsidies Scholl, Inc. and Maybelline Company, both of Memphis, TN, and Dap, Inc. of Dayton, OH between points in the U.S. (except AK and HI).

MC 146438 (Sub-15), filed April 5, 1982. Applicant: ETV, INC., P.O. Box 391, Comestock Park, MI 49321. Representative: Wilhelmina Boersma, 1600 First Federal Bldg., Detroit, MI 48226, 313–962–6492. Transporting *plumbing supplies and related products,* between Detroit, MI; and points in Los Angeles County, CA; Davidson County, NC; Georgetown County, SC, and Dallas County, TX, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 147738 (Sub-4), filed April 1, 1982. Applicant: FALCON EXPRESS FORWARDERS, INC., 8 Lawrence St., Belleville, NJ 07109. Representative: Thomas F. X. Foley, P.O. Box F, Colts Neck, NJ 07722, 201–946–2020. Transporting *metal products,* between points in the U.S. under continuing contract(s) with Utility Brass and Copper Corporation of Moonachie, NJ.

MC 148929 (Sub-2), filed March 29, 1982. Applicant: GAY'S HOT SHOT SERVICE, INC., 18 Cacti Pl., Casper, WY 82601. Representative: Jack L. Schiller, 123–60 83rd Ave., Kew Gardens, NY 11415, 212–263–2078. Transporting *earth drilling equipment materials and supplies,* between points in WY, on the one hand, and, on the other, points in AZ, CO, ID, KS, MT, ND, NE, NM, NV, OK, OR, SD, TX, UT, and WA.

MC 154739 (Sub-4), filed April 7, 1982. Applicant: JEBCO LEASING, INC., 515 Elcamino Rd., Greenwood, IN 46142. Representative: Norman R. Garvin, 1301 Merchants Plaza, East Tower, Indianapolis, IN 46204–3491; (317) 638–1301. Transporting *glass products,* between points in the U.S. (except AK and HI), under continuing contract(s) with Glass Containers Corporation, of Fullerton, CA.

MC 156908 (Sub-1), filed April 5, 1982. Applicant: AMTRANS, INC., P.O. Box 04704, Milwaukee, WI 53204. Representative: Richard C. Alexander, 710 North Plankinton Ave., Milwaukee, WI 53203, (414) 273–7410. Transporting *paper and related products,* between points in the U.S. (except AK and HI), under continuing contract(s) with Nackie Paper, a division of Jim Walter Papers, Inc., of Milwaukee, WI.

MC 159968, filed April 6, 1982. Applicant: BORCULO GARAGE, INC., d.b.a. GRASSMID TRANSPORT, 6410 96th Ave., Zeeland, MI 49464. Representative: D. Richard Black, Jr., 285 James St., P.O. Box 638C, Holland, MI 49423, (616) 399–3400. Transporting *such commodities* as are dealt in or used by manufacturers and distributors of food products, between points in the U.S., under continuing contract(s) with Bil-Mar Foods, Inc., of Zeeland, MI.

MC 161348, filed April 5, 1982. Applicant: SHENANDOAH EXPRESS, INC., Rt. 1 Box 235, Middletown, VA 22645. Representative: C. Michael Wymer (same address as applicant), 703–869–4036. Transporting *food and related products,* between points in the U.S. under continuing contract(s) with The Shenandoah Apple Co-Operative, Inc. of Winchester, VA.

MC 161358, filed April 5, 1982. Applicant: CHECKER MOVING & STORAGE, INC., P.O. Box 656, 1705 Dixie Rd., Neenah, WI 54956. Representative: Edward J. Gerrity, P.O. Box 914, Appleton, WI 54912, (414) 734–5608. Transporting *pulp, paper and related products, rubber and plastic products, and metal products,* between points in Winnebago County, WI, on the one hand, and, on the other, points in IL, IN, IA, MI, and MN.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-11161 Filed 4-22-82; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-167 (Sub-408N)]

Rail Carriers; Conrail Abandonment Between Cranbury and Highstown, NJ; Correction; Findings

Docket No. AB–167 (Sub-No. 408N), Conrail Abandonment Between Cranbury and Highstown, NJ, was published in the **Federal Register** April 13, 1982, at 47 FR 15925. The publication incorrectly described the line of abandonment and net liquidation value of the line.

The correct line discription is 3.1 miles of real line between Cranbury (milepost 18.6) and Highstown (milepost 21.7) in Middlesex and Mercer Counties, NJ. The net liquidation value of this line is $196,750.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-11157 Filed 4-22-82; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF LABOR

Bureau of Labor Statistics

Business Research Advisory Council Committees; Meetings and Agenda

The Spring meetings of committees of the Business Research Advisory Council will be held on May 17 and 18, 1982.

The Committee on Employment and Unemployment will hold its meeting in Room 2734 of the General Accounting Office Building, 441 G Street, N.W., Washington, D.C.

The meetings of the Committees on Wages and Industrial Relations and Price Indexes will be held in Room 2433, General Accounting Office Building.

The Business Research Advisory Council and its committees advise the Bureau of Labor Statistics with respect to technical matters associated with the Bureau's programs. Membership consists of technical officers from American business and industry.

The schedule and agenda of the meetings are as follows:

Monday, May 17

2:00 p.m.—Committee on Employment and Unemployment

1. Program Priorities—What follows the 1982 cuts?

2. Status Reports of Ongoing Programs.

3. Private Sector Initiatives—What support can be made available?
4. The Underground Economy—Considerations, Dimensions.
5. Other Business.

Tuesday, May 18

9:30 a.m.—Committee on Wages and Industrial Relations

1. Industrial Relations Need for Simultaneous Issuance of CP–U and CPI–W on a Rental Equivalence Basis.
2. Review of WIR Work in Progress.
3. Discussion of WIR Evaluation Report.
4. Other Business.

Tuesday, May 18

1:30 p.m.—Committee on Price Indexes

1. Update on budget situation.
2. Treatment of health care costs in the CPI.
3. PPI—current status.
4. Consumer Expenditure Survey update and possibility of weight changes.
5. Point of Purchase Survey update and possibility of weight changes.
6. A review of the adjustment in homeowership component, COI–U and CPI–W.

The meetings are open to the public. It is suggested that persons planning to attend these meetings as observers contact Kenneth G. Van Auken, Executive Secretary, Business Besearch Advisory Council on Area Code (202) 272–5241.

Signed at Washington, D.C. this 20 the day of April 1982.

Janet L. Norwood,

Commissioner of Labor Statistics.

[FR Doc. 82–11201 Filed 4–22–82; 8:45 am]

BILLING CODE 4510–24–M

Business Research Advisory Council; Meeting

The regular spring meeting of the Business Research Advisory Council will be held at 9:30 a.m., May 19, 1982, in Room N–5437 of the Frances Perkins Department of Labor Building, 200 Constitution Avenue, N.W., Washington, D.C.

The Business Research Advisory Council and its committees advise the Bureau of Labor Statistics with respect to technical matters associated with the Bureau's programs. Membership consists of technical officers from American business and industry. The agenda for the meeting is as follows:

1. Chairman's Opening Remarks—Noel A. McBride
2. Commissioner's Remarks—Janet L. Norwood
3. Committee Reports:

(a) Employment and Unemployment (The effect of 1982 cuts, private sector initiatives, underground economy).

(b) Wages and Industrial Relations (Evaluation report of WIR, impact of CPI adjustments on industrial relations).

(c) Price Indexes (Health care costs in the CPI, updates on consumer expenditure and outlet surveys—implications for weight changes, homeownership adjustments in CPI–U and CPI–W.

4. Other Business
5. Chairman's Closing Remarks

This meeting is open to the public. It is suggested that persons planning to attend as observers contact Kenneth G. Van Auken, Executive Secretary, Business Research Advisory Council on Area Code (202) 272–5241.

Signed at Washington, D.C. this 20th day of April 1982.

Janet L. Norwood,

Commissioner of Labor Statistics.

[FR Doc. 82–11202 Filed 4–22–82; 8:45am]

BILLING CODE 4510–24–M

Employment and Training Administration

Comprehensive Employment and Training Act; Programs for Youth Who Are Members of Migrant and Other Seasonally Employed Farmworker Families

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice of solicitation of grant applications.

SUMMARY: This notice sets forth the procedure and schedule for the solicitation of applications for grants and the allocation of funds by the Employment and Training Administration for programs for eligible youth ages 14 through 21 who are members of migrant and other seasonally employed farmworker families for Program Year 1982. These programs are authorized under Title IV, Part A, Subparts 2 and 3 of the Comprehensive Employment and Training Act (CETA) at sections 433(a)(4) and 423(b).

FOR FURTHER INFORMATION CONTACT: Mr. A. E. Berndt, Acting Director, Division of Farmworker and Rural Employment Programs, Employment and Training Administration, U.S. Department of Labor, 601 D Street N.W., Room 7208, Washington, D.C. 20213, Telephone (202) 376–7124.

SUPPLEMENTARY INFORMATION: The Division of Farmworker and Rural Employment Programs, Employment and Training Administration, U.S. Department of Labor announces the availability of funds under Title IV, Part A, Subparts 2 and 3 of the Comprehensive Employment and Training Act (CETA), at sections 433(a)(4) and 423(b), and the schedule for solicitation of applications for grants and the award of funds to implement programs for eligible youth who are members of migrant and seasonal farmworker families for Program Year 1982. Approximately $3.6 million is available for these programs. Funds will be awarded on a special competitive basis, pursuant to the regulations at 29 CFR 97.900 *et seq.*, to grantees operating Section 303 programs for Program Year 1982. A list of eligible applicants is set forth below.

Grants will be awarded for not less than $150,000 and not more than $150,000; the Department, however, may award $1,000,000 to a single grant under special circumstances. Because of the limited funds available, the Department expects to award no more than 15 grants for these programs.

Solicitation for Grant Application (SGA) packages for these programs were mailed to all eligible applicants on April 19, 1982. Grant application packages include the guidelines and specifications to which eligible applicants must adhere in preparing applications. Applications must not exceed fifty (50) "8½ x 11" pages of double-spaced, unreduced type, including appendices.

Applications for funds must be hand delivered or posted by registered or certified mail no later than May 14, 1982. Grantees which are multi-State operators may submit one proposal covering more than one State. Each applicant must submit three copies of the applications(s) to the Office of Financial Control and Management Systems (OFCMS), Employment and Training Administration, Room 5118, 601 D Street N.W., Washington, D.C. 20213, Attention: Ms. Janet Sten.

All grant applications bearing postmarks after May 14, 1982, will be returned without consideration. Hand delivered grant applications will be accepted daily between the hours of 8:15 a.m. and 4:45 p.m. at the address listed above. All eligible applicants will be given a receipt bearing a time and date of delivery. Hand delivered applications received after 4:45 p.m. on May 14, 1982, will be returned without consideration. No exceptions to these time limitations will be made.

Eligible applicants are required to notify both the OFCMS and the appropriate A–95 clearinghouse(s), by Preapplication for Federal Assistance, Standard Form 424, posted by registered or certified mail no later than April 26, 1982, so that appropriate arrangements may be made for prompt review of the grant applications. Copies of the formal grant application(s) must also be sent to the appropriate A–95 clearinghouse(s) for comment at the same time the application is mailed to OFCMS. The A–95 clearinghouses should send

comments to OFCMS at the above address, as well as to the applicant(s).

It is expected that grant awards will be made on or about July 1, 1982.

Consultation and technical assistance relative to the development of applications is available upon request from the Division of Farmworker and Rural Employment Programs at the address and telephone number listed above.

Eligible Applicants

The following Section 303 grantees are eligible to compete for the youth awards. Please note that grantees operating multi-State programs are listed only once; however, grantees may submit proposals for all States for which they currently hold section 303 grants.

New England Farm Workers' Council, Inc., Springfield, Massachusetts
Penobscot Consortium Training and Employment Administration, Bangor, Maine
Central Vermont Community Action Council, Inc., Barre, Vermont
Rural New York Farmworker Opportunities, Inc., Rochester, New York
Commonwealth of Puerto Rico, Hato Rey, Puerto Rico
Migrant and Seasonal Farmworkers Association, Inc., Raleigh, North Carolina
Alabama Migrant & Seasonal Farmworkers Council, Inc., Montgomery, Alabama
Florida State Department of Education, Tallahassee, Florida
Tennessee Opportunity Program for Seasonal Farmworkers, Inc., Nashville, Tennessee
Mississippi Delta Council for Farmworkers Opportunities, Clarksdale, Mississippi
Office of the Governor, CETA Division, Columbia, South Carolina
Illinois Migrant Council, Chicago, Illinois
Indiana Office of Manpower Development, Indianapolis, Indiana
Michigan Economics for Human Development, Grant Ledge, Michigan
Minnesota Migrant Council, St. Cloud, Minnesota
La Raza Unida de Ohio, Columbus, Ohio
United Migrant Opportunity Services, Inc., Milwaukee, Wisconsin
Arkansas Council for Farmworkers, Inc., Little Rock, Arkansas
Home Education Livelihood Program, Albuquerque, New Mexico
ORO Development Corporation, Oklahoma City, Oklahoma
Motivation, Education and Training, Inc., Cleveland, Texas
Wichita SER/Jobs for Progress, Wichita, Kansas
Rural Missouri, Inc., Jefferson City, Missouri
Nebraska Association of Farmworkers, North Platte, Nebraska
Colorado Department of Labor & Employment, Balance of State CETA, Denver, Colorado
Motivation, Education & Training, Inc., Jennings, Louisiana
Montana Farmworker Council, Inc., Helena, Montana
North Dakota Migrant Council, Grand Forks, North Dakota
Utah Migrant Council, Midvale, Utah
Northwestern Community Action Programs of Wyoming, Inc., Worland, Wyoming
State of South Dakota, South Dakota Department of Labor, Aberdeen, South Dakota
Portable Practical Education Preparation, Tucson, Arizona
California Human Development Corporation, Windsor, California
Center for Employment and Training, San Jose, California
Capesinos Unidos, Inc., Brawley, California
Central Valley Opportunity Center, Inc., Merced, California
Proteus Adult Training, Inc., Visalia, California
Office of the Governor, Department of Labor & Industrial Relations, Honolulu, Hawaii
Idaho Migrant Council, Boise, Idaho
Northwest Rural Opportunities, Sunnyside, Washington

Signed at Washington, D.C., this 19th day of April 1982.

Ludwin Branch,

Acting Administrator, Office of National Programs.

[FR Doc. 82-11203 Filed 4-22-82; 8:45 am]

BILLING CODE 4510-30-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (82-24)]

NASA Advisory Council, Aeronautics Advisory Committee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Aeronautics Advisory Committee, Informal Advisory Subcommittee on High Performance Aircraft Systems.

DATE AND TIME: May 18, 1982, 8:30 a.m. to 4:30 p.m.; May 19, 1982, 8:30 a.m. to 4:30 p.m.; May 20, 1982, 8:30 a.m. to 12:30 p.m.

ADDRESS: National Aeronautics and Space Administration, 600 Independence Avenue SW, Room 625, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. Jack Levine, National Aeronautics and Space Administration, Code RJH-2, Washington, DC 20546 (202/755-2366).

SUPPLEMENTARY INFORMATION: The Informal Advisory Subcommittee on High Performance Aircraft Systems was established to assist the NASA in assessing the current adequacy of high performance aircraft technology and recommend actions to reduce deficiencies through modification of the planned NASA research and technology program in flight dynamics, aerodynamics, structures and materials, propulsion, airframe/propulsion integration, integrated propulsion/airframe controls, and flight research. The Subcommittee, chaired by Mr. William T. Hamilton, is comprised of ten members. The meeting will be open to the public up to the seating capacity of the room (approximately 45 persons including the Subcommittee members and participants).

Type of Meeting

Open.

Agenda

May 18, 1982
8:30 a.m.—Welcome and Introduction.
8:45 a.m.—Budget Overview/Status of NASA Aeronautics Program.
9:15 a.m.—Significant Changes From Last Year's Review.
9:45 a.m.—Discussion of New Programs.
10:30 a.m.—Review of Recommendations and Comments From Previous Meeting of the Subcommittee (Facility Productivity Update).
11 a.m.—Special Topic: Propulsion System and Propulsion/Airframe Integration Technology (NASA Center Presentations).
4:30 p.m.—Adjourn.

May 19, 1982
8:30 a.m.—Special Topic: Propulsion System and Propulsion/Airframe Integration Technology (Member Presentations and Discussion).
1 p.m.—Other Business of the Subcommittee.
2:30 p.m.—Preparation of the Subcommittee Report.
4:30 p.m.—Adjourn.

May 20, 1982
8:30 a.m.—Preparation of the Subcommittee Report Continued.
12:30 p.m.—Adjourn.

Nathaniel B. Cohen,

Director, Management Support Office, Office of External Relations.

April 16, 1982.

[FR Doc. 82-11093 Filed 4-22-82; 8:45 am]

BILLING CODE 7510-01-M

NATIONAL COMMISSION ON SOCIAL SECURITY REFORM

Meeting

AGENCY: National Commission on Social Security Reform.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the National Commission on Social Security Reform.

This notice also describes the functions of the Commission. Notice of this meeting is required under Section 10(a)(2) of the Federal Advisory Committee Act. This document is intended to notify the general public of their opportunity to attend.

DATE: May 10, 1982: 1:00 p.m. to 5:00 p.m.

ADDRESS: Room 5110, Dirksen Senate Office Building, Washington, D.C. 20510.

FOR FURTHER INFORMATION CONTACT: Robert J. Myers, Executive Director, 736 Jackson Place, NW., Washington, D.C. 20503; Telephone (202) 395–5132

SUPPLEMENTARY INFORMATION: The National Commission on Social Security Reform is established by Executive Order No. 12335 dated December 16, 1981 to provide appropriate recommendations to the Secretary of Health and Human Services, the President, and the Congress on long-term reforms to put Social Security back on a sound financial footing.

The meeting of the Commission is open to the public. The proposed agenda includes:

Presentation on private pensions by Quentin I. Smith, Jr. and Alicia H. Munnell.

Discussion on private pensions in the context of total retirement income.

Such new business as the chairman or the membership may put before the Commission.

Records are kept of all Commission proceedings, and are available for public inspection at the office of The Executive Director, National Commission on Social Security Reform, 736 Jackson Place, NW., Washington, DC 20503.

Robert J. Myers.

Executive Director.

[FR Doc. 82–11284 Filed 4–22–82; 8:45 am]

BILLING CODE 3115–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–318]

Baltimore Gas & Electric Co.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 51 to Facility Operating License No. DPR–69, issued to Baltimore Gas and Electric Company, which revised Technical Specifications for operation of the Calvert Cliffs Nuclear Power Plant, Unit No. 2 located in Calvert County, Maryland. The amendment is effective as of the date of issuance.

The amendment extends the maximum allowable period of inoperability for control room air conditioning unit from 7 to 21 days to allow modifications to the equipment. This amendment is applicable during the period April 17 to July 21, 1982, during which time Calvert Cliffs Unit 1 would be shut down (Modes 5 and 6).

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of the amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of the 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 the amendment.

For further details with respect to this action, see (1) the application for amendment dated April 12, 1982, (2) Amendment No. 51 to License No. DPR–69, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Calvert County Library, Prince Frederick, Maryland. A copy of items (2) and (3) may by obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Md., this 16th day of April 1982.

For the Nuclear Regulatory Commission.

Charles M. Trammell,

Acting Chief, Operating Reactors Branch No. 3, Division of Licensing.

[FR Doc. 82–11219 Filed 4–22–82; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–373]

Commonwealth Edison Co.; Issuance of Facility Operating License

Notice is hereby given that the U.S. Nuclear Regulatory Commission (the Commission), has issued Facility Operating License No. NPF–11, to Commonwealth Edison Company (the licensee) which authorizes operation of the La Salle County Station, Unit 1 (the facility), by Commonwealth Edison Company at reactor core power levels not in excess of 166 megawatts thermal (5 percent power) in accordance with the provisions of the License, the Technical Specifications and the Environmental Protection Plan.

La Salle County Station, Unit 1, is a boiling water nuclear reactor located at the licensee's site in Brookfield Township, La Salle County, Illinois approximately 65 miles southwest of Chicago, Illinois. The license is effective as of the date of issuance.

The application for the license 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. Prior public notice of the overall action involving the proposed issuance of an operating license was published in the Federal Register on June 9, 1977 (42 FR 29576–29577).

The Commission has determined that the issuance of this license will not result in any environmental impacts other than those evaluated in the Final Environmental Statement and its Addendum since the activity authorized by the license is encompassed by the overall action evaluated in the Final Environmental Statement and its Addendum.

For further details with respect to this action, see (1) Facility Operating License No. NPF–11, complete with Technical Specifications and Environmental Protection Plan; (2) the report of the Advisory Committee on Reactor Safeguards dated April 16, 1981; (3) the Commission's Safety Evaluation Report dated March 1981, Supplement No. 1 dated June 1981, Supplement No. 2 dated February 1982, and Supplement No. 3 dated April 1982; (4) the Final Safety Analysis Report and amendments thereto; (5) the Environmental Report and Supplements thereto; (6) the Final Environmental Statement dated November 1978 and the Addendum to the final Environmental Statement dated May 1981; and (7) NRC Flood Plain Review of La Salle Nuclear Plant site Dated January 29, 1981.

These items are available for public inspection at the Commission's Public Document Room 1717 H Street, NW., Washington, D.C. 20555, and the Public

Library of Illinois Valley Community College, Rural Route No. 1, Oglesby, Illinois 61348. A copy of Facility Operating License No. NPF–11 may be obtained upon request adressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing. Copies of the Safety Evaluation Report and its Supplements 1, 2 and 3 (NUREG–0519) may be purchased at current rates from the National Technical Information Service, Department of Commerce, 5285 Port Royal Road, Springfield, Virginia 22161, and through the NRC GPO sales program by writing to the U.S. Nuclear Regulatory Commission, Attention: Sales Manager, Washington, D.C. 20555. GPO deposit account holders can call (301) 492–9530.

Dated at Bethesda, Md., this 17th day of April 1982

For the Nuclear Regulatory Commission.

A. Schwencer,

Chief, Licensing Branch No. 2, Division of Licensing.

[FR Doc. 82–11220 Filed 4–22–82; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–249 EA 82–57]

Commonwealth Edison Co. (Dresden Nuclear Power Station Unit No. 3); Rescission of October 2, 1980 Confirmatory Order

I

Commonwealth Edison Company (the "licensee") is the holder of Facility Operating License No. DPR–25 (the "license") with an expiration date of October 14, 2006, which authorizes operation of the Dresden Nuclear Power Station Unit No. 3 (the "facility") located near Morris, Illinois.

II

As the result of an investigation of an event at the Browns Ferry Nuclear Power Station, Unit 3, when a manual scram from approximately 35 percent power failed to insert all of the control rods, IE Bulletin No. 80–17, "Failure of 76 of 185 Control Rods to Fully Insert During a Scram at a BWR," was issued on July 3, 1980 and requested action to be taken by all licensees of General Electric designed Boiling Water Reactors (BWR). Additional action applicable to these BWR facilities was requested in Supplement Nos. 1, 2 and 3 to IE Bulletin 80–17 and these supplements were issued on July 18, July 22 and August 22, 1980, respectively. These actions were designed to provide reasonable assurance that the licensee could maintain scram capability at all times during an interim period of operation until an ultimate resolution could be achieved by changes in system design and operating procedures.

An Order was issued to the licensee on October 2, 1980 to confirm the licensee's commitment to undertake a set of interim actions designed to provide continuous monitoring of the scram discharge volume (SDV) with appropriate indication and alarm in the control room so that if water accumulated in the SDV the operator decision about action to be taken could be made in a timely fashion from the control room.

III

By letter dated December 9 1980, the Office of Nuclear Reactor Regulation transmitted "Generic SER of BWR Scram Discharge Systems" to all BWR licensees which set down the final requirements for the modifications of the scram discharge volume systems.

In a letter dated March 24, 1982, to the Director, Office of Inspection and Enforcement, the licensee stated that the long term design modifications to the Dresden Unit 3 Scram Discharge Volume System have been implemented during the current refueling outage. These modifications include two Scram Discharge Instrument Volumes (SDIVs), improved communications between the SDV headers and the SDIVs, diverse and redundant scram sensor instrumentation, dedicated and positive vents with two air-operated isolation valves, two air-operated isolation valves on the drain lines and diverse power supplies for the instrumentation and controls. License Amendment No. 59, issued on March 26, 1982, reflects these facility changes. This newly installed system now provides to the control room operators all the necessary information concerning the scram discharge volume system which had been provided by the interim measures installed pursuant to the October 2, 1980 Confirmatory Order.

IV

In view of the foregoing, the October 2, 1980 Confirmatory Order is hereby rescinded for Dresden Nuclear Power Station, Unit No. 3.

Effective Date: April 12, 1982; Bethesda, Maryland.

For the Nuclear Regulatory Commission.

Richard C. DeYoung,

Director, Office of Inspection and Enforcement.

[FR Doc. 82–11221 Filed 4–22–82; 8:45 am]

BILLING CODE 7590–01–M

[Docket Nos. 50–373; 50–374]

Commonwealth Edison Co. (La Salle County Nuclear Generating Station, Unit 1 and Unit 2); Request for Action Under 10 CFR 2.206

Notice is hereby given that by its Request to Institute a Show Cause Proceeding and for Other Relief dated March 24, 1982 (Petition), the Attorney General for the State of Illinois requested that certain actions be taken by the Nuclear Regulatory Commission with respect to the La Salle County Units 1 and 2 of the Commonwealth Edison Company, in light of alleged newly discovered safety issues. Alleged safety issues concern the drilling of holes into structural concrete at the La Salle facility and also concern the structural adequacy of the off-gas building roof for that facility. The relief requested included institution of a show cause proceeding pursuant to 10 CFR 2.202 and immediate suspension of further consideration of Edison's application for operating licenses. This request is being treated as a petition pursuant to 10 CFR 2.206 of the Commission's regulations, and accordingly, action will be taken on the Petition within a reasonable time.

Copies of the Petition are available for inspection in the Commission's public document room at 1717 H Street NW., Washington, D.C. 20555, and in the local public document room for the La Salle County Plant, Units 1 and 2 located at Illinois Valley Community College, Rural Route #1, Oglesby, Illinois 61348.

Dated at Bethesda, Maryland this 17th day of April, 1982.

For the Nuclear Regulatory Commission.

Harold R. Denton,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 82–11222 Filed 4–22–82; 8:45 am]

BILLING CODE 7590–01–M

[Docket Nos. 50–329 CP, 50–330 CP]

Consumers Power Co. (Midland Plant, Units 1 and 2); Oral Argument

Notice is hereby given that, in accordance with the Appeal Board's order of April 16, 1982, oral argument on the appeal of the intervenor Saginaw Valley Nuclear Study Group from the December 22, 1981, partial initial decision of the Licensing Board will be heard at *2:00 p.m. on Thursday, May 13, 1982,* in the NRC Public Hearing Room, Fifth Floor, East-West Towers Building, 4350 East-West Highway Bethesda, Maryland.

Dated: April 19, 1982.

For the Appeal Board.

C. Jean Shoemaker,

Secretary to the Appeal Board.

[FR Doc. 82-11223 Filed 4-22-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-335]

Florida Power and Light Co.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 49 to Facility Operating License No. DPR-67, issued to Florida Power and Light Company, which deleted a license condition and revised Technical Specifications for operation of the St. Lucie Plant, Unit No. 1 (the facility), located in St. Lucie County, Florida. The amendment is effective as of its date of issuance.

The amendment changes the Technical Specifications to correct an inconsistency regading valve closure time of an instrument air containment isolation valve and by adding the requirement of periodic flow path verification of the NaOH containment spray additive system. License Condition Q, which required that such verification be proposed, has been deleted.

The applications for the amendment comply with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amemdment 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) applications for amendment dated February 9, 1979 (as supplemented January 19, 1981) and February 21, 1979, (2) Amendment No. 49 to License No. DPR-67, and (3) the Commission's related Safety Evaluation. All of these times are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at the Indian River Junior College Library, 3209 Virginia Avenue, Ft. Pierce, Florida. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 12th day of April 1982.

For the Nuclear Regulatory Commission.

Robert A. Clark,

Chief, Operating Reactors Branch No. 3, Division of Licensing.

[FR Doc. 82-11224 Filed 4-22-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-331]

Iowa Electric Light and Power Co., et al., Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 73 to Facility Operating License No. DPR-49 issued to Iowa Electric Light and Power Company, Central Iowa Power Cooperative, and Corn Belt Power Cooperative, which revises the Technical Specifications for operation of the Duane Arnold Energy Center, located in Linn County, Iowa. The amendment is effective as of its date of issuance.

The amendment modifies the Technical Specifications to incorporate surveillance requirements for Scram Discharge Volume (SDV) vent and drain valves and limiting conditions for operation and surveillance requirements for SDV level instrumentation.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated October 9, 1980, (2) Amendment No. 73 to License No. DPR-49, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Cedar Rapids Public Library, 426 Third Avenue, SE., Cedar Rapids, Iowa 52401. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland this 12th day of April 1982.

For the Nuclear Regultory Commission.

Domenic B. Vassallo,

Chief, Operating Reactors Branch No. 2, Division of Licensing.

[FR Doc. 82-11225 Filed 4-22-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-336]

Northeast Nuclear Energy Co., et al.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 76 to Facility Operating License No. DPR-65, issued to Northeast Nuclear Energy Company, the Connecticut Light and Power Company, the Hartford Electric Light Company, and the Western Massachusetts Electric Company (the Licensee), which revised Technical Specifications for operation of the Millstone Nuclear Power Station, Unit No. 2 (the facility) located in the town of Waterford, Connecticut. The amendment was effective March 20, 1982.

The amendment changes the Technical Specifications to allow 72 additional hours to return the steam turbine driven auxiliary feedwater pump to service following its failure at 10:40 p.m. on March 18, 1982. The amendment was issued on an expedited basis to permit continued plant operation while pump repairs were made.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact

statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated March 20, 1982 (2) Amendment No. 76 to License No. DPR-65, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW, Washington, D.C. and at the Waterford Public Library, Rope Ferry Road, Waterford, Connecticut. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 13th day of April 1982.

For the Nuclear Regulatory Commission.

Robert A. Clark,

Chief, Operating Reactors Branch No. 3, Division of Licensing.

[FR Doc. 82-11226 Filed 4-22-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-338 and 50-339]

Virginia Electric and Power Co., Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendments No. 39 and No. 20 to Facility Operating License Nos. NPF-4 and NPF-7 issued to the Virginia Electric and Power Company (the Licensee) for operation of the North Anna Power Station, Units No. 1 and No. 2 (the facility) located in Louisa County, Virginia. The amendments are effective as of the date of issuance.

The amendments revise the Technical Specifications for the North Anna Power Station, Units No. 1 and No. 2 based on the licensee's reanalysis of the Emergency Core Cooling System (ECCS) performance for the postulated large-break Loss-of-Collant-Accident (LOCA) assuming seven (7) percent steam generator uniform tube plugging. The licensee's reanalysis has been determined to meet the criteria of 10 CFR 50.46 and the reanalysis was performed in accordance with 10 CFR Part 50, Appendix K and adequately addresses the cladding material models addressed in NUREG-0639.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since these amemdments do not involve a significant hazards consideration.

The Commission has determined that the issuance of the amendments will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of these amendments.

For further details with respect to this action, see (1) the application for amendments dated November 12, 1981 as supplemented February 12, 1982, (2) Amendment No. 39 and No. 20 to Facility Operating Licenses No. NPF-4 and NPF-7, respectively, 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. 20555 and at the Board of Supervisor's Office, Louisa County Courthouse, Louisa, Virginia 23093 and at the Alderman Library, Manuscripts Department, University of Virginia, Charlottesville, Virginia 22901. A copy of items (2) and (3) may be obtained upon request to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of licensing.

Dated at Bethesda, Maryland this 13th day of April, 1982.

For the Nuclear Regulatory Commission.

Robert A. Clark,

Chief, Operating Reactors Branch No. 3 Division of Licening.

[FR Doc. 82-11227 Filed 4-22-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-513 and 50-509]

Washington Public Power Supply System, (WPPSS Nuclear Project Nos. 4 and 5); Receipt of Petition Under 10 CFR 2.206

Notice is hereby given that by petition dated March 17, 1982, the Coalition for Safe Power, Portland, Oregon, has requested pursuant to 10 CFR 2.206 that the Director of Nuclear Reactor Regulation order the Washington Public Power Supply System (WPPSS) to show cause why the construction permits for its Nuclear Project Nos. 4 and 5 should not be revoked. The Coalition believes such action is appropriate in view of WPPSS's decision to terminate construction of the projects. As provided in 10 CFR 2.206, appropriate action will be taken on the petition within a reasonable time.

Copies of the petition are available for public inspection in the Commission's public document room at 1717 H Street NW., Washington, D.C., and in the local public document rooms at the Richland Public Library, Swift and Northgate Streets, Richland, WA 99352 and the W. H. Abel Memorial Library, 125 Main Street, South, Montesano, WA 98563.

Dated at Bethesda, Maryland, this 19th day of April 1982.

For the Nuclear Regulatory Commission.

Harold R. Denton,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 82-11228 Filed 4-22-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. STN 50-482]

Availability of Safety Evaluation Report for the Wolf Creek Generating Station, Unit No. 1

The Office of Nuclear Reactor Regulation has published its Safety Evaluation Report related to the proposed operation of the Wolf Creek Generating Station, Unit No. 1, located in Coffey County Kansas. Notice of receipt of Kansas Gas and Electric Company's application for a facility operating license for the Wolf Creek Generating Station, Unit No. 1, was published in the **Federal Register** on December 18, 1980 (45 FR 83360).

The report is being referred to the Advisory Committee on Reactor Safeguards and is being made available at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. 20555, and at the William Allen White Library, Emporia State University, 1200 Commercial Street, Emporia, Kansas 66801 for inspection and copying. The report (Document No. NUREG-0881) can also be purchased at current rates, from the National Technical Information Service, Department of Commerce, 5285 Port Royal Road, Springfield, Virginia 22161. The report may be purchased directly from NRC by writing to the Director, Division of Technical Information and Document Control, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. GPO Deposit Account holders may charge their order by calling (301)492-9530.

Dated at Bethesda, Maryland, this 19th day of April 1982.

For the Nuclear Regulatory Commission.

B. J. Youngblood,

Chief, Licensing Branch No. 1, Division of Licensing.

[FR Doc. 82-11229 Filed 4-22-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-445; 50-446]

Texas Utilities Generating Co., et al., (Comanche Peak Steam Electric Station, Units 1 and 2), (Application for Operation License); Continuation of Evidentiary Hearing

April 19, 1982.

Please take notice that a continuation of an evidentiary hearing will be held in this operating license proceeding before an Atomic Safety and Licensing Board (Board), pursuant to the Atomic Energy Act of 1954 as amended (the Act), and the regulations in Title 10, Code of Federal Regulations (CFR), Part 50, "Licensing of Production and Utilization Facilities," Part 51, "Licensing and Regulatory Policy and Procedures for Environmental Protection," and Part 2, "Rules of Practice." The prior portion of the evidentiary hearing was held December 2, 1981.

This continuation of the evidentiary hearing will commerce on June 7, 1982, at 9:00 a.m., local time,[1] at the Fort Worth Hilton Hotel, located at 1701 Commerce Street, Fort Worth, Texas 76101 and will continue until completion of taking evidence on the issues and contentions described hereafter. This evidentiary hearing will address the matters in controversy resulting from Contention 5 (QA/QC), and from Board Questions 1 and 3, if necessary.

A final prehearing conference, pursuant to 10 CFR 2.752, will be held at the same location immediately prior to the resumed evidentiary hearing.

On February 5, 1979, the Nuclear Regulatory Commission (NRC) issued a notice in the **Federal Register** of the "Availability of Applicants' Environmental Report, Consideration of Issuance of Facility Operating Licenses, and Opportunity for Hearing" for Comanche Peak (44 FR 6995). The notice stated that a petition for leave to intervene must be filed by March 5, 1979. Timely petitions were received from the State of Texas for participation as an interested state under 10 CFR 2.715(c), and from Citizens Association for Sound Energy (CASE), Citizens for Fair Utility Regulation (CFUR) and the Texas Association of Community Organizations for Reform Now/West Texas Legal Services (ACORN).

By its Order Relative to Standing of Petitioners to Intervene, entered June 27, 1979, the Board admitted these petitioners as Intervenors in this proceeding. Subsequently, ACORN's motion for its voluntary dismissal as a party was granted by Memorandum and Order entered July 24, 1981. CFUR's motion for withdrawal as a party was granted by an April 2, 1982 Order.

Any person who wishes to make an oral or written statement in this proceeding but who has not filed a petition for leave to intervene, may request permission in writing to make a limited appearance pursuant to the provisions of 10 CFR § 2.715 of the Commission's Rules of Practice. Limited appearances will be permited in this proceeding at the discretion of the Board, but at times, within such limits and on such conditions as may be determined by the Board. Persons desiring to make a limited appearance are requested to inform in writing the Secretary of the Commission, United States Nuclear Regulatory Commission, Washington, D.C. 20555, not later than May 24, 1982. A person permitted to make a limited appearance does not become a party, but may state his or her position and raise questions which he or she would like to have answered to the extent that the questions are within the scope of the hearing as specified above. A member of the public does not have the right to participate unless granted the right to intervene as a party or the right of limited appearance.

Written limited appearance statements may be submitted to the Board at any time prior to closing the record in this phase of the proceeding. Oral statements will only be received at times designated by the Board in order not to interfere with the taking of evidence in this adjudicatory proceeding. Oral limited appearance statements may be made on Tuesday, June 8, 1982, at 9:00 a.m., and at such other times as the Board shall specify. Both oral and written statements will be made a part of the official record of this proceeding.

It is so ordered.

Dated at Bethesda, Maryland, this 19th day of April 1982.

For the Atomic Safety and Licensing Board.

Marshall E. Miller,

Chairman, Administrative Judge.

[FR Doc. 82-11230 Filed 4-22-82; 8:45 am]

BILLING CODE 7590-01-M

[1] Please note that the time for commencement of this hearing has now been advanced to 9:00 a.m., although the Revised Schedule entered March 25, 1982, set the time for 1:00 p.m. on June 7.

Advisory Committee on Reactor Safeguards; Meeting

In accordance with the purposes of sections 29 and 182b. of the Atomic Energy Act (42 U.S.C. 2039, 2232 b.), the Advisory Committee on Reactor Safeguards will hold a meeting on May 6-8, 1982, in Room 1046, 1717 H Street, NW, Washington, DC. Notice of this meeting was published in the **Federal Register** on April 13, 1982.

The agenda for the subject meeting will be as follows:

Thursday, May 6, 1982

8:30 A.M.-8:45 A.M.: Opening Session (Open)—The Committee will hear and discuss the report of the ACRS Chairman regarding miscellaneous matters relating to ACRS activities.

8:45 A.M.-12:45 P.M.: Proposed NRC Quantitative Safety Goals (Open)—The Committee members will discuss a proposed ACRS report to the NRC regarding proposed quantitative safety goals to be used in the design, siting, construction, and operation of nuclear power plants.

1:45 P.M.-2:45 P.M.: Robert E. Ginna Nuclear Plant (Open)—The members will hear a briefing from the NRC Staff regarding steam generator tube repairs and restart of the Robert E. Ginna Nuclear Plant.

Portions of this session will be closed as necessary to discuss information the premature release of which would be likely to significantly frustrate the performance of the Committee's statutory function.

2:45 P.M.-6:30 P.M.: Wolf Creek Generating Station Unit 1 (Open)—The Committee members will hear and discuss the reports of its Subcommittee and consultants who may be present regarding the request of the Kansas Gas & Electric Company, et al. for a license to operate the Wolf Creek Generating Station Unit No. 1.

Portions of this session will be closed as necessary to discuss Proprietary Information applicable to this matter.

Friday, May 7, 1982

8:30 A.M.-9:30 A.M.: Proposed NRC Quantitative Safety Goals (Open)—The members will continue discussion of a proposed ACRS report to the NRC regarding quantitative safety goals.

9:30 A.M.-12:00 Noon: Emergency Response Capability in Nuclear Power Plants (Open)—The Committee will hear the report of its Subcommittee and consultants who may be present regarding proposed requirements for emergency facilities and response capability in nuclear power plants

(SECY 82-111, "Requirements for Emergency Response Capability," dated March 11, 1982).

Representatives of the NRC Staff will make presentations regarding this matter and respond to questions as appropriate.

1:00 P.M.–1:30 P.M.: ACRS Future Activities (Open)—The members will discuss the scope and scheduling of anticipated and proposed Subcommittee and full Committee activities.

1:30 P.M.–5:00 P.M.: Palisades Plant (Open)—The members will hear and discuss the report of its Subcommittee and consultants who may be present regarding the Systematic Evaluation and Integrated Plant Safety Assessment for this plant. Representatives of the NRC Staff, the licensee, and the nuclear industry as appropriate will make presentations and respond to questions.

Portions of this session will be closed as necessary to discuss Proprietary Information applicable to this matter.

5:00 P.M.–6:30 P.M.: Qualification Program for Safety Related Equipment (Open)—The members will hear and discuss the report of its subcommittee and consultants who may be present regarding the proposed NRC rule 10 CFR 50.49, Environmental Qualification of Electrical Equipment for Nuclear Power Plants.

Representatives of the NRC Staff and the nuclear industry will make presentations and respond to questions as appropriate.

Saturday, May 8, 1982

8:30 A.M.–12:30 P.M.: Preparation of ACRS Reports (Open)—The members will discuss proposed ACRS reports to the NRC regarding matters discussed during this meeting.

Portions of this session will be closed as necessary to discuss Proprietary Information, information which will be involved in an adjudicatory proceeding, and information the premature release of which would be likely to significantly frustrate the performance of the Committee's statutory function.

1:30 P.M.–2:15 P.M.: ACRS Subcommittee Reports (Open)—The members will hear and discuss the reports of designated subcommittees regarding the status of assigned activities including safeguards and security provisions at nuclear power plants and the methodology related to flooding potential at nuclear facilities.

2:15 P.M.–4:00 P.M.: Preparation of ACRS Reports (Open)—The members will complete discussion of proposed ACRS reports to the NRC regarding matters discussed during this meeting.

Procedures for the conduct of and participation in ACRS meetings were published in the **Federal Register** on September 30, 1981 (46 FR 47903). In accordance with these procedures, oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Committee, its consultants, and Staff. Persons desiring to make oral statements should notify the ACRS Executive Director as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements. Use of still, motion picture and television cameras during this meeting may be limited to selected portions of the meeting as determined by the Chairman. Information regarding the time to be set aside for this purpose may be obtained by a telephone call to the ACRS Executive Director (R. F. Fraley) prior to the meeting. In view of the possibility that the schedule for ACRS meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with the ACRS Executive Director if such rescheduling would result in major inconvenience.

I have determined in accordance with subsection 10(d) Pub. L. 92-463 that it is necessary to close portions of this meeting as noted above to discuss Proprietary Information (5 U.S.C. 552b(c)(4)) applicable to the matters being discussed, information which will be involved in an adjudicatory proceeding (5 U.S.C. 552b(c)(10)), and preliminary information the release of which would be likely to significantly frustrate performance of the Committee's statutory function (5 U.S.C. 552b(c)(9)(B)).

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted can be obtained by a prepaid telephone call to the ACRS Executive Director, Mr. Raymond F. Fraley (telephone 202/634-3265), between 8:15 A.M. and 5:00 P.M. EST.

Dated: April 19, 1982.

John C. Hoyle,

Advisory Committee Management.

[FR Doc. 82-11232 Filed 4-22-82; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards, Subcommittee on Qualification Program for Safety Related Equipment; Meeting

The ACRS Subcommittee on Qualification Program for Safety Related Equipment will hold a meeting on May 5, 1982, Room 762, 1717 H Street, NW, Washington, DC. The Subcommittee will discuss the proposed final version of the rule 10 CFR 50.49, "Environmental Qualification of Electrical Equipment for Nuclear Power Plants", and time permitting proposed rulemaking for the accreditation of qualification testing organizations.

In accordance with the procedures outlined in the **Federal Register** on September 30, 1981 (46 FR 47903), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The entire meeting will be open to public attendance except for those sessions which will be closed to protect proprietary information (Sunshine Act Exemption 4). One or more closed sessions may be necessary to discuss such information. To the extent practicable, these closed sessions will be held so as to minimize inconvenience to members of the public in attendance.

The agenda for subject meeting shall be as follows: Wednesday, May 5, 1982—8:30 a.m. until the conclusion of business.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC Staff, their consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant Designated Federal Employee, Dr. Richard Savio or Staff

Engineer, Mr. Anthony Cappucci (telephone 202–634–3267) between 8:15 a.m. and 5:00 p.m., EST.

I have determined, in accordance with subsection 10(d) of the Federal Advisory Committee Act, that it may be necessary to close portions of this meeting to public attendance to protect proprietary information. The authority for such closure is Exemption (4) to the Sunshine Act, 5 U.S.C. 552b(c)(4).

Dated: April 19, 1982.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 82–11233 Filed 4–22–82; 8:45 am]

BILLING CODE 7590–01–M

Advisory Committee on Reactor Safeguards, Subcommittee on Reactor Radiological Effects; Meeting

The ACRS Subcommittee on the Reactor Radiological Effects will hold a meeting on May 14, 1982 in Room 1046, 1717 H Street, NW., Washington, DC. The Subcommittee and its consultants will hear and discuss with the NRC Staff and various industrial organizations, the topic of control room habitability. Notice of this meeting was published April 13.

In accordance with the procedures outlined in the **Federal Register** on September 30, 1981 (46 FR 47903), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The entire meeting will be open to public attendance.

The agenda for subject meeting shall be as follows: Friday, May 14, 1982—8:30 a.m. until the conclusion of business.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, will exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC Staff, their consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant Designated Federal Employee, Mr. Herman Alderman (telephone 202/634–1414) between 8:15 a.m. and 5:00 p.m., EST.

Dated: April 20, 1982.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 82–11231 Filed 4–22–82; 8:45 am]

BILLING CODE 7590–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–18664; File No. SR–MSTC–82–6]

Effectiveness of a Proposed Rule Change by the Midwest Securities Trust Co.

April 19, 1982.

Midwest Securities Trust Company ("MSTC") submitted a proposed rule change on April 9, 1982, pursuant to Rule 19b–4 under the Securities Exchange Act of 1934, that enables MSTC to disburse to its participants cash dividends and bond interest payments on payment date rather than on the day after payment date, which was the previous practice.

The foregoing rule change has become effective pursuant to section 19(b)(3) (A) of the Securities Exchange Act of 1934 and Rule 19b–4 thereunder. At any time within sixty days of the filing of such proposed rule change, the Commission may summarily abrogate the rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

Publication of the submission is expected to be made in the **Federal Register** during the week of April 19, 1982. Interested persons are invited to submit written data, views and arguments concerning the submission on or before May 14, 1982. Persons desiring to make written submissions should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Reference should be made to File No. SR–MSTC–82–6.

Copies of the submission, with accompanying exhibits, and of all written comments will be available for public inspection at the Securities and Exchange Commission's Public Reference Room, 1100 L Street, N.W., Washington, D.C. Copies of the filing will also be available at the principal office of the above-mentioned self-regulatory organization.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82–11198 Filed 4–22–82; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 18663; File No. SR–MSTC–82–4]

Filing and Immediate Effectiveness of Proposed Rule Change by Midwest Securities Trust Co.

April 19, 1982.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on April 2, 1982, the Midwest Securities Trust Company ("MSTC") filed with the Securities and Exchange Commission the proposed rule change as described herein. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

The proposed rule change would allow MSTC, pursuant to MSTC Rule 6 section 7, to amend its Dividend Reinvestment Program and procedures (collectively, "DRP"). The proposed rule change restricts the number of shares eligible to participate in MSTC's DRP and prorates the number of shares credited to a participant's account as a result of dividend reinvestment only to those shares held in MSTC's nominee name, Kray & Co. This enables MSTC to offer dividend reinvestment services to its participants in the event that dividends of the issue involved are not similarly treated by other depositories. Absent this rule change, if MSTC's participants elect to reinvest the dividends on more shares of a particular securities issue than are being held by MSTC in its nominee name (*i.e.*, a portion of the participants shares are held in MSTC's interface account at another depository), MSTC, according to its DRP, would be compelled either to purchase shares on the open market (without the advantage of the issuer's discount generally provided upon reinvestment) or to suspend the DRP with respect to all participants so as to obviate the loss MSTC could incur by purchasing the shares on the open market. MSTC believes that the proposed rule change is consistent with

section 17A(b)(3)(A) of the Act in that it provides for the administration and enforcement of the rules of the clearing agency. MSTC further believes that the proposed rule change is consistent with section 17A(b)(3)(F) of the Act in that it fosters the prompt and accurate clearance and settlement of securities transactions, including the transfer of record ownership and the safeguarding of securities and funds relating thereto, as are necessary for the protection of investors and persons facilitating transactions by, and on behalf of, investors.

The foregoing change has become effective, pursuant to section 19(b)(3)(A) of the Act and subparagraph (e) of Securities Exchange Act Rule 19b–4. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

Interested persons are invited to submit written data, views and arguments concerning the submission on or before May 14, 1982. Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Reference should be made to File No. SR–MSTC–82–4.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room, 1100 L Street N.W., Washington, D.C. Copies of the filing and of any subsequent amendments also will be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-11197 Filed 4-22-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-18644; File No. SR-NYSE-82-7]

New York Stock Exchange, Inc.; Amendments to Rule 314 (Interest in Business), Rule 318 (Other Connections of Members and Allied Members), Rule 346 (Limitations-Employment and Association With Members and Member Organizations), Rule 409 (Statements of Accounts to Customers) and Rule 411 (Erroneous Reports)

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), ("Act"), notice is hereby given that on April 12, 1982, the New York Stock Exchange, Inc. filed with the Securities and Exchange Commission the proposed rule changes as described in Items I, II and III below, which items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule changes from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Changes

The proposed rule changes would remove the provisions in Rule 314 related to guarantees of loss of sole Exchange members and limited partners, and minimum salary/participation requirements for members and allied members; rescind the requirements specifically related to insurance sales activities (Rule 318); require written requests by member organization personnel to engage in outside financially related employment/activities (Rule 346); clarify an outdated reference (Rule 409); and amend Rule 411 to permit member organizations to record transactions as of settlement date, require settlement dates to appear on confirmations of transactions sent to customers, and reposition the Supplementary Material into more appropriate Rules (Rules 36 and 409).

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Changes

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule changes and discussed any comments it received on the proposed rule changes.

The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. *Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Changes.* Provisions (314.10 (1) and (2)) prohibiting sole Exchange members from being guaranteed against loss and establishing minimum salaries for members and allied members are proposed for rescission because they no longer serve a valid regulatory purpose. The provision (314.10(3)) permitting a limited partner to share in or be guaranteed against loss is also proposed for rescission on the basis that it is permissive in nature and not actually necessary.

Exchange Rule 318 provides for certain reporting requirements with respect to insurance sales activities and prescribes internal member organization supervision of these activities.

Since insurance sales activities are specifically regulated by individual state insurance commissions, and member organizations have the obligation, under Rule 342, to ensure that their insurance and all other activities are conducted in accordance with overrall Exchange standards and the requirements of any appropriate regulatory authority, there is no need to specifically address only one of the non-securities activities engaged in by members.

The Exchange proposes that Rule 346(b) be amended to stipulate that a request for member organization approval, by a person associated with it, to engage in any outside related employment or activity be made in writing to the firm. It is felt that requiring that the request be made in writing would enhance a firm's ability to study the specifics of a particular request and facilitate recordkeeping of such requests.

The proposed rule change to Rule 409 would change the word "stockholder" to the phrase "stockholder actively engaged in a member corporation's business" in order to make it clear that an "outside" stockholder of a publicly traded member corporation would not be subject to the restrictions of the rule.

Exchange Rule 411.40 (Recording of transactions in accounts) currently requires all customer transactions to be recorded in a member organization's books and interest to be computed in accounts *as of* settlement date. The change to Rule 411.40 would allow member organizations latitude in posting transactions within their books at any time *prior to* settlement date.

The amendment to Rule 411.20 (Confirmations to customers) would require the settlement date of each transaction to appear on confirmations of transactions sent to customers. The

amendment to Rule 411.20 will also allow member organizations to determine the type of legend they want to employ on confirmations of transactions, as long as it sets forth the information required in SEC Regulation 10b–10 which stipulates information required to be set forth on confirmations.

The Exchange also proposes that the Supplementary Material to Rule 411 be repositioned to other rules that are more related to the subject matter (Rules 36 and 409).

The rescission of the prohibition against the sole Exchange member's guarantee against loss (Rule 314.10(1), the minimum salary requirements for members (Rule 314.10(2)) and the limited partner guarantee provisions (Rule 314.10(3)) is consistent with Section 6(b)(2) of the Act in that it would remove unnecessary impediments to becoming a member or member organization or associated therewith. The rescission of these provisions is further consistent with Section 6(b)(5) in that they no longer serve a valid regulatory purpose and, therefore, seek to regulate matters not related to the purposes of the Act or the administration of the Exchange.

The rescission of Rule 318 is consistent with sections 6(b)(1) and 6(b)(5) of the Act in that it will continue to enable the Exchange to carry out and enforce the Act and the rules of the Exchange and protect investors and the public interest with respect to all of the securities and non-securities related activities engaged in by members and member organizations.

The amendment to Rule 346 to require *written* request for employees to engage in outside business activities/interests is consistent with sections 6(b)(1) and 6(b)(5) of the Act. The amendment is consistent with section 6(b)(1) in that it will enhance a member or member organization's review of these types of situations, thereby enhancing the Exchange's overall ability to enforce compliance by its members with the Act and Exchange rules. The amendment is further consistent with section 6(b)(5) in that it will bolster a firm's ability to monitor outside activities of its employees, resulting in increased protection of investors and of the public interest.

The proposed amendment to Rule 409 is consistent with Regulation 10b–10 in that it will allow quarterly written statements to be delivered to customers in accordance with the provisions of the Act. The classification of the term "stockholder" would make it clear that an "outside" stockholder of a publicly traded member corporation would not be subject to the restrictions of Rule 409.

The proposed amendments to Rule 411 are consistent with the provisions of section 6(b)(5) and Regulation 10b–10 of the Act. The proposed amendments are consistent with the provisions of section 6(b)(5) in that disclosure to customers of pertinent trade-related information serves to promote just and equitable principles of trade and protect investors and the public interest. The amendments conform with the requirements of Regulation 10b–10 which contains the information required to be disclosed in confirmations of transactions.

B. *Self-Regulatory Organization's Statement on Burden on Competition.* The proposed rule changes do not impose any burden on competition.

C. *Self-Regulatory Organization's Statement on Comments on the Proposed Rule Changes Received From Members, Participants, or Others.* The Exchange has neither solicited nor received written comments on the proposed rule changes.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

On or before May 28, 1982 or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

A. By order approve such proposed rule changes, or

B. Institute proceedings to determine whether the proposed rule changes should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule changes that are filed with the Commission, and all written communications relating to the proposed rule changes between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section 1100 "L" Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted on or before May 14, 1982.

Dated: April 14, 1982.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82–11193 Filed 4–22–82; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–18652; File No. SR–NYSE–82–8]

New York Stock Exchange, Inc.; Changes to Rule 421 (Periodic Reports), Rule 424 (Reports of Options), Rule 433 (Long Sales) and Rule 440K (Prepayments on Sales)

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on April 12, 1982, the New York Stock Exchange, Inc. filed with the Securities and Exchange Commission the proposed rule changes as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule changes.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Changes

The proposed rule changes would eliminate references to previously rescinded requirements in Rule 421 for reporting: net positions from security underwritings (Form MF–3); collateral loans from banks, trust companies and other lenders in the U.S.; and, fails to deliver and receive contracts (Form MF–6). The proposed amendments would also rescind the obsolete requirements in Rule 424 for reporting of interests in any substantial option related to listed securities or any knowledge of such options; rescind the provisions in Rule 433 detailing those conditions under which customer's "long" sales of securities may be effected; and, rescind Rule 440K, which contains suggested procedures regarding records to be kept concerning prepayments to customers of the proceeds of the sales of listed securities.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule changes, and discussed any comments it received on the proposed rule changes. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B) and (C) below, of the most significant aspects of such statements.

A. *Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Changes.*

—Rule 421 (Periodic Reports). The Rule is proposed for amendment because specific reports contained in the Rule (Underwritings—Form MF–3, Fail Contracts—Form MF–6 and the report of total collateral loans from banks, trust companies and other lenders in the U.S.) are no longer required and Rule 416 gives the Exchange overall authority to require this type of information should it be needed in the future.

—Rule 424 (Reports of Options). The Rule requires that information be furnished to the Exchange by members, member organizations and allied members that have an interest in or knowledge of any substantial option related to listed securities. The Exchange proposes that this rule be rescinded on the basis that it has become obsolete due to the addition of other reporting rules intended to prevent manipulative operations (e.g. position and exercise limits) and improved automated auditing and surveillance methods by the Exchange and other SRO's.

—Rule 433 (Long Sales). The proposed amendments would rescind Rule 433 because the fail to deliver problem that precipitated its adoption has been greatly alleviated by the establishment of securities depositories and improved automated clearance and settlement procedures. Also, in 1972, the SEC adopted Rule 15c3–3(m) which requires customers to be "bought in" if securities which are sold are not delivered within 10 days.

—Rule 440K.10 (Prepayments on Sales). This Rule contains suggested procedures for records regarding any prepayment made to a customer of the proceeds of sales of listed securities. The rule is proposed for rescission because the existing rule does not contain an affirmative or negative obligation and the supervisory procedures contained therein are more appropriately addressed and will be issued in another format (e.g. NYSE's Guide to Supervision or Information Memo).

Statutory Basis for the Proposed Rule Changes

The amendments to Rule 421 and the rescission of Rules 424 and 433 is consistent with section 6(b)(1) in that the elimination of obsolete forms and requirements will relieve the Exchange of its obligation to enforce compliance by its members with outdated requirements, thereby, enabling additional time to be devoted to the enforcement of more pertinent provisions of the Act and Exchange Rules.

The rescission of Rule 440K.10 is consistent with sections 6(b)(1) and 6(b)(6) of the Act. This is so because as stated under Item A above, the provision does not contain an affirmative or negative obligation but rather suggested procedures, therefore its enforceability under section 6(b)(1) and the ability to impose appropriate penalties for a violation as required by section 6(b)(6), are questionable.

B. *Self-Regulatory Organization's Statement on Burden on Competition.* The proposed rule changes do not impose any burden on competition.

C. *Self-Regulatory Organization's Statement on Comments on the Proposed Rule Changes Received From Members, Participants, or Others.* The Exchange has neither solicited nor received written comments on the proposed rule changes.

III. Date of Effectiveness of the Proposed Rule Change and timing for Commission Action

On or before May 28, 1982 or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

A. By order approve such proposed rule changes, or

B. Institute proceedings to determine whether the proposed rule changes should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule changes that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 1100 "L" Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self regulatory organization.

All submissions should refer to the file number in the caption above and should be submitted on or before May 14, 1982.

Dated: April 15, 1982.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82–11194 Filed 4–22–82; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 22463; (70–6730)]

The Potomac Edison Co. and Allegheny Power System, Inc.; Proposed Issuance and Sale of Common Stock to Holding Company

April 19, 1982.

Allegheny Power System, Inc. ("APS"), 320 Park Avenue, New York, New York 10022, a registered holding company, and its electric utility subsidiary company, The Potomac Edison Company ("PE"), Downsville Pike, Hagerstown, Maryland 21740, have filed an application-declaration with this Commission pursuant to sections 6(a), 7, 9(a), and 10 of the Public Utility Holding Company Act of 1935 ("Act").

PE, upon amendment of its charter, proposes to issue and sell to APS, and APS proposes to acquire, not more than 1,000,000 shares of PE's common stock for a consideration of $20 per share from time to time prior to December 31, 1982.

The net proceeds will be used by PE to operate its business as a utility, including the payment or prepayment of short-term debt outstanding and the continuation of its construction program. It is expected that PE will have $19.5 million of short-term debt outstanding on June 30, 1982. For the year 1982, PE's gross construction expenditures are estimated to be approximately $45 million.

The application-declaration and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by May 14, 1982, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the applicants-declarants at the addresses specified above. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the application-declaration, as filed or as it may be amended, may be granted and permitted to become effective.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-11196 Filed 4-22-82; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 22461; (70-6731)]

West Texas Utilities Co.; Proposed Increase in Authorized Shares of Common Stock and Par Value of Common Shares

April 19, 1982.

West Texas Utilities Company ("West Texas"), P.O. Box 841, Abilene, Texas 79604, an electric utility subsidiary of Central and South West Corporation ("CSW"), a registered holding company, has filed a declaration with this Commission pursuant to sections 6(a) and 7 of the Public Utility Holding Company Act of 1935 ("Act").

West Texas proposes to amend its Restated Articles of Incorporation, as amended, ("Articles") to increase the total number of shares of common stock which it is authorized to issue from 2,800,000 shares to 7,800,000 shares and to increase the par value of the shares of its common stock from $22 per share to $25 per share. West Texas currently has outstanding 2,588,000 shares of its common stock and is authorized to issue 2,800,000 shares. The company intends to sell $7,300,000 of its common stock to CSW in May 1982 (File No. 70-6683). Assuming an issuance of shares of common stock at par, and assuming a per value of $25 per share, West Texas would be able to issue only $5,300,000 of its common stock without an increase in the authorized number of shares. It is stated that the 5,000,000 share increase in the number of shares of common stock that is authorized to issue is required to ensure that the company will have a sufficient number of shares available in the future to meet its requirements for new capital. Because the equity investments made by CSW in West Texas are in amounts evenly divisible by $25, West Texas seeks to increase the par value of its shares of stock to $25 per share for administrative convenience.

The declaration and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by May 17, 1982, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the declarant at the address specified above. Proof of service (by affidavit or, in case of any attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the declaration, as filed or as it may be amended, may be permitted to become effective.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 82-11195 Filed 4-22-82; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[Proposal No. 02/02-0441]

ALPHA Financial Corp.; Application for a License as a Small Business Investment Company

Notice is hereby given of the filing of an application with the Small Business Administration (SBA) pursuant to § 107.102 of the SBA Regulations (13 CFR 107.102 (1982)) by ALPHA Financial Corporation, 485 Morris Avenue, Springfield, New Jersey 07081 for a license to operate as a small business investment company (SBIC) under the provisions of the Small Business Investment Act of 1958 (the Act), as amended (15 U.S.C. 661 et seq.).

The proposed officers, directors and shareholders are:

Name, Address, Title, Relationship, and Percent of Ownership

Michael Miller, 57 Farbrook Drive, Short Hills, NJ 07078, President, Treasurer, Director, 50.00%

Carol B. Miller, 57 Farbrook Drive, Short Hills, NJ 07078, Secretary

Howard Shapiro, 125 Craig Road, Hilsdale, NJ 07642, Director

Howard Sterling, 9454 Wilshire Blvd., Beverly Hills, Calif. 90210, Director

Howard Sterling is Trustee for three irrevocable trusts provided by Randolph Pace for the benefit of his monor children:

Kimberly Nicole Pace, 16.67%

Meredith Jill Pace, 16.67%

Allison Brie Pace, 16.66%

The Applicant will begin operations with a capitalization of $500,000 and will be a source of equity capital and long term loan funds for qualified small business concerns whose needs might not be met by traditional funding sources.

Matters involved in SBA's consideration of the application include the general business reputation and character of the proposed owners and management, and the probability of successful operations of the new company under their management, including adequate profitability and financial soundness, in accordance with the Act and Regulations.

Notice is further given that any person may, not later than 15 days from the date of publication of this Notice, submit written comments on the proposed SBIC to the Acting Deputy Associate Administrator for Investment, Small Business Administration, 1441 "L" Street, N.W., Washington, D.C. 20416.

A copy of this Notice will be published in a newspaper of general circulation in Springfield, New Jersey.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: April 19, 1982.

Robert G. Lineberry,

Acting Deputy Associate Administrator for Investment.

[FR Doc. 82-1199 Filed 4-22-82; 8:45 am]

BILLING CODE 8025-01-M

[License No. 01/01-0277]

Marcon Capital Corp.; Filing of Application for Transfer of Control of a Licensed Small Business Investment Company (SBIC)

Notice is hereby given that an application has been filed with the Small Business Administration (SBA), pursuant to § 107.701 of the SBA Regulations governing SBIC's for the transfer of control of Marcon Communications Corporation (MCC) the

sole stockholder of Marcon Capital Corporation (Licensee), (13 CFR 107.701 (1981)), 49 Riverside Avenue, Westport, Connecticut 06880, a Federal Licensee under the Small Business Investment Act of 1958, as amended (the Act).

MCC is a public company with approximately 350 shareholders and the sole stockholder of the Licensee. Only one person owns in excess of 10 percent of MCC traded stock. The proposed transfer of control is subject to, and contingent upon, the approval of SBA.

The applicant, Cedar Resources, Inc., (CRI) a Florida corporation will purchase 20,000 shares of MCC (2.8 percent) and additional 80,000 shares upon approval from SBA with options to purchase 200,000 more shares over a two year period. If exercised, CRI will own 41.3 percent of MCC.

CRI has two shares of common stock outstanding, one of which is owned by Mr. Frederick Anthony Mawe, One Beach Drive, S.E., St. Petersburg, Florida 33701, the other share is owned by DFI, Inc., a Delaware corporation. DFI, Inc. has issued 100 shares of common stock 51, of which are owned by Mr. John Page and 49 shares by Mrs. Elizabeth Page of 137 Woodside Drive, Greenwich, Connecticut 06830.

Mr. Martin A. Cohen, chief executive officer of the licensee will continue under an employment contract to be responsible for the daily operations of the licensee until 1990.

The proposed officers and directors and major stockholders are:

Martin A. Cohen, President, Director, Treasurer
John J. Alogna, Vice President, Director
Anette A. Cohen, Secretary, Director
Marcon Communications, Inc., 100%

Matters involved in SBA's consideration of the application include the general business reputation and character of the proposed transferees, and the probability of successful operations under their control, including adequate profitability and financial soundness, in accordance with the Act and Regulations.

Notice is hereby given that any person may, on or before May 10, 1982, submit to SBA, in writing, comments on the transfer of control. Any such communications should be addressed to the Acting Deputy Associate Administrator for Invesment, 1441 L Street, N.W., Washington, D.C. 20416.

A copy of this notice shall be published in a newspaper of general circulation in Westport, Connecticut and St. Petersburg, Florida.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: April 19, 1982.

Robert G. Lineberry,

Acting Deputy Associate Administrator for Investment.

[FR Doc. 82-11200 Filed 4-22-82; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF THE TREASURY

Office of the Secretary

Cancellation of Treasury Circular 1082

AGENCY: Office of the Secretary, Treasury.

ACTION: Notice of rescission of Treasury Department Circular 1082.

SUMMARY: Effective October 1, 1982, the Federal Assistance Award Data System (FAADS) will replace Treasury Circular 1082 (TC 1082) as the means of notifying the states of Federal Assistance Awards.

FAADS is an ADP-based system that provides information on assistance awards, including grants, on a quarterly basis. The reports are distributed to the states and meet the objective of section 201 of the Intergovernmental Cooperation Act of 1968. In addition, it is a far more efficient system of notification than the current manual system prescribed by TC 1082.

By the end of FY 1982 more than 30 federal agencies will be distributing information on their assistance activities through the FAADS reporting system. The system reports more than 100,000 transactions per quarter and includes all types of assistance, including grants, cooperative agreements, loans, loan guarantees, insurance programs and entitlement programs. The reports are distributed on a machine readable tape and each state can access the data base to obtain desired information on any specific type of assistance as well as the name and location of recipient.

FOR FURTHER INFORMATION ON EITHER FAADS OR TC 1082 CONTACT:

Mr. David Kellerman (FAADS), Governments Division, Bureau of the Census, Washington, D.C. 20233, Telephone: (202) 763-5121

Mr. Arthur D. Kallen (TC 1082), Director of the Office of Budget and Program Analysis, U.S. Department of Treasury, Washington, D.C. 20220, Telephone: (202) 566-2825

SUPPLEMENTARY INFORMATION: This cancellation is not considered to be a major regulation within the meaning of Executive Order 12291 and will not have an impact on small entities within the meaning of the Regulatory Flexibility Act. This cancellation will eliminate the duplication of reports.

Dated: April 20, 1982.

By the direction of the Secretary of the Treasury.

Cora P. Beebe,

Assistant Secretary, Administration.

[FR Doc. 82-11169 Filed 4-22-82; 8:45 am]

BILLING CODE 4810-25-M

Sunshine Act Meetings

Federal Register
Vol. 47, No. 79
Friday, April 23, 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 AERONATICS BOARD

Change of Time for the April 20, 1982 Board Meeting

TIME AND DATE: 4 p.m., April 20, 1982.

PLACE: Room 1012, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: Docket 40534, Joint application of Braniff Airways, Inc. and Pan American World Airways, Inc. for approval of an agreement and for other relief. (Memo 1232, 1232-A, For Information Memoranda, dated 4/12/82 and 4/14/82, BIA)

STATUS: Closed.

PERSON TO CONTACT: Phyllis T. Kaylor, The Secretary (202) 673-5068.

[S-601-82 Filed 4-21-82; 3:27 pm]

BILLING CODE 6320-01-M

2

COMMODITY FUTURES TRADING COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 47 FR 73, Thursday, April 15, 1982.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 11 a.m., Friday, April 23, 1982.

CHANGES IN THE MEETING: 1:30 p.m., Friday, April 23, 1982.

[S-599-82 Filed 4-21-82; 11:36 am]

BILLING CODE 6351-01-M

3

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

April 15, 1982.

TIME AND DATE: 10 a.m., Wednesday, April 21, 1982.

PLACE: Room 600, 1730 K Street NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED: In addition to the previously announced items, the Commission will consider and act upon the following:

3. Old Ben Coal Company, Docket No. LAKE 80-399. (Issues include whether judge properly found a violation of 30 CFR 77.1700 dealing with communications procedures when miners are working alone in hazardous areas).

It was determined by a unanimous vote of Commissioners that Commission business required that a meeting be held on this term and that no earlier announcement of the addition was possible.

CONTACT PERSON FOR MORE INFORMATION: Jean Ellen (202) 653-5632.

[S-597-82 Filed 4-21-82; 10:28 am]

BILLING CODE 6735-01-M

4

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

Citation of Previously Announced Meeting

TIME AND DATE: 2 p.m., Wednesday, April 21, 1982.

PLACE: Room 600, 1730 K Street NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following:

1. Penn Allegh Coal Company, Docket No. PITT 76X241-P; IBMA 76-60. (In this case, arising under the 1969 Coal Act, the issues include whether the judge properly found a violation of 30 CFR 75.1403 dealing with safe transportation of miners and materials.)

2. Amax Lead Company of Missouri, Docket No. CENT 81-63-M. (In this case, on interlocutory review, the issues include whether the judge properly rejected the parties' proposed settlement agreement.)

3. Old Ben Coal Company, Docket No. LAKE 80-399. (Issues include whether judge properly found a violation of 30 CFR 77.1700 dealing with communications procedures when miners are working alone in hazardous areas).

It was determined by a unanimous vote of Commissioners that Commission business required that the time of the meeting be changed and that no earlier announcement of the change was possible.

CONTACT PERSON FOR MORE INFORMATION: Jean Ellen (202) 653-5632.

[S-600-82 Filed 4-21-82; 1:40 pm]

BILLING CODE 6820-12-M

5

FEDERAL RESERVE SYSTEM

TIME AND DATE: 10 a.m., Wednesday, April 28, 1982.

PLACE: Board Building, C Street entrance between 20th and 21st Streets NW., Washington, D.C. 20551.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Proposal to continue deferral of reserve requirements under Regulation D (Reserve Requirements of Depository Institutions) for small depository institutions.

2. Consideration of the application by Seafirst Corporation, Seattle, Washington, to engage in reinsuring credit life insurance for loans secured by real property.

3. Any items carried forward from a previously announced meeting.

Note.—This meeting will be recorded for the benefit of those unable to attend. Cassettes will be available for listening in the Board's Freedom of Information Office, and copies may be ordered for $5 per cassette by calling (202) 452-3684 or by writing to: Freedom of Information Office, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board, (202) 452-3204.

Dated April 20, 1982.

James McAfee,

Associate Secretary of the Board.

[S-603-82 Filed 4-21-82; 3:48 pm]

BILLING CODE 6210-01-M

6

FEDERAL TRADE COMMISSION

TIME AND DATE: 2 p.m., Wednesday, April 21, 1982.

PLACE: Room 432, Federal Trade Commission Building, 6th Street and Pennsylvania Avenue NW., Washington, D.C. 20580.

STATUS: Open.

MATTERS TO BE CONSIDERED: Advertising self-regulation discussion with American Association of Advertising Agencies, Association of

National Advertisers, and American Advertising Federation.

CONTACT PERSON FOR MORE INFORMATION: Susan B. Ticknor, Office of Public Information (202) 523–1892; Recorded Message (202) 523–3806.

[S–602–82 Filed 4–21–82; 3:29 pm]

BILLING CODE 6750–01–M

7

SECURITIES AND EXCHANGE COMMISSION

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following meetings during the week of April 26, 1982, in Room 825, 500 North Capitol Street, Washington, D.C.

An open meeting will be held on Wednesday, April 28, 1982, at 3:00 p.m. followed by a closed meeting.

The Commissioners, their legal assistants, the Secretary of the Commission, and recording secretaries will attend the closed meeting. Certain staff members who are responsible for the calendared matters may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, the items to be considered at the closed meeting may be considered pursuant to one or more of the exemptions set forth in 5 U.S.C. 552b(c)(4)(8)(9)(A) and (10) and 17 CFR 200.402(a)(4)(8)(9)(i) and (10).

Chairman Shad and Commissioners Loomis, Evans, Thomas and Longstreth voted to consider the items listed for the closed meeting in closed session.

The subject matter of the open meeting scheduled for Wednesday, April 28, 1982, at 3:00 p.m., will be:

1. Consideration of whether to adopt amendments to the Commission's rules of general organization and information and requests, to delegate to the General Counsel the authority to decide Freedom of Information Act appeals. For further information, please contact Ann Stansbury at (202) 272–2427.

2. Consideration of the application of August Development Fund 80 for an exemption from the registration requirements of Section 12(g) of the Securities Exchange Act of 1934 pursuant to Section 12(h) of that Act. For further information, please contact William E. Toomey at (202) 272–2573.

3. Consideration of whether to repropose for comment Rule 15b7–1 under the Securities Exchange Act of 1934, which would establish uniform minimum qualification standards for SECO broker-dealers and their associated persons, and Form U–5. For further information, please contact Kathleen McGann at (202) 272–2855.

4. Consideration of whether to recommend legislation to Congress which would eliminate direct Commission regulation of broker-dealers through the SECO program and require all broker-dealers to become members of the self-regulatory system through membership in a registered national securities association. For further information, please contact Howard Kramer at (202) 272–3115.

The subject matter of the closed meeting scheduled for Wednesday, April 28, 1982, following the 3:00 p.m. open meeting, will be:

Formal order of investigation.
Assess to investigative files by Federal, State, or Self-Regulatory authorities.
Settlement of injunctive actions.
Subpoena enforcement action.
Institution and settlement of administrative proceedings of an enforcement nature.
Institution of administrative proceedings.
Freedom of Information Act appeals.
Regulatory matter regarding financial Institution.
Terminating investigation.
Institution of injunctive actions.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Paul Siegelbaum at (202) 272–2468.

April 20, 1982.

[S–598–82 Filed 4–21–82; 10:30 am]

BILLING CODE 8010–01–M

federal register

Friday
April 23, 1982

Part II

Department of Labor

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

DEPARTMENT OF LABOR

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 12–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determination frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision together with any modifications issued subsequent to its publication date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR, Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

Modifications and Supersedeas Decisions to General Wage Determination Decisions

Modifications and supersedeas decisions to general wage determination decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the modifications and supersedeas decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's orders 13–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in foregoing general wage determination decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and supersedeas decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Office of Government Contract Wage Standards, Division of Government Contract Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rulemaking procedures prescribed in 5 U.S.C. 553 has been set forth in the original General Determination Decision.

Modifications to General Wage Determination Decisions

The numbers of the decisions being modified and their dates of publication in the **Federal Register** are listed with each State.

Florida: FL82–1018	Mar. 5, 1982.
Iowa: IA81–4021	Apr. 19, 1981.
Maryland: MD81–3074	Oct. 9, 1981.
Massachusetts: MA81–3050	Aug. 28, 1981.
Oklahoma: OK81–4067	Aug. 21, 1981.
Oregon: OR82–5100	Mar. 12, 1982.
Washington: WI81–5163	Dec. 4, 1981.

Supersedeas Decisions to General Wage Determinations Decisions

The numbers of the decisions being superseded and their dates of publication in the **Federal Register** are listed with each State. Supersedeas decision numbers are in parentheses following the numbers of the decisions being superseded.

Alabama: AL81–1273 (AL82–1026)	July 31, 1981.
Arizona: AZ81–5142 (AL82–5109)	Aug. 14, 1981.
Oklahoma: OK80–4008 (OK82–4018)	Jan. 5, 1980.
Virginia: VA81–3095 (VA82–3020)	Dec. 18, 1981.

Signed at Washington, D.C. this 16th day of April 1982.

Dorothy P. Come,

Assistant Administrator, Wage and Hour Division.

BILLING CODE 4510–27–M

DECISION NO. FL82-1018 - MOD. # 3 (47 FR 9655 - March 5, 1982)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Building Construction					
Cape Canaveral Air Force Station, Patrick Air Force Base, Kennedy Space Flight Center, & Melabar Radar Sites in Brevard and Volusia Counties, Florida.					
CHANGE:					
PLUMBERS, PIPEFITTERS, & STEAMFITTERS:					
1. Industrial - Bulk Plants, Powerhouses, Chemical Plants, Missile Sites, Oil Refineries, etc., and such other work which is related to and considered a part of the above type projects.	$15.45	.98	.99		.10
2. Commercial - Commercial, Schools, Hospitals, Shopping Centers, & work not listed as Industrial	12.22	.70	.70		.10

DECISION NO. IA81-4021 - MOD. #4
(46 FR 21560 - April 19, 1981)
Statewide Iowa (except Scott County)

OMIT all classifications and wage rates from area covered: Cerro Gordo

(including Mason City) and Webster (including Fort Dodge) Counties

DECISION NO. MD81-3074 - MOD. #4 (46 FR 50238 - October 9, 1981)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ANNE ARUNDEL (EXCLUDING THE D.C. TRAINING SCHOOL), BALTIMORE AND BALTIMORE CITY, MARYLAND AND FOR HEAVY CONSTRUCTION PROJECTS IN HARFORD AND HOWARD COUNTIES, MARYLAND					
CHANGE:					
Carpenters, Soft Floor Layers, Millwrights, Pile-drivers, Divers & Diver's Tenders					
Zone 2 - Anne Arundel (remainder of county) Baltimore, Baltimore City, Harford and Howard Counties:					
Carpenters, Soft Floor Layers, Resilient Floor Layers, Pile Drivers and Diver's Tenders	13.30	.85	.99	.07	
Divers	26.50	.85	.99	.07	
Millwrights	13.65	.85	1.24	.07	

DECISION NO. MA81-3050 - MOD. #1 (46 FR 43625 - August 28, 1981) WORCHESTER COUNTY	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
ELECTRICIANS:					
Ashburnham, Athol, Bolton, Fitchburg, Gardner, Harvard, Hubbardston, Lancaster, Leominster, Luneburg, Phillipston, Westminster and Winchendon	13.55	.75	3%+1.35		.02
	13.28	.85	3%+.40		.03
Warren, W. Warren	14.95	8%	3%+1.00		.01
Remainder of County					
PIPEFITTERS:					
Holedale and Southboro	15.17	1.55	2.93		.05
Remainder of County	14.53	.80	1.10		
Pondville	16.65	1.10	2.45		.07
PLUMBERS:					
Holedale and Southboro	15.17	1.55	2.93		.05
Ashburnham, Athol, Bolton, Fitchburg, Gardner, Harvard, Hubbardston, Lancaster, Leominster, Luneburg, Petersham, Phillipston, Royalston, Templeton, Westminster and Winchendon	13.87	.90	.90	4%	.05
Remainder of County	14.33	1.15	.90		.05
SHEET METAL WORKERS	14.06	1.09	2.11		

DECISION #OK81-4067-Mod. #9 46FR42613-August 21, 1981 Oklahoma, Cleveland, Caddo, Canadian, Kingfisher, Grady, Lincoln, Logan, McClain, Seminole and Pottawatomie Counties, Oklahoma	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
ELECTRICIANS - Zone II	$15.25	.70	8%+.10		1%

DECISION NO. OR82-5100 - Mod #3 (47 FR 10954 - March 12, 1982) Statewide Oregon	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
DREDGING:					
Leverman:					
Hydraulic	$16.00	1.30	1.47	1.00	.10
Dipper	16.67	1.30	1.47	1.00	.10

DECISION NO. WA81-5163 - Mod #10 (46 FR 59457 - Dec. 4, 1981) Statewide Washington	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
POWER EQUIPMENT OPERATORS:					
(DREDGING - AREA 3):					
Group Descriptions:					
Group 1: Leverman, Hydraulic					
Group 1A: Leverman, Dipper					

SUPERSEDEAS DECISION

STATE: ALABAMA COUNTY: MOBILE
DECISION NUMBER: AL82-1026 DATE: Date of Publication
Supersedes Decision No.: AL81-1273 dated July 31, 1981 in 46 FR 39364.
DESCRIPTION OF WORK: BUILDING CONSTRUCTION Projects (does not include residential construction consisting of single family homes and apartments up to and including 4 stories).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Educotion and/or Appr. Tr.
BRICKLAYERS, STONEMASONS, MARBLE MASONS, TILE SETTERS, & TERRAZZO WORKERS	$13.20		1.80		.10
CARPENTERS	12.77	.65	.60		.10
CEMENT MASONS	12.46	.65	.60		.10
ELECTRICIANS	14.47	.95	3% + .65		.05
ELEVATOR MECHANICS	13.53	1.345	1.085	a + b	.035
GLAZIERS	7.30				
IRONWORKERS, Structural, Ornamental, & Reinforcing	13.28	.65	.60		.10
LABORERS:					
Unskilled	8.26	.65	.60		.10
Air Tool Operator, Mason Tenders, Mortar Mixers, & Pipelayers	8.53	.65	.60		.10
LATHERS	13.41	.65	.60		.10
MILLWRIGHTS	13.47	.65	.60		.10
PAINTERS:					
Brush	12.68	.65	.50		.01
Paperhanger	12.93	.65	.50		.01
Spray	13.68	.65	.50		.01
PILEDRIVERMEN	13.10	.65	.60		.10
PLASTERERS	13.40	.65	.60		.10
PLUMBERS, PIPEFITTERS, & STEAMFITTERS	14.65	.70	1.20		.06
ROOFERS	6.00				
SHEET METAL WORKERS	13.60	.85	.96		.08
SPRINKLER FITTERS	13.69	.95	1.40		.08
TRUCK DRIVERS	5.50				
WELDERS - Rate for Craft					
POWER EQUIPMENT OPERATORS:					
Backhoe, Crane, & Cherry Picker	13.35	.65	.60		.10
Bulldozer, Forklift, & Drum Hoist	12.92	.65	.60		.10

PAID HOLIDAYS:

A-New Year's Day, B-Memorial Day, C-Independence Day, D-Labor Day, E-Thanksgiving Day, F-Christmas Day

FOOTNOTES:

a. 7 Paid Holidays - A through F, plus the Friday after Thanksgiving Day.
b. Employer contributes 8% basic hourly rate to Vacation Pay Credit for employee who has worked in business more than 5 years. Employer contributes 6% basic hourly rate to Vacation Pay Credit for employee who has worked in business less than 5 years.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii))

SUPERSEDEAS DECISION

STATE: Oklahoma COUNTY: Comanche
DECISION NO. OK82-4018 DATE: Date of Publication
SUPERSEDES DECISION #OK80-4008 dated January 5, 1980 in 45FR1375
DESCRIPTION OF WORK: Residential projects consisting of single family homes and apartments up to and including four stories.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Bricklayers	$9.00				
Carpenters	8.20				
Cement Masons	7.00				
Electricians	8.45	.20	1%		1/4%
Laborers	4.11				
Painters	6.80				
Plumbers & Pipefitters	8.55				
Roofers	8.94				
Sheet Metal Workers	8.20				
Soft Floor Layers	6.50				
POWER EQUIPMENT OPERATORS: Backhoes	7.00				

WELDERS--receive rate prescribed for craft performing operation to which welding is incidental.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii).

SUPERSEDEAS DECISION

STATE: VIRGINIA COUNTY: ALLEGHANY, AUGUSTA, BATH CLARKE, FREDERICK, HIGHLAND PAGE, ROCKBRIDGE, ROCKINGHAM SHENANDOAH, & WARREN
DECISION NO. VA82-3020

Supersedes Decision No. VA81-3095, dated December 18,1981 in 46 FR 61816
DESCRIPTION OF WORK: Highway Construction

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASPHALT RAKER	$5.17				
CARPENTER, STRUCTURE	6.55				
CARPENTER HELPER, STRUCTURE	4.61				
CONCRETE FINISHER	5.77				
CONCRETE FINISHER HELPER	4.45				
GUARDRAIL/FENCE ERECTOR	5.00				
IRON WORKER, REINF.	6.00				
IRON WORKER, STRUCTURAL	6.25				
IRON WORKER, STRUCTURAL HELPER	4.56				
LABORER, UNSKILLED	4.05				
MECHANIC	5.50				
MECHANIC HELPER	4.58				
PIPE LAYER	4.47				
ASPHALT DISTRIBUTOR OPER.	4.96				
ASPHALT PAVER OPERATOR	5.00				
BACKHOE OPERATOR	5.47				
BULLDOZER OPERATOR	6.50				
CRANE, DERRICK, DRAGLINE OPERATOR (1 YD. & UNDER)	5.57				
CRANE, DERRICK, DRAGLINE OPERATOR (OVER 1 YD.)	6.77				
DRILL OPERATOR	6.50				
LOADER OPERATOR (2 YDS. & UNDER)	5.49				
LOADER OPERATOR (OVER 2 YD)	5.56				
MOTOR GRADER OPERATOR (FINE GRADE)	6.69				
MOTOR GRADER OPERATOR (ROUGH GRADE)	6.69				
OILER GREASER	6.13				
POWER TOOL OPERATOR	5.00				
ROLLER OPERATOR (ROUGH)	4.76				
ROLLER OPERATOR (FINISH)	5.00				
SCRAPER PAN OPERATOR	6.50				
TRUCK DRIVER, HEAVY DUTY (7 C.Y. & UNDER)	4.60				
TRUCK DRIVER, HEAVY DUTY (OVER 7 C.Y.)	4.75				
TRUCK DRIVER (MULTI-REAR AXLE)	4.40				
TRUCK DRIVER (SINGLE-REAR AXLE)	4.10				

SUPERSEDEAS DECISION

STATE: Arizona COUNTIES: Statewide
DECISION NUMBER: AZ82-5109 DATE: Date of Publication
Supersedes Decision No. AZ81-5142 dated August 14, 1981, in 46 FR 41299
DESCRIPTION OF WORK: Building Projects (does not include single family homes and apartments up to and including 4 stories), Heavy and Highway Projects

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS:*					
Zone 1	$17.04	.75	$ 1.49		.03
Zone 2	19.04	.75	1.49		.03
Zone 3	21.04	.75	1.49		.03
BOILERMAKERS	19.01	1.30	1.25	1.00	.04
BRICKLAYERS; Stonemasons:*					
Northern Area:*					
Zone A	15.18	1.07	1.50		.17
Zone B	16.39	1.07	1.50		.17
Zone C	17.15	1.07	1.50		.17
Zone D	17.91	1.07	1.50		.17
Zone E	18.52	1.07	1.50		.17
Zone F	19.73	1.07	1.50		.17
Southern Area:*					
Zone A:					
Bricklayers; Stonemasons	13.68	1.00	.95		.06
Manhole Builders	13.93	1.00	.95		.06
Zone B:					
Bricklayers; Stonemasons	14.05	1.00	.95		.06
Manhole Builders	14.30	1.00	.95		.06
Zone C:					
Bricklayers; Stonemasons	14.43	1.00	.95		.06
Manhole Builders	14.68	1.00	.95		.06
Zone D:					
Bricklayers; Stonemasons	15.18	1.00	.95		.06
Manhole Builders	15.43	1.00	.95		.06

*See AREA and ZONE Descriptions - Page 2

AREA and ZONE DEFINITIONS

ASBESTOS WORKERS:
Zone 1: Area lying 0-25 miles radius from the City Hall in Phoenix or Tucson
Zone 2: Area lying 25-50 miles radius from the City Hall in Phoenix or Tucson
Zone 3: Area lying over 50 miles from City Hall in Phoenix and Tucson

BRICKLAYERS; STONEMASONS:
Northern Area: Apache, Coconino and Gila Counties; Graham County (west and north of the San Francisco River to the Gila River); Greenlee County (west and north of the San Francisco River to the Gila River); Maricopa, Mohave, and Navajo Counties; Pinal County (north of a boundary line drawn west along the Gila River to the western city limits of Florence, a straight line from the extreme southwestern city limits of Florence to the extreme southern city limits of Coolidge, then a straight line to the extreme southern city limits of Casa Granda, with the line extending to the Maricopa/Pinal County Line); Yavapai, and Yuma Counties:

ZONE A: 0-40 road miles from the City Hall in Phoenix
ZONE B: 40-50 road miles from the City Hall in Phoenix
ZONE C: 50-75 road miles from the City Hall in Phoenix
ZONE D: 75-100 road miles from the City Hall in Phoenix
ZONE E: 100-200 road miles from the City Hall in Phoenix
ZONE F: 200 road miles and over from the City Hall in Phoenix

Southern Area: Cochise County; Graham County (east and south of the San Francisco River to the Gila River); Greenlee County (east and south of the San Francisco River to the Gila River); Pima County; Pinal County (south of a boundary line drawn west along the Gila River to the western city limits of Florence, a straight line from the extreme southwestern city limits of Florence to the extreme southern city limits of Coolidge, then a straight line to the extreme southern city limits of Casa Grande, with the line extending to the Maricopa/Pinal County Line); Santa Cruz Counties:

Zone A: 0-15 road miles from Tucson City limits
Zone B: 15-30 road miles from Tucson City limits
Zone C: 30-40 road miles from Tucson City limits
Zone D: Over 40 road miles from Tucson City limits

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CARPENTERS:*					
Northern Area:					
Carpenters; Drywall Applicator; Saw Filer; Shingler	$15.06	$1.335	$1.115		.08
Floorlayers (finish); Piledrivermen	15.405	1.335	1.115		.08
Millwrights	15.565	1.335	1.115		.08
Central and Southern Areas:					
Carpenters; Saw Filers	12.935	1.335	1.115		.08
Floorlayers (finish); Piledrivermen	13.28	1.335	1.115		.08
Millwrights	13.44	1.335	1.115		.08
CEMENT MASONS:*					
Zone 1:					
Northern Area:					
Cement Masons	15.035	.95	1.40		.05
Concrete Troweling Machine; Sawing and Scoring Machine; Curb and Gutter Machine	15.225	.95	1.40		.05
Central & Southern Areas:					
Cement Masons	12.91	.95	1.40		.05
Concrete Troweling Machine; Sawing and Scoring Machine; Curb and Gutter Machine	13.10	.95	1.40		.05
Zone 2:					
Cement Masons	12.84	1.12	1.30		.05
Concrete Troweling Machine; Sawing and Scoring Machine; Curb and Gutter Machine; Clary and similar type of power screed Operator	13.03	1.12	1.30		.05
DRYWALL TAPERS:*					
Zone A	13.79	.60	.50		.10
Zone B	14.79	.60	.50		.10
Zone C	16.29	.60	.50		.10

*See AREA and ZONE Descriptions - Page 4

AREA and ZONE DEFINITIONS

CARPENTERS:
Northern Area: Area north of a straight line drawn between a point 35 miles due north of the City Hall in Flagstaff and a point 35 miles due north of the City Hall in Kingman, extending to the Arizona/Nevada State Line on the west; and connecting to a point 35 miles due north of the City Hall in Holbrook, thence due east to the intersection of the Arizona/New Mexico State Line

Central and Southern Areas: All areas not included in the Northern Area

CEMENT MASONS:
Zone 1: Apache, Coconino, and Gila Counties; Graham County (north of Sentinel-Casa Grande-Safford Line); Greenlee County (north of Sentinel-Casa Grande-Safford Line); Maricopa County (north of Sentinel-Casa Grande-Safford Line); Mohave, and Navajo Counties; Pinal County (north of Sentinel-Casa Grande-Safford Line); Yavapai and Yuma Counties

Northern Area: Area north of a straight line drawn between a point 35 miles due north of the City Hall in Flagstaff and a point 35 miles due north of the City Hall in Kingman, extending to the Arizona/Nevada State Line on the west and connecting to a point 35 miles due north of the City Hall in Holbrook, thence due east to the intersection of the Arizona/New Mexico State Line.

Central and Southern Areas: All Areas not included in the Northern Area.

Zone 2: Southern parts of Cochise, Graham, Greenlee, Maricopa, and Pinal Counties; Pima and Sants Cruz Counties

DRYWALL TAPERS:
Zone A: 0-40 road miles from Courthouse in Phoenix; Also Luke and William Air Force Bases
Zone B: 41-60 road miles from Courthouse in Phoenix
Zone C: 61 road miles and over from Courthouse in Phoenix

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELECTRICIANS:*					
Area 1:					
Electricians	$16.81	.60	3%+.70		3/4%
Cable Splicers	18.16	.60	3%+.70		3/4%
Area 2:					
Electricians; Technicians; and Cable Splicers:					
Zone A	17.00	.96	3%+.93		1/2%
Zone B	20.12	.96	3%+.93		1/2%
Area 3:					
Zone A:					
Electricians; Technicians	17.24	.60	11%		1%
Cable Splicers	17.49	.60	11%		1%
Zone B:					
Electricians; Technicians	18.74	.60	11%		1%
Cable Splicers	18.99	.60	11%		1%
Zone C:					
Electricians; Technicians	19.24	.60	11%		1%
Cable Splicers	19.49	.60	11%		1%
Zone D:					
Electricians; Technicians	20.24	.60	11%		1%
Cable Splicers	20.49	.60	11%		1%
Area 4:					
Electricians	17.95	.96	3%+.93		.10
Area 5:					
Zone A:					
Electricians	16.44	.60	11%		1%
Cable Splicers	16.69	.60	11%		1%
Zone B:					
Electricians	17.24	.60	11%		1/2%
Cable Splicers	17.49	.60	11%		1/2%
Zone C:					
Electricians	17.94	.60	11%		1/2%
Cable Splicers	18.19	.60	11%		1/2%
Zone D:					
Electricians	18.94	.60	11%		1/2%
Cable Splicers	19.19	.60	11%		1/2%

*See AREA and ZONE Descriptions - Pages 6 and 7

AREA and ZONE DEFINITIONS

ELECTRICIANS:

Area 1: Apache County (north of Highway #66)

Area 2: Coconino County; Navajo County (north and west of a boundary line beginning at a point where Clear Creek crosses the Coconino/Navajo County Line and then extending in a northeasterly direction along Clear Creek and northeasterly to Cottonwood Wash, along Cottonwood Wash extending northeasterly to where it intersects the Navajo Indian Reservation, then easterly along the Navajo Indian Reservation boundary line to a point where it intersects the Navajo/Apache County Line):

Zone A: 5 miles north-south, east and west of the Post Offices of Williams, Sedona, and Winslow
Zone B: Remainder of Area 2 not covered by Zone A

Area 3: Apache County (south of Highway #66); Gila County; Navajo County (south and east of a boundary beginning at a point where Clear Creek crosses the Coconino/Navajo County Line, then extending in a northeasterly direction along Clear Creek and northeasterly to Cottonwood Wash, along Cottonwood Wash extending northeasterly to where it intersects the Navajo Indian Reservation, then easterly along the Navajo Indian Reservation boundary line to a point where it intersects the Navajo/Apache County Line); Pinal County (north of the line, "First Standard Parallel South" and east of the line "Second Guide Meridian East"):

Zone A: Area within 16 road miles beginning where the Southern Pacific Railroad intersects Highway 60-70 at Kaiser Crossing; Area within 12 miles radius from the school in Lakeside, Arizona
Zone B: Area within 16-28 road miles from point where the Southern Pacific Railroad intersects Highway 60-70 at Kaiser Crossing
Zone C: Area within 28-46 road miles from point where the Southern Pacific Railroad intersects Highway 60-70 at Kaiser Crossing
Zone D: Area 46 road miles and over from point where the Southern Pacific Railroad intersects Highway 60-70 at Kaiser Crossing; Area over 12 miles radius from school in Lakeside, Arizona

AREA and ZONE DEFINITIONS (Cont'd)

ELECTRICIANS: (Cont'd)

Area 4: Maricopa and Mohave Counties; Pinal County (north and west of the boundary line beginning at a point where the Papago Indian Reservation Road #15 crosses the Pima/Pinal County Line, then extending in a northeasterly direction on the Papago Indian Reservation Road #15 to the intersection with the Florence Canal, north and east on the Florence Canal to the intersection with the line, "Second Guide Meridian East", then north to the Pinal/Maricopa County Line); Yavapai County

Area 5: Cochise, Graham, Greenlee, and Pima Counties, Pinal County (south and east of the boundary line beginning at a point where the Papago Indian Reservation Road #15 crosses the Pima/Pinal County Line, then extending in a northeasterly direction on the Papago Indian Reservation Road #15 to the intersection with the Florence Canal, north and east on the Florence Canal to the intersection with the line, "Second Guide Meridian East", then north to the line, "First Standard Parallel South", and along that line to the Graham/Pinal County Line); Santa Cruz and Yuma Counties:

Zone A: Area within 16 miles radius from the City Hall in Tucson or Yuma; Area within 16 road miles from center of Town in Douglas, Nogales or Sierra Vista; Area within the boundaries of the incorporated city limits of Parker, plus an area extending from the south city limits of Parker in a northeasterly direction to Milepost No. 150 located on State Highway #95, northeast of Parker from the Colorado River on the west, an area 1 mile wide paralleling the Colorado River

Zone B: Area lying beyond the limits of Zone A extending to and including 12 road miles excluding area near Douglas, Nogales and Sierra Vista

Zone C: Area lying beyond the limits of Zone B extending up to and including 18 road miles, excluding area near Douglas, Nogales and Sierra Vista

Zone D: Area lying beyond the limits of Zone C; for area near the Cities of Douglas, Nogales, Sierra Vista, the area lying beyond the limits of Zone A

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELEVATOR CONSTRUCTORS:					
Elevator Constructors	$17.595	$1.345	$ 1.085	a	.035
Helpers	12.32	1.345	1.085	a	.035
Probationary Helpers	8.80				
GLAZIERS:					
Statewide excluding Bullhead City	14.71	.95	.60		.08
Bullhead City	17.02	.75	.40		.08
IRONWORKERS:*					
Northern Area	19.25	1.44	3.07		.11
Southern Area	16.25	1.44	3.07		.11
LATHERS:*					
Area 1	14.325	1.00			.06
Area 2	14.32	1.00			.06
LINE CONSTRUCTION:*					
Zone 1:					
Groundmen	12.81	1.00	3%+2.75		1/2%
Equipment Operators; Powdermen; Mechanics	15.13	1.00	3%+2.75		1/2%
Linemen; Technicians; Crane Operators	17.05	1.00	3%+2.75		1/2%
Cable Splicers	17.56	1.00	3%+2.75		1/2%
Zone 1-A:					
Groundmen	13.81	1.00	3%+2.75		1/2%
Equipment Operators; Powdermen; Mechanics	16.04	1.00	3%+2.75		1/2%
Linemen; Technicians; Crane Operators	18.03	1.00	3%+2.75		1/2%
Cable Splicers	18.63	1.00	3%+2.75		1/2%
Zone 2:					
Groundmen	14.75	1.00	3%+2.75		1/2%
Equipment Operators; Powdermen; Mechanics	16.99	1.00	3%+2.75		1/2%
Linemen; Technicians Crane Operators	18.97	1.00	3%+2.75		1/2%
Cable Splicers	19.52	1.00	3%+2.75		1/2%
MARBLE, TILE, and TERRAZZO FINISHERS	11.02	1.19	.30		.10

*See AREA and ZONE Descriptions - Page 9

AREA and ZONE DEFINITIONS

IRONWORKERS:
Northern Area: Area north from a line 10 miles north of and parallel to Highway #66, North to the Arizona-Utah border and from the Arizona-California border east to the Arizona-New Mexico border

Southern Area: All areas not included in the Northern Area

LATHERS:
Area 1: North of a line crossing the State drawn through Ajo, Randolph and Springerville; except as follows: northeast of a line drawn from Springerville to a point 4 miles northeast of Keams Canyon

Area 2: South of a line crossing the State drawn through Ajo, Randolph and Springerville

LINE CONSTRUCTION:
Zone 1: Phoenix and Tucson 30 mile radius from the center of Town; Area within 10 mile radius from the City Hall of Yuma

Zone 1-A: Flagstaff, Globe, and Kingman; and 10 mile radius from the center of Town

Zone 2: Other Areas not covered by Zone 1 and Zone 1-A

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
MARBLE WORKERS:*					
Area 1	$13.71	.90	$ 1.10		.19
MASON TENDERS	11.00	1.12	1.30		.06
PAINTERS:*					
Area 1:					
Zone A:					
Brush	11.60	.90	.80		.20
Brush, steel and bridge	12.10	.90	.80		.20
Spray	12.05	.90	.80		.20
Spray, steel and bridge	12.60	.90	.80		.20
Zone B:					
Brush	12.35	.90	.80		.20
Brush, steel and bridge	12.85	.90	.80		.20
Spray	12.80	.90	.80		.20
Spray, steel and bridge	13.35	.90	.80		.20
Zone C:					
Brush	13.35	.90	.80		.20
Brush, steel and bridge	13.85	.90	.80		.20
Spray	13.80	.90	.80		.20
Spray, steel and bridge	14.35	.90	.80		.20
Zone D:					
Brush	13.60	.90	.80		.20
Brush, steel and bridge	14.10	.90	.80		.20
Spray	14.05	.90	.80		.20
Spray, steel and bridge	14.60	.90	.80		.20
Area 2:					
Zone A:					
Brush and Roller; Sandblaster (Nozzleman); Sheetrock Taper; Floor Coverer; Sandblaster (Pot Tender)	13.54	.60	.60		.10
Spray; Paperhanger	13.79	.60	.60		.10
Creosote Applier	13.87	.60	.60		.10
Swing Stage:					
Brush; Sandblaster	13.94	.60	.60		.10
Spray	14.19	.60	.60		.10
Steeplejack	14.40	.60	.60		.10

*See AREA and ZONE Descriptions - Page 14

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS:* (Cont'd)					
Area 2: (Cont'd)					
Zone A: (Cont'd)					
Steel and bridge, brush; Nozzleman and Pot Tender; Steel (steam cleaner); Electric and air tool Operator; Steel Sandblaster	$14.47	.60	.60		.10
Steel and bridge, spray	14.67	.60	.60		.10
Zone B:					
Brush and Roller; Sandblaster (Nozzleman); Sheet Rock Taper; Floor Coverer; Sandblaster (Pot Tender)	14.54	.60	.60		.10
Spray; Paperhangers	14.79	.60	.60		.10
Creosote Applier	14.87	.60	.60		.10
Swing Stage:					
Brush; Sandblaster	14.94	.60	.60		.10
Spray	15.19	.60	.60		.10
Steeplejack	15.40	.60	.60		.10
Steel and bridge, Brush; Nozzleman and Pot Tender; Steel (steam cleaner); Electric and air tool Operator; Steel Sandblaster	15.47	.60	.60		.10
Steel and bridge, Spray	15.67	.60	.60		.10
Zone C:					
Brush and Roller; Sandblaster (Nozzleman); Sheet Rock Taper; Sandblaster (Pot Tender)	16.04	.60	.60		.10
Spray; Paperhangers	16.29	.60	.60		.10
Creosote Applier	16.37	.60	.60		.10
Swing Stage:					
Brush; Sandblaster	16.44	.60	.60		.10
Spray	16.69	.60	.60		.10
Steeplejack	16.90	.60	.60		.10

*See AREA and ZONE Descriptions - Page 14

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS:* (Cont'd)					
Area 2: (Cont'd)					
Zone C: (Cont'd)					
Steel and bridge, Brush; Nozzleman and Pot Tender; Steel (steam cleaner); Electric air tool Operator; Steel Sandblaster	$16.97	.60	.60		.10
Steel and bridge, Spray	17.17	.60	.60		.10
Area 3:					
Zone A:					
Brush	11.62	.97	.55		.10
Spray; Sandblaster	12.22	.97	.55		.10
Paperhanger	11.75	.97	.55		.10
Swing Stage, under 40 ft.:					
Brush	11.92	.97	.55		.10
Spray	12.52	.97	.55		.10
Swing Stage, over 40 ft.:					
Brush	12.37	.97	.55		.10
Spray	12.97	.97	.55		.10
Structural Steel and Tanks:					
Brush	12.62	.97	.55		.10
Spray and Sandblasters	13.22	.97	.55		.10
Creosote Base and Bituminous Material	12.02	.97	.55		.10
Zone B:					
Brush	12.37	.97	.55		.10
Spray and Sandblasters	12.99	.97	.55		.10
Paperhangers	12.50	.97	.55		.10
Swing Stage, under 40 ft.:					
Brush	12.67	.97	.55		.10
Spray	12.97	.97	.55		.10
Swing Stage, over 40 ft.:					
Brush	13.72	.97	.55		.10
Spray	13.72	.97	.55		.10
Structural Steel and Tanks:					
Brush	13.37	.97	.55		.10
Spray and Sandblasters	13.97	.97	.55		.10
Creosote Base and Bituminous Materials	12.77	.97	.55		.10

*See AREA and ZONE Descriptions -Page 14

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation*	Education and/or Appr. Tr.
PAINTERS:* (Cont'd)					
Area 3: (Cont'd)					
Zone C:					
Brush	$13.12	.97	.55		.10
Spray	13.72	.97	.55		.10
Paperhangers	14.25	.97	.55		.10
Swing Stage, under 40 ft.:					
Brush	13.42	.97	.55		.10
Spray	14.02	.97	.55		.10
Swing Stage, over 40 ft.:					
Brush	13.87	.97	.55		.10
Spray	14.47	.97	.55		.10
Structural Steel and Tanks:					
Brush	14.12	.97	.55		.10
Spray and Sandblasters	14.72	.97	.55		.10
Zone D:					
Brush	14.37	.97	.55		.10
Spray	14.97	.97	.55		.10
Paperhangers	14.50	.97	.55		.10
Swing Stage, under 40 ft.:					
Brush	14.67	.97	.55		.10
Spray	15.27	.97	.55		.10
Swing Stage, over 40 ft.:					
Brush	15.12	.97	.55		.10
Spray	15.72	.97	.55		.10
Structural Steel and Tanks:					
Brush	15.37	.97	.55		.10
Spray and Sandblasters	15.97	.97	.55		.10

*See AREA and ZONE Descriptions - Page 14

AREA and ZONE DEFINITIONS

MARBLE WORKERS:

Area 1: Apache, Coconino, and Gila Counties; Graham County (west and north of San Francisco River to Gila River); Greenlee County (west and north of San Francisco River to Gila River); Maricopa, Mohave, and Navajo Counties; Pinal County (north of a boundary line drawn west along the Gila River to the western city limits of Florence, a straight line from the extreme southwestern city limits of Florence to the extreme southern city limits of Coolidge, then a straight line to the extreme southern city limits of Casa Grande with the line extending to the Maricopa/Pinal County Line); Yavapai and Yuma Counties

PAINTERS:

Area 1: Apache, Coconino, Navajo, and Yavapai Counties (north of woodruff/Camp Wood Line); Mohave County (north of a line following the Geodetic Hualapai Boundary Line to the Colorado River, a distance of 23 miles east of Pierce Ferry and then intersecting the Arizona/Nevada State Line):

- Zone A: 0-20 road miles from Courthouse in Flagstsff
- Zone B: 20-35 road miles from Courthouse in Flagstaff
- Zone C: 35-80 road miles from Courthouse in Flagstaff
- Zone D: 80 road miles and over from Courthouse in Flagstaff

Area 2: Apache, Coconino, Navajo, and Yavapai Counties (south of the Woodruff/Camp Wood Line); Gila, Graham, Greenlee, Maricopa, and Pinal Counties (north of 33rd Parallel); Mohave County (south of a line following the Geodetic Hualapai Boundary Line to the Colorado River, a distance of 23 miles east of Pierce Ferry and then intersecting the Arizona/Nevada State Line):

- Zone A: 0-40 paved road miles from Courthouse in Phoenix; also, Luke and Williams Air Force Bases
- Zone B: 41-60 paved road miles from Courthouse in Phoenix
- Zone C: 61 paved road miles and over from Courthouse in Phoenix

Area 3: Cochise County; Graham, Greenlee, Maricopa and Pinal Counties (south of 33rd Parallel); Pima, Santa Cruz, and Yuma Counties:

- Zone A: 0-30 paved road miles from Stone and Congress in Tucson or from the County Courthouse in Yuma
- Zone B: 31-40 paved road miles from Stone and Congress in Tucson or from the County Courthouse in Yuma
- Zone C: 41-50 paved road miles from Stone and Congress in Tucson or from the County Courthouse in Yuma
- Zone D: 51 paved road miles and over from Stone and Congress in Tucson or from the County Courthouse in Yuma

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PLASTERERS:*					
Area 1:					
Zone A	$11.77	.95	$1.30		.06
Zone B	12.52	.95	1.30		.06
Zone C	13.645	.95	1.30		.06
Area 2:					
Zone A	12.67	1.02	1.20		
Zone B	13.92	1.02	1.20		
Zone C	14.67	1.02	1.20		
PLASTERER TENDERS	11.55	1.12	1.30		.10
PLUMBERS:*					
Zone 1	18.34	1.20	1.35		.23
Zone 2	18.74	1.20	1.35		.23
Zone 3	19.19	1.20	1.35		.23
Zone 4	21.34	1.20	1.35		.23
ROOFERS:*					
Area 1:					
Roofers	13.46	1.095	.95		.05
Pitch and Enamel	14.71	1.095	.95		.05
Area 2:					
Zone A:					
Roofers and Water-proofers; Shinglers (asbestos, wood and asphalt)	12.17	1.095	.35		.03
Pitch and Enamel	13.67	1.095	.35		.03
Zone B:					
Roofers and Water-proofers; Shingler (asbestos, wood and asphalt)	14.67	1.095	.35		.03
Pitch and Enamel	16.17	1.095	.35		.03
SHEET METAL WORKERS:*					
Area 1:					
Zone 1	17.39	1.10	1.92		.13
Zone 2	18.64	1.10	1.92		.13
Zone 3	21.39	1.10	1.92		.13
Area 2:					
Zone A	16.74	1.20	1.92		.07
Zone B	17.96	1.20	1.92		.07
Zone C	20.62	1.20	1.92		.07
SOFT FLOOR LAYERS	12.46	.60	.12		.21
SPRINKLER FITTERS	16.65	.95	1.40		.08
TERRAZZO WORKERS; TILE SETTERS:*					
Area 1	13.71	.90	1.10		.19

*See AREA and ZONE Descriptions - Pages 16 and 17

FOOTNOTE:
a. Employer contributes 8% of basic hourly rate for 5 years' service and 6% of basic hourly rate for 6 months' to 5 years' service as Vacation Pay Credit. Seven Paid Holidays: A through G

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Friday after Thanksgiving; G-Christmas Day

AREA and ZONE DEFINITIONS

PLASTERERS:
Area 1: Apache, Coconino, and Gila Counties; Graham, Greenlee, Maricopa, and Pinal Counties (north of Sentinal - Casa Grande - Safford Line); Mohave, Navajo, Yavapai, and Yuma Counties:
Zone A: 0-35 miles from Phoenix
Zone B: 35-60 miles from Phoenix
Zone C: 60 miles and over from Phoenix

Area 2: Cochise County; Graham, Greenlee, Mariocpa, and Pinal Counties (south of Sentinel - Casa Grande - Safford Line); Santa Cruz County:
Zone A: 0-30 miles radius from Tucson
Zone B: 30-50 miles radius from Tucson
Zone C: 50 miles radius and over from Tucson

PLUMBERS:
Zone 1: Area within 15 road miles from either the intersection of Central Avenue and Jefferson Street in Phoenix or the Old Main Building of the University of Arizona in Tucson or the Main Post Office Building in either Douglas, Flagstaff or Yuma; Also, all areas within the City limits of Havasu City, Holbrook, Kingman, Prescott, and Winslow; Also, that area bordered by the Apache Trail on the north, Higley Road on the east, Elliott Road on the south and Arizona Avenue on the west

Zone 2: Over 15 and up to 30 road miles from either the intersection of Central Avenue and Jefferson Street in Phoenix or the Old Main Building of the University of Arizona in Tucson

PLUMBERS: (Cont'd)
Zone 3: Over 30 and up to 40 road miles from either the intersection of Central Avenue and Jefferson Street in Phoenix or the Old Main Building of the University of Arizona in Tucson

Zone 4: Over 40 road miles from either the intersection of Central Avenue and Jefferson Street in Phoenix or the Old Main Building of the University of Arizona in Tucson

ROOFERS:
Area 1: Apache, Coconino, Gila, Maricopa, Mohave, Navajo, Pinal, Yavapai, and Yuma Counties

Area 2: Cochise, Graham, Greenlee, Pima and Santa Cruz Counties:
Zone A: Area less than 44 road miles from City Hall in Tucson
Zone B: Area from 44 to 100 road miles from City Hall in Tucson

SHEET METAL WORKERS:
Area 1: Apache, Coconino, and Gila Counties; Graham, Greenlee, and Pinal Counties (north of 33rd Parallel); Maricopa, Mohave, Navajo, Yavapai, and Yuma Counties:
Zone 1: 0-25 miles radius, excluding Luke and Williams Air Force Bases, from the following base points: the intersection of 56th Street and Indian School Road in Phoenix, and the City Hall in Flagstaff, Kingman, Prescott and Yuma
Zone 2: 25-50 miles radius from the base points listed in Zone 1; also Luke and Williams Air Force Bases
Zone 3: 50 miles radius and over from the base points listed in Zone 1

Area 2: Cochise, Graham, Greenlee, and Pinal Counties (south of 33rd Parallel); Pima and Santa Cruz Counties:
Zone A: 0-25 miles radius from Tucson City Hall or Douglas City Hall
Zone B: 25-50 miles radius from Tucson City Hall or Douglas City Hall
Zone C: Over 50 miles radius from Tucson City Hall or Douglas City Hall; also San Manuel and vicinity

TERRAZZO WORKERS; TILE SETTERS:
Area 1: Apache, Coconino, and Gila Counties; Graham and Greenlee Counties (west and north of San Francisco River to Gila River); Maricopa, Mohave, and Navajo Counties; Pinal County (north of a boundary line drawn west along the Gila River to the western City limits of Florence, a straight line from the extreme southwestern City limits of Florence to the extreme southern city limits of Coolidge, then a straight line to the extreme southern city limits of Casa Grande, with the line extending to the Maricopa/Pinal County Line); Yavapai and Yuma Counties

LABORERS:	Basic Hourly Rates	Basic Hourly Rates	Fringe Benefits Payments			
			H & W	Pensions	Vacation	Education and/or Appr. Tr.
	N AREA	C and S AREAS				
Group 1	$12.275	$10.15	$1.12	$1.30		.10
Group 2	12.435	10.31	1.12	1.30		.10
Group 3	12.605	10.48	1.12	1.30		.10
Group 4	12.735	10.61	1.12	1.30		.10
Group 5	12.945	10.82	1.12	1.30		.10
Group 6	13.41	11.288	1.12	1.30		.10
Group 7	14.18	12.055	1.12	1.30		.10
(Tunnel and Shaft Work)						
Group 1	12.57	10.445	1.12	1.30		.10
Group 2	12.57	10.65	1.12	1.30		.10
Group 3	12.935	10.81	1.12	1.30		.10
Group 4	13.365	11.24	1.12	1.30		.10
Group 5	13.60	11.475	1.12	1.30		.10
Group 5-A	13.90	11.775	1.12	1.30		.10

AREA DEFINITIONS

NORTHERN AREA:
Area north of a straight line drawn between a point 35 miles due north of the City Hall in Flagstaff and a point 35 miles due north of the City Hall in Kingman, extending to the Arizona/Nevada State Line on the west; and connecting to a point 35 miles due north of the City Hall in Holbrook, thence due east to the intersection of the Arizona/New Mexico State Line

CENTRAL and SOUTHERN AREAS:
All Areas not included in the Northern Area

LABORERS

Group 1: Laborer, general or construction; Manually-controlled Signal Operator; Fence Builder, Guard Rail Builder - highway; Chat Box Man; Dumpman and/or Spotter; Rip Rap Stone Man; Form Stripper; Landscape Gardener and Nurseryman; Packing Rod Steel and Pans; Window Cleaners; Cesspool Diggers and Installers; Concrete Dump Man - belt; Pipe and/or Hoseman; Astro-turf Layers; Clean-up, Bull Gang and Trackman - railroad; Chipper (clearing and grubbing)

Group 2: Cement Finisher Tender; Concrete Curer (Impervious Membrane); Cutting Torch Operator; Fine Grader (highway, engineering and sewer work only); Kettleman - Tarman; Power-type Concrete Buggy

Group 3: Chuck Tender (except tunnel); Sandblaster (Pot Tender); Powderman Tender; Spikers and Wrenchers; Rip Rap Stone Pavers; Creosote Tieman; Guinea Chaser; Bander

Group 4: Operator and Tenders of pneumatic and electric tools; Concrete Vibrating Machines; Chain Saw Machines (on clearing and grubbing); Floor Sanders - concrete; Hydraulic Jacks and similar mechanical tools not separately herein classified; Cement Dumpers (skip-type Mixer or handling bulk cement); Pipe Caulker and/or Backup Man (pipeline); Rigger/Signalman (pipeline); Pipe Wrapper; Cribber and Shorer (except tunnel); Pneumatic Gopher

Group 5: Grade Setter (pipeline); Driller; Jackhammer and/or Pavement Breakers; Pipe Layer (including but not limited to non-metallic, transite and plastic pipe, water pipe, sewer pipe, drain pipe, underground tile and conduit); Rock Slinger; Asphalt Rakers and Ironers; Air and water Wash-out Nozzleman; Scaler (using Bos'n's Chair or Safety Belt); Tampers (mechanical, all types); Hand-guided Trencher and similar operated equipment; Precast Manhole Erector

Group 6: Driller (Core, Diamond, Wagon or Air Track); Sandblaster (Nozzleman); Concrete Saw (hand-guided); Concrete Cutting Torch; Drill Doctor and/or Air Tool Repairman; Gunman and Mixerman (Gunite)

Group 7: Gunite Nozzleman or Rodman; Scaler (Drillers); Form Setter and/or Builder; Welders and/or Pipe Layers, installing process piping; Drillers, Joy Mustang, PR 143, 220 Gardener-Denver, Hydrasonic; Powder Man

LABORERS (cont'd)
(Tunnel and Shaft Workers)

Group 1: Bull Gang, Muckers, Trackman; Dumpmen; Concrete Crew (includes Rodders and Spreaders); Grout Crew; Swamper (Brakeman and Switchmen on tunnel work)

Group 2: Nipper; Chucktender, Cabletender; Vibratorman, Jackhammer, Pneumatic Tools (except Driller)

Group 3: Grout Gunman

Group 4: Timberman, Retimberman - wood or steel blaster, Driller, Powderman; Cherry Pickerman; Powderman - Primer House; Steel Form Raiser and Setter; Kemper and other pneuamtic concrete placer Operator; Miner - Finisher; Miners - Tunnel (hand or machine)

Group 5: Diamond Drill

Group 5A: Shaft and Raise Miner Welder

POWER EQUIPMENT OPERATORS (Except Piledriving and Steel Erection)	Basic Hourly Rates	Basic Hourly Rates	Fringe Benefits Payments			
			H & W	Pensions	Vacation	Education and/or Appr. Tr.
	N AREA	C and S AREAS				
Group 1	$12.875	$10.75	$1.40	$1.30		.08
Group 2	13.335	11.21	1.40	1.30		.08
Group 3	13.885	11.76	1.40	1.30		.08
Group 4	14.545	12.42	1.40	1.30		.08
Group 5	15.185	13.06	1.40	1.30		.08
Group 5A	15.565	13.44	1.40	1.30		.08
Group 6	15.975	13.85	1.40	1.30		.08
Group 7	16.715	14.59	1.40	1.30		.08

AREA DESCRIPTIONS

NORTHERN AREA:
Area north of a straight line drawn between a point 35 miles due north of the City Hall in Flagstaff and a point 35 miles due north of the City Hall in Kingman, extending to the Arizona/Nevada State Line on the west; and connecting to a point 35 miles due north of the City Hall in Holbrook, thence due east to the intersection of the Arizona/New Mexico State Line

CENTRAL and SOUTHERN AREAS:
All Areas not included in the Northern Area

POWER EQUIPMENT OPERATORS
(Except Piledriving and Steel Erection)

Group 1: Air Compressor Operator; Field Equipment Servicemen Tender; Heavy-duty Repair Tender; Heavy-duty Welder Tender; Oiler; Pump Operator

Group 2: Conveyor Operator; Generator Operator - portable; Power Grizzly Operator; Self-propelled Chip Spreading Machine - Conveyor Operator; Watch Fireman; Welding Machine Operator - gasoline and diesel power

Group 3: Concrete Mixer Operator - skip-type; Driver; Moto-paver, Slurry Seal Machine and similar type equipment; Dinky Operator (under 20 tons wt.); Motor Crane Driver; Power Sweeper Operator, self-propelled; Ross Carrier or Forklift Operator; Skip Loader Operator, all types with rated capacity 1½ cu. yds. or less; Wheel-type Tractor Operator (Ford, Ferguson, or similar type) with attachments such as Fresno, Push Blade, Post Hole Auger, Mover, etc. excluding compacting equipment

Group 4: A-Frame Boom Truck or Winch Truck Operator; Asphalt Plant Fireman; Elevator Hoist Operator (including Tuskey Hoist or similar type); Grade Checker (excluding Civil Engineer); Multiple power Concrete Saw Operator; Pavement Breaker; Mechanical Compactor Operator, power propelled; Roller Operator, all types, except as otherwise classified; Screed Operator; Self-propelled Chip Spreading Machine Operator (including Slurry Seal Machine Operator; Stationary Pipe Wrapping and Cleaning Machine Operator; Tugger Operator

Group 5: Aggregate Plant Operator (including Crushing, Screening and Sand Plants, etc.); Asphalt Laydown Machine Operator; Asphalt Plant Mixer Operator; Beltcrete Operator; Boring Machine Operator; Concrete Mechanical Tamping, Spreading or Finishing Machine (including Clary, Johnson or similar types); Concrete Pump Operators; Concrete Batch Plant Operator, all types and sizes; Conductor, Brakeman or Handler; Drilling Machine; Elevating Grader Operator, all types and sizes (except as otherwise classified); Highline Cableway Signalman; Field Equipment Serviceman; Kolman Belt Loader Operator or similar with belt width 48" or over; Locomotive Engineer (including Dinky, 20 tons wt. and over); Moto-paver and similar type equipment Operator; Operating Engineer Rigger; Pneumatic-tired Scraper Operator (Turnapull, Euclid, Cat, D-W, Hancock and similar equipment) up to and including 12 cu. yds.; Power Jumbo Form Setter Operator; Pressure Grout Machine Operator (as used in heavy engineering construction); Road Oil Mixing Machine Operator; Roller Operator, on all types asphalt pavement; Self-propelled Compactor, with blade; Skip Loader Operator, all types rated capacity, over 1½ but less than 4 cu. yds.; Slip Form Operator (power driven lifting device for concrete forms); Soil Cement Road Mixing Machine Operator, single pass type; Stationary Central Generating Plant Operator, rated 300 K. W. or more; Surface Heater and Planer Operator; Traveling Pipewrapping Machine Operator

POWER EQUIPMENT OPERATORS (Cont'd)
(Except Piledriving and Steel Erection)

Group 5A: Heavy-duty Mechanic and/or Welder; Pneumatic-tired Scraper, all sizes and types over 12 cu. yds. up to and including 45 cu. yds. MRC (Turnapull, Euclid, Cat, D-W, Hancock and similar equipment); Tractor Operator (Pusher, Bulldozer, Scraper) up to 400 net horsepower rating; Trenching Machine Operator

Group 6: Auto Grade Machine (CMI and similar equipment); Boring Machine Operator (including Mole, Badger and similar type); Concrete Mixer Operator, paving type, and Mobile Mixer; Concrete Pump Operator with boom attachment (truck mounted); Crane Ope- Crawler type Tractor Operator, with boom attachment or slope bar; Derrick Operator; Forklift Operator for hoisting personnel; Grade-all Operator; Helicopter Hoist; Highline Cableway Operator (less than 20 tons rated capacity); Mass Excavator Operator (150 Bucyrus Erie and similar types); Mechanical Hoist Operator (two or more drums); Motor Grade Operator, any type power blade; Motor Grade Operator with elevating grader attachment; Mucking Machine Operator; Overhead Crane Operator; Piledriver Engineer (portable, stationary or skid rig); Pneumatic-tired Scraper Operator, all sizes and types (Turnapull, Euclid, Cat, D-W, Hancock and similar equipment over 45 cu. yds., MRC); Power driven Ditch Lining or Ditch Trimming Machine Operator; Skip Loader Operator, all types with rated capacity 4 cu. yds., but less than 8 cu. yds.; Slip Form Paving Machine Operator (including Gunnert, Zimmerman and similar types); Specialized Power Digger Operator, attached to wheel-type Tractor; Tower Crane (or similar type) Operator; Tractor Operator (Pusher, Bulldozer, Scraper) (400 net horsepower and over); Tugger Operator (two or more); Universal Equipment Operator, Shovel, Backhoe, Dragline, Clamshell, etc., up to 8 cu. yds.

Group 7: Crane Operator, Pneumatic or Crawler (100 ton hoisting capacity and over MRC rating); Helicopter Pilot, FAA qualified, when used in construction work; Highline Cableway Operator, over 20 ton rated capacity and using Traveling Head and Tail Tower; Remote-controll Earth Moving Equipment Operator; Skip Loader Operator, all types with rated capacity of 8 cu. yds. or more; Universal Equipment - Shovel, Backhoe, Dragline, Clamshell, etc., 8 cu. yds. and over

TRUCK DRIVERS	Basic Hourly Rates	Basic Hourly Rates	Fringe Benefits Payments			
			H & W	Pensions	Vacation	Education and/or Appr. Tr.
	N AREA	C and S AREAS				
Group 1	$12.445	$10.32	$1.12	$1.30		.10
Group 2	12.605	10.48	1.12	1.30		.10
Group 3	12.875	10.75	1.12	1.30		.10
Group 4	13.305	11.18	1.12	1.30		.10
Group 5	13.495	11.37	1.12	1.30		.10
Group 5A	13.735	11.61	1.12	1.30		.10
Group 6	13.895	11.77	1.12	1.30		.10
Group 7	14.395	12.27	1.12	1.30		.10
Group 8	15.03	12.903	1.12	1.30		.10
Group 8A	15.825	13.70	1.12	1.30		.10
Group 8B	13.135	11.01	1.12	1.30		.10
Group 8C	15.445	13.32	1.12	1.30		.10

AREA DESCRIPTIONS

NORTHERN AREA:
Area north of a straight line drawn between a point 35 miles due north of the City Hall in Flagstaff and an point 35 miles due north of the City Hall in Kingman, extending to the Arizona/Nevada State Line on the west; and connecting to a poinc 35 miles due north of the City Hall in Holbrook, thence due east to the intersection of the Arizona/New Mexico State Line

CENTRAL and SOUTHERN AREAS:
All Areas not included in the Northern Area

TRUCK DRIVERS

Group 1: Teamsters; Pick-ups; Station Wagon; Man Haul Driver

Group 2: Dump or Flatrack (2 or 3 axle); Water Truck (under 2500 gallons); Buggymobile (1 cu. yd. or less); Bus Driver; Self-propelled Street Sweeper; Shop Greaser

Group 3: Dump or Flatrack (4 axle); Dumptor or Dumpster (less than 7 cu. yds.); Water Truck (2500 gallons but less than 4000 gallons); Tireman

Group 4: Dumptor or Dumpster (7 cu. yds. but less than 16 cu. yds.); Dump or Flatrack (5 axle); Water Truck (4000 gallons and over); Slurry type equipment Driver or Leverman; Vacuum Pump Truck Drivers; Flaherty Spreader or similar type equipment or Leverman; Transit Mix (8 cu. yds. or less mixer capacity); Ambulance Driver

Group 5: Dump or Flatrack (6 axle); Transit Mix (over 8 cu. yds. but less than 10.5 cu. yds.); Rock Truck (i.e. Dart, Euclid and other similar type end Dumps, single unit) less than 16 cu. yds.

Group 5A: Oil Tanker or Spreader and/or Bootman, Retortman or Leverman

Group 6: Transit Mix (over 10.5 cu. yds. but less than 14 cu. yds. mixer capacity); Ross Carrier, Fork Lift or Lift Truck; Hydro Lift, Swedish Crane, Iowa 300 and similar types; Concrete Pump (when integral part of Transit Mix Truck); Dump or Flatrack (7 axle); Transport Driver (unless axle rating results in higher classification)

Group 7: Dump or Flatrack (8 axle)

Group 8: Off-highway equipment Driver including but not limited to: 2 or 4 wheel power unit, i.e. Cat, DW Series, Euclid, International and similar type equipment, transporting material when top loaded or by external means including pulling Water Tanks, Fuel Tanks or other applications under Teamster Classifications; Rock Trucks (Dart, Euclid, or other similar end dump types) 16 cu. yds. and over; Eject-alls; Dumptor or Dumpster (16 cu. yds. and over); Dump or Flatrack (9 axle)

Group 8A: Heavy-duty Mechanic/Welder; Body and Fender Man

Group 8B: Heavy-duty Mechanic/Welder Tender

Group 8C: Field Equipment Serviceman or Fuel Truck Drivers

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)).

[FR Doc. 82-10928 Filed 4-22-82; 8:45 am]

BILLING CODE 4510-27-C

federal register

Friday
April 23, 1982

Part III

Department of Health and Human Services

Food and Drug Administration

Marketing Status of Ingredients Recommended for Over-the-Counter Use; Amendment to Enforcement Policy and Diphenhydramine; Marketing Status as a Nighttime Sleep-Aid Drug Product for Over-the-Counter Human Use

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 330

[Docket No. 81N-0370]

Marketing Status of Ingredients Recommended For Over-The-Counter Use; Amendment To Enforcement Policy

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the statement of the agency's enforcement policy for over-the-counter (OTC) marketing of drug products containing certain active ingredients that are under consideration in FDA's ongoing review of OTC drugs. The amended policy statement clarifies the authority of the Commissioner of Food and Drugs (Commissioner) to permit the interim OTC marketing of drug products containing an active ingredient previously limited to prescription use and classified by an advisory review panel in a category other than Category I (generally recognized as safe and effective and not misbranded) in cases in which the Commissioner subsequently has tentatively determined the active ingredient to be generally recognized as safe and effective.

DATES: Effective April 23, 1982; comments by June 22, 1982.

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

FURTHER INFORMATION CONTACT: William E. Gilbertson, Bureau of Drugs (HFD-510), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4960.

SUPPLEMENTARY INFORMATION: FDA is amending § 330.13 (21 CFR 330.13), which sets forth its enforcement policy regarding the marketing of OTC drug products containing certain ingredients under consideration in FDA's ongoing review of OTC drugs. This section states the agency's position on the marketing before publication of a final monograph, or OTC drug products containing (1) an active ingredient limited, on or after May 11, 1972, to prescription use for the indication and route of administration under consideration, or (2) an active ingredient at a dosage level higher than that available in an OTC drug product on December 4, 1975. This statement was proposed in the Federal Register of December 4, 1975 (40 FR 56675). Its primary purpose was to clarify the marketing status of certain ingredients and dosage levels of contain ingredients, previously used only in prescription drug products, found by OTC advisory review panels to be safe and effective for OTC use. In response to tentative determinations by OTC advisory review panels, some manufacturers had initiated OTC marketing or ingredients and dosages previously marketed by prescription only, such as oxymetazoline, diphenhydramine, and chlorpheniramine (adult 4-milligram (mg) dosage), at early stages of the OTC review process. To eliminate confusion about the agency's enforcement policy and to prevent precipitate marketing of OTC drug products that might not be safe and effective, FDA promulgated this statement of enforcement policy in the Federal Register of August 4, 1976 (41 FR 32580).

Elsewhere in this issue of the Federal Register is a notice announcing FDA's enforcement policy permitting the OTC marketing of diphenhydramine, as an ingredient in nighttime sleep-aid drug products. Consideration of the OTC marketing status of diphenhydramine for this use revealed and inadvertent omission in the statement of enforcement policy as published in the Federal Register of August 4, 1976. As explained in the notice on diphenhydramine, OTC marketing of this ingredient as a nighttime sleep-aid had been prohibited under the enforcement policy stated in § 330.13(d) because the Advisory Review Panel on OTC Sedative, Tranquilizer, and Sleep-Aid Drug Products had classified diphenhydramine, limited on or after May 11, 1972, to prescription use, in Category III (data Insufficient to determine general recognition of safety and effectiveness). (See the Federal Register of December 8, 1975 (40 FR 57292).) The enforcement policy in § 330.13(d)(2) stated that an ingredient classified by the panel in Category III "may be lawfully marketed only after either the ingredient is determined by the Commissioner to be generally recognized as safe and effective, or a new drug application for the product has been approved." In the proposed rulemaking (tentative final monograph) for nighttime sleep-aids, FDA classified diphenhydramine in Category III and reiterated its position that OTC marketing of this ingredient was prohibited under the policy set forth in § 330.13 (See the Federal Register of June 13, 1978 (43 FR 25544).) After reviewing new data and information subsequently submitted to the agency, the Bureau of Drugs concluded that the data provided a sufficient basis to reclassify diphenhydramine from Category III to Category I. The Bureau informed manufacturers by letters of the tentative determination that the data submitted are adequate to establish Category I status.

Because of the wording of § 330.13, some confusion then existed about the current marketing status of products containing diphenhydramine for use as a nighttime sleep-aid. In order to clarify this marketing status, the agency is specifically describing elsewhere in this issue of the Federal Register the agency's enforcement policy as it affects diphenhydramine for use as a nighttime sleep-aid. As that notice explains, it would be inappropriate and not in the public interest to continue to bar the interim marketing of such products when there are apparently no unresolved safety or effectiveness issues. As originally promulgated, § 330.13(d)(2) could be interpreted as prohibiting OTC marketing of products previously marketed by prescription only that were classified by the appropriate panel in Category III until after the Commissioner had determined that the ingredient was generally recognized as safe and effective, and the final rule embodying that determination had been published in the Federal Register. That is, the Commissioner would be powerless to allow marketing of such products pending completion of the rulemaking process for that class of OTC drugs.

Such an interpretation would give an advisory committee the power to trigger interim OTC marketing (by recommending Category I classification of an ingredient or dosage previously marketed by prescription only unless the Commissioner vetoed such marketing (§ 330.13(b)(2)), but would not give the Commissioner the power to permit interim marketing based on the Bureau's or the Commissioner's tentative conclusion that an ingredient should be classified in Category I. To prevent this anomalous result, which was inadvertent, the agency is now amending the statement of enforcement policy to express the intent more accurately.

This amendment is intended to make it clear that, pending completion of the rulemaking process, the agency will not take enforcement action against (1) an active ingredient limited on or after May 11, 1972, to prescription use for the indication and route of administration under consideration, or (2) an active ingredient at a dosage level higher than that available on December 4, 1975, which ingredient or dosage level has

been classified by a panel in Category III, when the Bureau of Drugs or the Commissioner has tentatively determined that such ingredient or dosage level should be classified in Category I, and the Commissioner has stated by notice in the **Federal Register** that interim marketing of the ingredient will be permitted. A similar amendment makes it clear that the same procedure applies to ingredients initially classified by a panel in Category II.

This clarifying amendment to the agency's enforcement policy is not subject to the notice and comment requirements of the Administrative Procedure Act because it falls within the exemption for general statements of policy (5 U.S.C. 553(b)(A)). In any event, the Commissioner finds good cause that the notice and comment procedures are in this instance unnecessary and contrary to the public interest (5 U.S.C. 553(b)(B); 21 CFR 10.40(e)(1)). Because there currently are no unresolved safety or effectiveness issues relating to use of diphenhydramine as a nighttime sleep-aid, it would be contrary to the public interest to delay unnecessarily the permission to market OTC products containing diphenhydramine for this use. Similarly, this statement of policy falls within the exemption of 5 U.S.C. 553(d)(2) because it is not a substantive rule, and may be effective less than 30 days after publication. In any event, the Commissioner also finds good cause to allow immediate interim marketing of safe and effective products (5 U.S.C. 553(d)(3); 21 CFR 10.40(c)(4)(ii)). Therefore, under 5 U.S.C. 553(b) (A) and (B); 5 U.S.C. 553(d) (2) and (3); and 21 CFR 10.40 (c), (d), and (e), this amendment is effective immediately.

The agency has determined that this amendment is not a major rule under Executive Order 12291 and is not subject to the Regulatory Flexibility Act by virtue of the definition of "rule" in 5 U.S.C. 601(2).

List of Subjects in 21 CFR Part 330

Over-the-counter drugs.

PART 330—OVER-THE-COUNTER (OTC) HUMAN DRUGS WHICH ARE GENERALLY RECOGNIZED AS SAFE AND EFFECTIVE AND NOT MISBRANDED

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(p), 306, 502, 505, 701, 52 Stat. 1041–1042 as amended, 1045–1046, 1050–1053 as amended, 1055–1056 as amended by 70 Stat. 919 and 72 Stat. 948 (21 U.S.C. 321(p), 336, 352, 355, 371)), under the Administrative Procedure Act (secs. 4, 5, and 10, 60 Stat. 238 and 243 as amended (5 U.S.C. 553, 554, 702, 703, 704)), and under 21 CFR 5.11 (see 46 FR 26052; May 11, 1981), Part 330 is amended in § 330.13 by revising paragraphs (c)(2) and (d)(2) to read as follows:

§ 330.13 Conditions for marketing ingredients recommended for over-the-counter (OTC) use under the OTC drug review.

* * * * *

(c) * * *

(2) An active ingredient at a dosage level higher than that available in any OTC drug product on December 4, 1975, which ingredient and/or dosage level is classified by the panel in category II (conditions subject to § 330.10(a)(6)(ii)), may be marketed only after:

(i) The Bureau of Drugs or the Commissioner tentatively determines that the ingredient is generally recognized as safe and effective, and the Commissioner states by notice in the **Federal Register** (separately or as part of another document) that marketing under specified conditions will be permitted;

(ii) The ingredient is determined by the Commissioner to be generally recognized as safe and effective and is included in the appropriate published OTC drug final monograph; or

(iii) A new drug application for the product has been approved.

* * * * *

(d) * * *

(2) An active ingredient at a dosage level higher than that available in any OTC drug product on December 4, 1975, which ingredient and/or dosage level is classified by the panel in category III (conditions subject to § 330.10(a)(6)(iii)), may be marketed only after:

(i) The Bureau of Drugs or the Commissioner tentatively determines that the ingredient is generally recognized as safe and effective, and the Commissioner states by notice in the **Federal Register** (separately or as part of another document) that marketing under specified conditions will be permitted;

(ii) The ingredient is determined by the Commissioner to be generally recognized as safe and effective and is included in the appropriate published OTC drug final monograph; or

(iii) A new drug application for the product has been approved.

Interested persons may submit written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, by June 22, 1982. Such comments will be considered in determining whether further amendments to or revisions of this enforcement policy are warranted. Three copies of all comments shall be submitted, except that individuals may submit single copies of comments. The comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Effective date. April 23, 1982.

(Secs. 201(p), 306, 502, 505, 701, 52 Stat. 1041–1042 as amended, 1045–1046, 1050–1053 as amended, 1055–1056 as amended by 70 Stat. 919 and 72 Stat. 948 (21 U.S.C. 321(p), 336, 352, 355, 371); secs. 4, 5, and 10, 60 Stat. 238 and 243 as amended (5 U.S.C. 553, 554, 702, 703, 704))

Dated: February 5, 1982.

Mark Novitch,

Acting Commissioner of Food and Drugs.

Dated: March 30, 1982.

Richard S. Schweiker,

Secretary of Health and Human Services.

[FR Doc. 82-11007 Filed 4-20-82; 11:05 am]

BILLING CODE 4160-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 75N-0244]

Diphenhydramine; Marketing Status as a Nighttime Sleep-Aid Drug Product for Over-the-Counter Human Use; Notice of Enforcement Policy

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing an enforcement policy to permit the over-the-counter (OTC) marketing of diphenhydramine as an ingredient in nighttime sleep-aid drug products. The enforcement policy will permit the OTC marketing of such drug product spending establishment under the OTC drug review of a final monograph under which drug products containing diphenhydramine that are intended for use as OTC nighttime sleep-aids will be generally recognized as safe and effective and not misbranded.

EFFECTIVE DATE: The enforcement policy is effective April 23, 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: William E. Gilbertson, Bureau of Drugs (HFD-510), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4960.

SUPPLEMENTARY INFORMATION: FDA is announcing an enforcement policy concerning the OTC marketing of nighttime sleep-aid drug products containing diphenhydramine. Prior policy could appear to bar OTC marketing of nighttime sleep-aid drug products containing diphenhydramine until such time as FDA has determined that the drug was generally recognized as safe and effective and not misbranded for OTC drug marketing and had published an appropriate OTC monograph in the Federal Register. Under the policy announced below and under the amended enforcement policy statement published elsewhere in this issue of the Federal Register, such products may be marketed immediately.

The OTC drug review procedures are set out in Part 330 (21 CFR Part 330). In accordance with those procedures, FDA published in the Federal Register of December 8, 1975 (40 FR 57292) an advance notice of proposed rulemaking to establish a monograph for OTC nighttime sleep-aid drug products, together with the recommendations of the Advisory Review Panel on OTC Sedative, Sleep-Aid, and Tranquilizer Drug Products, which was the advisory review panel responsible for evaluating data on the active ingredients in nighttime sleep-aids.

Among the nighttime sleep-aid ingredients reviewed by the Panel was diphenhydramine. This ingredient has been marketed for many years under an approved new drug application for prescription use for several indications. The Panel stated that clinical experience with the ingredient strongly suggested it would be safe and effective as an OTC nighttime sleep-aid. Because of a scarcity of studies for the sleep indication, however, the Panel recommended in its report that the ingredient be classified in Category III (data are insufficient to determine general recognition of safety and effectiveness). The Panel also suggested that OTC marketing be permitted while final testing was carried out. The agency, however, declined to allow marketing at that time. FDA stated that nighttime sleep-aid drug products containing diphenhydramine could not be marketed lawfully for OTC use until tests and studies had been conducted that resolved the questions raised by the Panel, and until the drug was determined by FDA to be generally recognized as safe and effective and not misbranded for OTC marketing and FDA had so indicated in an appropriate monograph published in the Federal Register. The agency's position was in accord with an enforcement policy proposed in the Federal Register of December 4, 1975 (40 FR 56675), published in final form on April 4, 1976 (41 FR 32580), and codified in 21 CFR 330.13.

When the proposed rulemaking (tentative final monograph) for nighttime sleep-aids was published on June 13, 1978 (43 FR 25544), FDA reiterated its ban on OTC marketing of sleep-aids containing diphenhydramine pending completion of the studies and classification of the ingredient in Category I (generally recognized as safe and effective and not misbranded) in the final monograph. The Commissioner of Food and Drugs noted then that evidence at hand strongly suggested that diphenhydramine in an appropriate dosage could prove effective as an OTC nighttime sleep-aid. The Commissioner stated, however, that before there could be a change in the marketing status of nighttime sleep-aid drug products containing diphenhydramine, at least two adequate and well-controlled studies were required.

Subsequently, J. B. Williams Co., Inc., and Bristol-Myers Co. submitted 12 studies (Refs. *1* through *12*) to support the use of diphenhydramine as an OTC nighttime sleep-aid ingredient. Diphenhydramine hydrochloride was evaluated in eight of the studies, and diphenhydramine monocitrate was evaluated in the other four.

After reviewing the submitted studies, FDA's Bureau of Drugs concluded that the studies resolved safety and effectiveness issues that had been raised when the advance notice of proposed rulemaking and proposed rulemaking were published in the Federal Register. The Bureau determined, after reviewing all of the submitted data, that 50 milligrams (mg) diphenhydramine hydrochloride and 76 mg diphenhydramine monocitrate were appropriate dosage levels in drug products intended for use as OTC nighttime sleep-aids. The Bureau concluded that the monocitrate salt could be considered identical to the hydrochloride salt because the monocitrate salt is rapidly converted in the stomach to the hydrochloride salt. However, a dose of 76 mg diphenhydramine monocitrate is necessary to supply a diphenhydramine content equivalent to 50 mg diphenhydramine hydrochloride. The Bureau also concluded that, based on the information available at that time, the studies would provide a sufficient basis to reclassify diphenhydramine from Category III to Category I when a decision was made on the classification of the drug in the final monograph. By letters dated July 18, 1981, the Bureau notified the two firms of its conclusions. These letters have been placed in the Dockets Management Branch (address above) along with the following information. The letters and information may be seen by interested persons from 9 a.m. to 4 p.m. Monday through Friday.

References

(*1*) Sunshine, A., and E. Laska, "A Comparative Study of Diphenhydramine 50 mg and Placebo," Unpublished Study No. S-2162A, Comment Nos. 0B0018, SUP002, and C0035, Docket No. 75N-0244, Dockets Management Branch.

(*2*) Sunshine, A., and E. Laska, "A Comparative Study of Diphenhydramine 50 mg and Placebo," Unpublished Study No. S-2162B, Comment Nos. 0B0018, SUP002, and C0035, Docket No. 75N-0244, Dockets Management Branch.

(*3*) Sunshine, A., I. Zighelboim, and E. Laska, "Hypnotic Activity of Diphenhydramine, Methapyrilene, and Placebo," Unpublished Study No. W-2080, Comment Nos. 0B0018, SUP002, and C0035, Docket No. 75N-0244, Dockets Management Branch.

(4) Glassman, S., and E. W. Packman, "Subjective Evaluation of the Incidence of Side Effects Produced By 50 mg and 100 mg Doses of Diphenhydramine HCl Versus Placebo," Unpublished Study No. S–2519, Comment No. SUP002, Docket No. 75N–0244, Dockets Management Branch.

(5) Smith, P. H., "Pain/Sedative Study," Unpublished Study No. S–2512, Comment Nos. SUP003 and C0035, Docket No. 75N–0244, Dockets Management Branch.

(6) Rickels, K., "Double-Blind, Controlled Evaluation of Diphenhydramine and Placebo In Insomniac General Practice Patients," Unpublished Study, Comment Nos. C0030, SUP004, and SUP005, Docket No. 75N–0244, Dockets Management Branch.

(7) Finnerty, R., and H. Goldberg, "Double-Blind, Controlled Evaluation of Diphenhydramine and Placebo In Insomniac General Practice Patients," Unpublished Study, Comment Nos. C0030, SUP004, and SUP005, Docket No. 75N–0244, Dockets Management Branch.

(8) Holder, A., and K. J. Kohlhof, "Assessment of the Sleep Prolongation Properties of Two Analgesic/Sedative Tablets Versus Placebo In Healthy Adults," Unpublished Study No. S–2593, Comment Nos. C0032 and C0035, Docket No. 75N–0244, Dockets Management Branch.

(9) Sunshine, A., and E. Laska, Unpublished Study No. S–2127, Comment Nos. 0B0018, SUP002, C0035, Docket No. 75N–0244, Dockets Management Branch.

(10) Sunshine, A., and I. Zighelboim, "Subjective Clinical Evaluation of the Relative Analgesic/Sedative Effects of an Analgesic/Sedative Tablet vs. Placebo," Unpublished Study No. S–2469, Comment Nos. C0032 and C0035, Docket No. 75N–0244, Dockets Management Branch.

(11) Sunshine, A., and C. Roure, "Subjective Clinical Evaluation of the Analgesic/Sedative Effects of an Analgesic/Sedative Tablet vs. Placebo," Unpublished Study No. S–2591, Comment Nos. C0032 and C0035, Docket No. 75N–0244, Dockets Management Branch.

(12) Furst, D., and L. Winter, "Subjective Clinical Evaluation of the Sedative Effects of Two Analgesic/Sedative Tablets vs. Placebo," Unpublished Study No. S–2605, Comment Nos. C0032 and C0035, Docket No. 75N–0244, Dockets Management Branch.

The enforcement policy now set out in § 330.13 (21 CFR 330.13) could appear to bar marketing of nighttime sleep-aid drug products containing diphenhydramine until the final monograph for OTC nighttime sleep-aids is issued. Such drug products would be barred from marketing even though the studies discussed earlier resolved the safety and effectiveness issues that originally resulted in classification of the ingredient in Category III rather than in Category I. The agency has determined that such a result would not be in the public interest. Because currently there are no unresolved safety or effectiveness issues relating to the use of diphenhydramine as a nighttime sleep-aid, it would be inappropriate to continue to bar the interim marketing of such products. Elsewhere in this issue of the Federal Register, the agency has amended the statement of enforcement policy in § 330.13 to clarify the agency's enforcement policy with respect to such products. As amended, that statement makes it clear that the Commissioner may, by notice in the Federal Register, permit interim marketing of such products.

Accordingly, the Commissioner advises that any drug product intended for use as an OTC nighttime sleep-aid that contains diphenhydramine hydrochloride or diphenhydramine monocitrate in dosages discussed above may be marketed pending issuance of the final monograph, subject to the risk that the Commissioner may, in the final monograph, adopt a different position that could require relabeling, recall, or other regulatory action. Marketing of such a product with labeling not in accord with the tentative final monograph also may result in regulatory action against the product, the marketer, or both.

Interested persons may submit written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857. Such comments will be considered in determining whether further amendments to or revisions of this policy are warranted. Three copies of all comments shall be submitted, except that individuals may submit single copies of comments. The comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: February 5, 1982.

Mark Novitch,

Acting Commissioner of Food and Drugs.

Dated: March 30, 1982.

Richard S. Schweiker,

Secretary of Health and Human Services.

[FR Doc. 82–11078 Filed 4–20–82; 11:05 am]

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Friday
April 23, 1982

Part IV

Department of Commerce

Office of the Secretary

Prohibition of Discrimination Against the Handicapped in Federally Assisted Programs; Final Rule

DEPARTMENT OF COMMERCE

Office of the Secretary

15 CFR Part 8b

Prohibition of Discrimination Against the Handicapped in Federally Assisted Programs Operated by the Department of Commerce

AGENCY: Department of Commerce.

ACTION: Final rule.

SUMMARY: This regulation will establish procedures and policies to assure nondiscrimination based on handicap in programs and activities receiving Federal Financial assistance from the Department of Commerce. This rule is designed to implement the requirements of Executive Order 12250 and of Section 504 of the Rehabilitation Act of 1973, as amended, which provides, in relevant part, that "no otherwise qualified handicapped individual in the United States * * * shall, solely by reason of his handicap, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance * * *"

EFFECTIVE DATE: May 24, 1982, except for §§ 8b.6(c) and 8b.17(e) which contain information collection requirements which are under review at OMB.

FOR FURTHER INFORMATION CONTACT: Arthur E. Cizek, Chief, Compliance Division, Office of Civil Rights, Office of the Secretary, Department of Commerce, Washington, DC 20230, Telephone (202) 377–4994.

SUPPLEMENTARY INFORMATION:

1. Background

Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), as amended by section 111(a) of the Rehabilitation Act Amendments of 1974, (29 U.S.C. 706) (Supp. V 1975), and section 120(a) of the Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments of 1978, Pub. L. 95–602, 92 Stat. 2955 (1978), prohibits discrimination on the basis of handicap by recipients of Federal financial assistance. Pursuant to Executive Order 11914 (41 FR 17871 April 28, 1976), the Department of Health, Education and Welfare (HEW) was authorized to coordinate the implementation of Section 504 among all Federal agencies and departments that dispense Federal financial assistance. On January 13, 1978, HEW issued regulations which established guidelines for Federal agencies in the implementation and enforcement of their responsibilities under Section 504 and Executive Order 11914 (43 FR 2132, January 13, 1978 45 CFR Part 85, hereinafter "HEW Guidelines").

On November 17, 1978, the Department proposed regulations (43 FR 53765, November 17, 1978) which differed substantially from both the HEW Guidelines and the HEW Section 504 rule (42 FR 22676, May 4, 1977, 45 CFR Part 84). Subsequently, on November 2, 1980, President Carter signed Executive Order 12250 into effect, which among other things, authorized the Attorney General to "coordinate the implementation and enforcement by Executive agencies" of Section 504. The Executive Order further directs that "[e]ach Executive agency responsible for implementing a nondiscrimination provision of a law covered by this Order shall issue appropriate implementing directives (whether in the nature of regulations or policy guidance)." The order provides: "Executive Order No. 11914 is revoked. The present regulation of the Secretary of Health and Human Services relating to the coordination of the implementation of Section 504 of the Rehabilitation Act of 1973, as amended, shall be deemed to have been issued by the Attorney General pursuant to this Order and shall continue in effect until revoked or modified by the Attorney General."

This regulation is promulgated in response to Executive Order 12250. Its provisions substantially adhere, with minor deviations, to the HEW Guidelines and to the HEW Section 504 rule. The Department of Justice and the Equal Employment Opportunity Commission are currently reviewing the government-wide Section 504 Guidelines. This regulation will be modified to comply with any revision that the Department of Justice or the Equal Employment Opportunity Commission make to those guidelines.

2. Overview of Regulation

The regulation is divided into subparts. Subpart A (General Provisions) delineates the scope of the regulation and defines significant terms used throughout. These sections set forth in general terms the discriminatory acts that are prohibited. They also establish a viable administrative system which includes assurances of compliance, selfevaluation by recipients, remedial action, grievance procedures and notification to employees and beneficiaries of the recipient's policy of nondiscrimination on the basis of handicap.

Subpart B deals with discriminatory employment practices on the basis of handicap by recipients of Federal financial assistance from the Department. It also requires employers to make reasonable accommodation to qualified handicapped applicants or employees, unless it can be shown that the accommodation would impose undue hardship on the employer.

Subpart C establishes the requirement of program accessibility. It generally prohibits the exclusion of qualified handicapped individuals from federally assisted programs or activities because a recipient's facilities are inaccessable or unusable. With regard to existing facilities a recipient's program or activity, viewed in its entirety, must be readily accessible to and usable by handicapped individuals. New facilities, as well as alterations that could affect access to and use of existing facilities, must be designed and constructed in a manner making the facility accessible to and usable by handicapped individuals.

Subpart D prescribes nondiscrimination on the basis of handicap in the recruitment, admission and treatment of students in postsecondary education programs and activities, including vocational education. These sections apply to programs operated in the Department by the National Bureau of Standards (NBS), and the National Oceanic and Atmospheric Administration (NOAA).

Subpart E entitled "Procedures" makes reference to the enforcement procedures of the Department of Commerce under Title VI of the Civil Rights Act of 1964 and makes modifications necessary to adapt them. These procedures are located in 15 CFR 8.8–8.15.

3. Impact of Recent Court Decisions

a. *Southeastern Community College* v. *Davis*, 442 U.S. 397 (1979).

This regulation requires that employers make reasonable accommodation to the known handicaps of qualified handicapped applicants or employees. It also requires that programs be made readily accessible to and usable by the qualified handicapped. These requirements must be read in light of *Southeastern Community College* v. *Davis*, 442 U.S. 397 (1979), the only Supreme Court decision to date construing Section 504 of the Rehabilitation Act.

The *Davis* Court found that there was no violation of Section 504 arising out of petitioner Southeastern Community Colleges' determination that the respondent applicant for admission did not meet the necessary and legitimate physical requirements of its registered nurse's training program and hence did not qualify to participate and that Section 504's prohibition against

discrimination did not authorize HEW to require recipients to take affirmative action. The Court acknowledged, however, that "the line between a lawful refusal to extend affirmative action and illegal discrimination against handicapped persons" will not always be clear. 442 U.S. at 412. "Thus, situations may arise where a refusal to modify an existing program might become unreasonable and discriminatory." *Id.* at 412–13. The Court therefore held that reasonable accommodations that do not impose undue burdens on the employer may be necessary where "an insistence on continuing past requirements and practices might arbitrarily deprive genuinely qualified handicapped persons of the opportunity to participate in a covered program." *Id.* at 412. Davis held that Section 504 did not require the petitioner college to fundamentally modify its registered nurses' training program, in order to accommodate the severe hearing loss of the respondent, who had applied for admission to the program as a student.

The accommodation and program accessibility requirement of this regulation come within the zone of permissible agency action under the *Davis* decision. This regulation does not require affirmative action by recipients. It merely prohibits discrimination against the qualified handicapped persons in the Department's federally assisted programs and activities.

b. *Trageser* v. *Libbie Rehabilitation Center, Inc.*, 590 F.2d 87 (4th Cir. 1978), *cert. denied*, 442 U.S. 947 (1979).

This regulation sets standards for employment in all programs receiving Federal financial assistance from the Department. In *Trageser* v. *Libbie Rehabilitation Center, Inc.*, 590 F.2d 87 (4th Cir. 1978), *cert. denied*, 442 U.S. 947 (1979), the court held that employment discrimination is prohibited by Section 504 only to the extent that it is prohibited by Title VI of the Civil Rights Act of 1964, 42 U.S.C 2000d–20000d–4 (1976). Title VI, which prohibits discrimination on the basis of race, color, or national origin in federally assisted programs, covers employment discrimination only in two situations: (1) "where a primary objective of the Federal financial assistance is to provide employment" (section 604 of Title VI, 42 U.S.C. 2000 1976); or (2) when the recipient's employment discrimination results in discrimination against the ultimate beneficiaries of the program receiving Federal financial assistance (*see Caulfield* v. *Board of Education*, 583 F.2d 605 (2d Cir. 1978)). Neither of these factors was present in *Trageser*.

The Court's decision rests on the language of section 120(a) of the Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments of 1978, which created a private right of action for individuals aggrieved under Section 504 through the remedies, procedures and rights in Title VI. Accordingly, "in the absence of legislative history to the contrary," the court held that section 120(a) of the 1978 amendments incorporated the limitations of Title VI coverage in the area of employment discrimination. 590 F.2d at 89.

The Court, in its analysis, did not focus on the remedial purpose of Section 504 to provide broad protections to the handicapped. Nor did the court consider the legislative history of the Rehabilitation Act of 1973 and its subsequent amendments which reflect the continuing congressional concern for the employment problems of the handicapped. See, e.g., S. Rep. No. 318, 93d Cong., 1st Sess. 18–19,70 (1973); S. Rep. No. 319, 93d Cong., 1st Sess. (1973); H.R. Rep. No. 1149, 95th Cong., 2d Sess. 16, 18, 23–29, 34, 38, 42–43 (1978); S. Rep. No. 890, 95th Cong., 2d Sess. 8, 13, 20–21, 27, 36 (1978), H.R. Conf. Rep. No. 1780, 95th Cong., 2d Sess. 80–81, 94–96, 98, 102 (1978). Further, the legislative history of section 120(a), which apparently was not brought to the attention of the court, indicates that the provision was not intended to limit the scope of Section 504, but was merely a legislative ratification of HEW's enforcement procedures under Section 504.

Section 120(a) was originally a provision in S. 2600 (95th Cong., 2d Sess., Section 118(a) (1978)); the Senate version of the Rehabilitation Act Amendments of 1978 reported by the Senate Committee on Human Resources on May 15, 1978. The Committee stated, with respect to section 120(a):

> It is the committee's understanding that the regulations promulgated by the Department of Health, Education and Welfare with respect to procedures, remedies, and rights under Section 504 conform with those promulgated under Title VI. Thus, this amendment modifies existing practice as a specific statutory requirement, (S. Rep. No. 890, 95th Cong., 2d Sess. 19 (1978)).

In view of the legislative history of the Rehabilitation Act of 1973 and its amendments, HEW's administrative construction, the remedial nature of Section 504 and the legislative history of section 120(a), the Department believes that the employment practices of recipients of Federal financial assistance are covered by Section 504 regardless of the purpose of the assistance, and the final regulation reflects this view.

At least one other court, when confronted with the rationale of the Trageser decision, has also rejected the limitation of Section 504 to the analogous bounds of section 604 of Title VI. In that decision, *Hart* v. *Alameda County Probation Department*, 485 F. Supp. 66 (N.D. Cal., 1979), the court, examining the legislative history of Section 504, rejected the inference that the 1978 amendments restricted the scope of Section 504. Further, the court found that Congressional intent was to expand the remedies of the Act, thus, covering employment in programs receiving Federal financial assistance.

A proposed rule adding Part 15 to title 15 of the Code of Federal Regulations was published for notice and comment in the **Federal Register** on November 17, 1978 (43 FR 53765). In response to that proposal, the Department received a small number of public comments from organizations representing the handicapped, state agencies, private individuals and agencies, and Federal government officials. *No public hearing was held.* The comments were carefully reviewed and *the issues raised were* taken into consideration by the Department. The following is a summary of the significant comments received and the action taken by the Department of Commerce.

A primary concern of the majority of commenters was the marked deviation of the proposed regulation from the HEW Guidelines.

HEW objected to the inclusion of "other parties" in the definition of "recipient" in the proposed regulations. The final regulations do not contain a definition of "other parties." We feel that the definition of "recipient" in § 8b.3(i) of the final regulations is broad enough to cover commercial or industrial organizations located in a federally assisted industrial park as indirect recipients. This is an example of the kind of situation intended to be covered by the term "other parties" in the proposed regulations.

HEW also questioned the incorporation by reference of the requirements of the U.S. Coast Guard for employment on ships, since the latter are not consistent with the statute and coordinating regulations at 45 CFR 85.52–85.55. The revised provision at § 8b.16 reflects the fact that while the Department of Commerce (DOC) has no jurisdiction over the U.S. Coast Guard licensing procedures, DOC, as a second party in interest will not discriminate against licensed employees on a manner

contrary to Section 504 of the Act or its regulations.

The remainder of HEW's comments dealt mainly with deviations from the HEW guidelines. DOC final regulations now conform more closely with those of HEW (both the guidelines and internal regulations). Selected provisions from the final rule on Section 504 of the Department of Labor (See e.g. §§ 8b.4(b)(7)(i)(ii)) and the Department of the Interior (See e.g. § 8.4(b)(2)) were used with adaptations as appropriate in the final DOC regulations.

DOC received lengthy comments on its proposed regulations from both the National Center for Law and the Deaf and the Paralyzed Veterans of America. These two organizations expressed the same concerns, mainly dealing with differences between the proposed regulations and the HEW guidelines. The final regulations are responsive to these comments insofar as the regulations follow the guidelines more closely. The comments also suggested the inclusion of the term "subrecipient" in order to reach functional though nontechnical recipients. However, as noted previously, we feel that the definition of recipient will be broad enough to include these entities in many cases as indirect recipients.

Classification

1. *Executive Order 12291.* This regulation was declared "major" under E.O. 12291 by the Office of Management and Budget (OMB). OMB has waived the requirement for a Regulatory Impact Analysis of the regulation. This waiver was necessary in order to comply with an order issued by the Central States District Court, Central District of California ordering the Department of Commerce to publish final regulations implementing Section 504 on an expedited basis.

2. *Paperwork Reduction Act.* In accordance with the Paperwork Reduction Act of 1980 (Pub. L. 96–511), the reporting or recordkeeping provisions that are included in this regulation have been or will be submitted for approval to the Office of Management and Budget (OMB). They are not effective until OMB approval has been obtained and the public notified to that effect through a technical amendment to this regulation.

3. *Regulatory Flexibility Act.* The General Counsel, U.S. Department of Commerce, has found that this rule will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 15 CFR Part 8b

Civil rights, Handicapped.

For the reasons set out in the preamble, Title 15, Subtitle A, of the Code of Federal Regulations is amended by adding Part 8b to read as follows:

PART 8b—PROHIBITION OF DISCRIMINATION AGAINST THE HANDICAPPED IN FEDERALLY ASSISTED PROGRAMS OPERATED BY THE DEPARTMENT OF COMMERCE

Subpart A—General Provisions

Sec.

8b.1 Purpose.
8b.2 Application.
8b.3 Definitions.
8b.4 Discrimination prohibited.
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Subpart B—Employment Practices

8b.11 Discrimination prohibited.
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8b.16 Discrimination prohibited.
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Subpart D—Post Secondary Education

8b.19 Application of this subpart.
8b.20 Admissions and recruitment.
8b.21 Treatment of students.
8b.22 Academic adjustments.
8b.23 Housing provided by the recipient.
8b.24 Financial and employment assistance to students.
8b.25 Nonacademic services.

Subpart E—Procedures

8b.26 Procedure

Authority: Sec. 504, Rehabilitation Act of 1973, as amended (29 U.S.C. 794).

Subpart A—General Provisions

§ 8b.1 Purpose.

Section 504 of the Rehabilitation Act of 1973, as amended, prohibits discrimination on the basis of handicap in any program or activity receiving or benefiting from Federal financial assistance. The purpose of this part is to implement Section 504 with respect to programs and activities receiving or benefiting from Federal financial assistance from the Department of Commerce.

§ 8b.2 Application.

This part applies to each recipient of Federal financial assistance from the Department of Commerce and to each program receiving or benefiting from such assistance. The requirements of this part do not apply to the ultimate beneficiaries of Federal financial assistance in the program receiving Federal financial assistance.

§ 8b.3 Definitions.

As used in this part, the term:

(a) "The Act" means the Rehabilitation Act of 1973, Pub. L. 93–112, as amended by the Rehabilitation Act Amendments of 1974, Pub. L. 93–516, and by the Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments of 1978, Pub. L. 95–602 (codified at 29 U.S.C. 794 (1976 & Supp. II 1978)).

(b) "Applicant for assistance" means one who submits an application, request, or plan required to be approved by a Department official or by a recipient as a condition to becoming a recipient.

(c) "Department" means the Department of Commerce and any of its constituent units authorized to provide Federal financial assistance.

(d) "Facility" means all or any portion of buildings, ships, structures, equipment, roads, walks, parking lots, industrial parks, or other real or personal property or interest in such property.

(e) "Federal financial assistance" means any grant, loan, contract (other than a procurement contract or a contract of insurance or guarantee), or any other arrangement by which the Department provides or otherwise makes available assistance in the form of:

(1) Funds;

(2) Services of Federal personnel; or

(3) Real and personal property or any interest in or use of such property, including:

(i) Transfers or leases of such property for less than fair market value or for reduced consideration; and

(ii) Proceeds from a subsequent transfer or lease of such property if the Federal share of its fair market value is not returned to the Federal Government.

(f) "Handicap" means any condition or characteristic that renders a person a handicapped person as defined in paragraph (g) of this section.

(g) "Handicapped person."

(1) "Handicapped person" means any person who:

(i) Has a physical or mental impairment which substantially limits one or more major life activities;

(ii) Has a record of such an impairment; or

(iii) Is regarded as having such an impairment.

(2) For purposes of employment, the term "handicapped person" does not include any person who is an alcoholic or drug abuser whose current use of alcohol or drugs prevents that individual from performing the duties of the job in question, or whose employment, because of current alcohol or drug abuse, would constitute a direct threat to property or to the safety of others.

(3) As used in paragraph (g)(1) of this section, the phrase:

(i) "Physical or mental impairment" means:

(A) Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: Neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genito-urinary; hemic and lymphatic; skin; and endocrine; or

(B) Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities;

(C) The term "physical or mental impairment" includes, but is not limited to, such diseases and conditions as orthopedic, visual speech and hearing impairments, cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, emotional illness, drug addiction and alcoholism.

(ii) "Major life activities" means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, working, and receiving education or vocational training.

(iii) "Has a record of such an impairment" means that the individual has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities.

(iv) "Is regarded as having an impairment" means that the individual:

(A) Has a physical or mental impairment that does not substantially limit major life activities, but that is treated by a recipient as constituting such a limitation;

(B) Has a physical or mental impairment that substantially limits major life activities only as a result of the attitudes of others toward such impairment; or

(C) Has none of the impairments defined in paragraph (g)(3)(i) of this section, but is treated by a recipient as having such an impairment.

(h) "Qualified handicapped person" means:

(1) With respect to employment, a handicapped person who, with reasonable accommodation, can perform the essential functions of the job in question;

(2) With respect to post secondary and vocational education services, a handicapped person who meets the academic and technical standards requisite to admission or participation in the recipient's education program or activity;

(3) With respect to other services, a handicapped person who meets the essential eligibility requirements for the receipt of such services.

(i) "Recipient" means any State or its political subdivisions, any instrumentality of a State or its political subdivisions, any public or private agency, institution, organization, or other entity, or any person to which Federal financial assistance is extended directly or indirectly through another recipient, or including any successor, assignee, or transferee of a recipient, but excluding the ultimate beneficiary of the assistance.

(j) "Secretary" means the Secretary of Commerce, U.S. Department of Commerce.

(k) "Section 504" means Section 504 of the Act.

(l) "Small recipient" means a recipient who serves fewer than 15 beneficiaries and who employs fewer than 15 employees at all times during a grant year.

§ 8b.4 Discrimination prohibited.

(a) *General.* No qualified handicapped individual shall, on the basis of handicap, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity that receives or benefits from Federal financial assistance.

(b) *Discriminatory actions prohibited.* (1) A recipient, in providing any aid, benefit, or service, may not, directly or through contractual, licensing, or other arrangements, on the basis of handicap:

(i) Deny a qualified handicapped individual the opportunity to participate in or benefit from the aid, benefit, or service;

(ii) Afford a qualified handicapped individual an opportunity to participate in or benefit from the aid, benefit, or service that is not equal to that afforded others;

(iii) Provide a qualified handicapped individual with any aid, benefit, or service that is not as effective as that provided to others;

(iv) Provide different or separate aid, benefits, or services to handicapped individuals or to any class of handicapped individuals, unless such action is necessary to provide qualified handicapped individuals with aid, benefits, or services that are as effective as those provided to others;

(v) Aid or perpetuate discrimination against a qualified handicapped individual by providing significant assistance to an agency, organization, or person that discriminates on the basis of handicap in providing any aid, benefit, or service to beneficiaries of the recipient's program;

(vi) Deny a qualified handicapped individual the opportunity to participate as a member of planning or advisory boards; or

(vii) Otherwise limit a qualified handicapped individual in the enjoyment of any right, privilege, advantage, or opportunity enjoyed by others receiving any aid, benefits, or services.

(2) For purposes of this part, aid, benefits, and services must afford handicapped individuals an equal opportunity to obtain the same result, to gain the same benefit, or to reach the same level of achievement as afforded to others, in the most integrated setting appropriate to the individual's needs. However, aid, benefits and services, to be equally effective, need not produce the identical result or level of achievement for handicapped and nonhandicapped individuals.

(3) A recipient may not deny a qualified handicapped individual the opportunity to participate in its regular programs or activities, despite the existence of separate or different programs or activities which are established in accordance with this part.

(4) A recipient may not, directly or through contractual or other arrangements, use criteria or methods of administration:

(i) That have the effect of subjecting qualified handicapped individuals to discrimination on the basis of handicap;

(ii) That have the purpose or effect of defeating or substantially impairing accomplishment of the objectives of the recipient's program with respect to handicapped individuals; or

(iii) That perpetuate the discrimination of another recipient if both recipients are subject to common administrative control or are agencies of the same state.

(5) In determining the geographic site or location of a facility, an applicant for assistance or a recipient may not make selections:

(i) That have the effect of excluding handicapped individuals from, denying them the benefit of, or otherwise subjecting them to discrimination under any program or activity that receives or benefits from Federal financial assistance; or

(ii) That have the purpose or effect of defeating or substantially impairing the accomplishment of the objectives of the program or activity with respect to handicapped individuals.

(6) As used in this section, the aid, benefit, or service provided under a program or activity receiving or benefiting from Federal financial assistance includes any aid, benefit, or service provided in or through a facility that has been constructed, expanded, altered, leased, rented or otherwise acquired, in whole or in part, with Federal financial assistance.

(7)(i) In providing services under programs of Federal financial assistance, recipients to which this subpart applies, except small recipients, shall ensure that no handicapped participant is denied the benefits of, excluded from participation in, or otherwise subjected to discrimination under the program or activity operated by the recipient because of the absence of auxiliary aids for participants with impaired sensory, manual or speaking skills. A recipient shall operate each program or activity to which this subpart applies so that, when viewed in its entirety, auxiliary aids are readily available. The Secretary may require small recipients to provide auxiliary aids in order to ensure that no handicapped participant is denied the benefits of, excluded from participation in, or otherwise subjected to discrimination under the program or activity operated by small recipients, when this would not significantly impair the ability of the small recipient to provide benefits or services.

(ii) Auxiliary aids may include brailled and taped materials, interpreters, telecommunications devices, or other equally effective methods of making orally delivered information available to persons with hearing impairments, readers for persons with visual impairments, equipment adapted for use by persons with manual impairments, and other similar devices and actions. Recipients need not provide attendants, individually prescribed devices, readers for personal use or study, or other devices or services of a personal nature.

(c) *Programs limited by Federal Law.* The exclusion of non-handicapped persons from the benefits of a program limited by Federal statute or Executive Order to handicapped individuals, or the exclusion of a specific class of handicapped individuals from a program limited by Federal statute or Executive Order to a different class of handicapped individuals is not prohibited by this part.

(d) *Integrated Setting.* Recipients shall administer programs and activities in the most integrated setting appropriate to the needs of qualified handicapped individuals.

(e) *Communications with individuals with impaired vision and hearing.* Recipients shall ensure that communications with their applicants, employees and beneficiaries are available to persons with impaired vision or hearing. Appropriate modes of communication may include braille, enlarged type, sign language and telecommunications devices.

§ 8b.5 Assurances required.

(a) *Assurances.* An applicant for Federal financial assistance for a program or activity to which this part applies shall submit an assurance, on a form specified by the Secretary, that the program will be operated in compliance with this part. An applicant may incorporate these assurances by reference in subsequent applications to the Department.

(b) *Duration of obligation.* (1) In the case of Federal financial assistance extended in the form of real property or structures on the property, the assurance will obligate the recipient or, in the case of a subsequent transfer, the transferee, for the period during which the real property or structures are used for the purpose for which Federal financial assistance is extended, or for another purpose involving the provision of similar services or benefits.

(2) In case of Federal financial assistance extended to provide personal property, the assurance will obligate the recipient for the period during which it retains ownership or possession of the property.

(3) In all other cases, the assurance will obligate the recipient for the period during which Federal financial assistance is extended or the federally-funded program is operated, whichever is longer.

(c) *Covenants.* (1) Where Federal financial assistance is provided in the form of real property or interest in the property from the Department, the instrument effecting or recording this transfer shall contain a covenant running with the land to assure nondiscrimination for the period during which the real property is used for a purpose for which the Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits.

(2) Where no transfer or property is involved but property is purchased or improved with Federal financial assistance, the recipient shall agree to include the covenant described in paragraph (c)(1) of this section in the instrument effecting or recording any subsequent transferee of the property.

(3) Where Federal financial assistance is provided in the form of real property or interest in the property from the Department, the covenant shall also include a condition coupled with a right to be reserved by the Department to revert title to the property in the event of a breach of the covenant. If a transferee of real property proposed to mortgage or otherwise encumber the real property as security to finance construction of new, or improvement of existing, facilities on the property for the purposes for which the property was transferred, the Secretary may agree to forbear the exercise of such right to revert title for so long as the lien of such mortgage or other encumbrance remains effective. Such an agreement by the Secretary may be entered into only upon the request of the transferee (recipient) if it is necessary to accomplish such financing and upon such terms and conditions as the Secretary deems appropriate.

(d) *Interagency agreements.* Where funds are granted by the Department to another Federal agency to carry out a program under a law administered by the Department, and where the grant obligates the recipient agency to comply with the rules and regulations of the Department applicable to that grant the provisions of this part shall apply to programs and activities operated with such funds.

§ 8b.6 Remedial action, voluntary action, and self-evaluation.

(a) *Remedial action.* (1) If the Secretary finds that a recipient has discriminated against persons on the basis of handicap in violation of Section 504 or this part, the recipient shall take such remedial action as the Secretary deems necessary to overcome the effects of the discrimination.

(2) Where a recipient is found to have discriminated against persons on the basis of handicap in violation of Section 504 or this part and where another recipient exercises control over the recipient that has discriminated, the Secretary, where appropriate, may require either or both recipients to take remedial action.

(3) The Secretary may, where necessary to overcome the effects of

discrimination in violation of Section 504 or this part, require a recipient to take remedial action:

(i) With respect to handicapped individuals who would have been participants in the program had the discrimination not occurred; and

(ii) With respect to handicapped persons who are no longer participants in the recipient's program, but who were participants in the program when the discrimination occurred; and

(iii) with respect to employees and applicants for employment.

(b) *Voluntary action.* A recipient may take steps, in addition to any action that is required by this part, to overcome the effects of conditions that resulted in limited participation in the recipient's program or activity by qualified handicapped individuals.

(c) *Self-evaluation.* (1) A recipient shall, within one year of the effective date of this part:

(i) Evaluate, with the assistance of interested persons, including handicapped individuals or organizations representing handicapped individuals, its current policies and practices and the effects thereof that do not or may not meet the requirements of this part;

(ii) Modify, after consultation with interested persons, including handicapped individuals or organizations representing handicapped individuals, any policies and practices that do not meet the requirements of this part; and

(iii) Take, after consultation with interested persons, including handicapped individuals or organizations representing handicapped individuals, appropriate remedial steps to eliminate the effects of any discrimination that resulted from adherence to these policies and practices.

(2) A recipient, other than a small recipient, shall for at least three years following completion of the evaluation required under paragraph (c)(1) of this section, maintain on file, make available for public inspection, and provide to the Secretary upon request:

(i) A list of the interested persons consulted;

(ii) A description of areas examined and any problems identified; and

(iii) A description of any modifications made and of any remedial steps taken.

(3) The Secretary may, as he or she deems necessary, direct recipients to conduct additional self-evaluations, in accordance with the requirements of paragraph (c)(1) of this section.

§ 8b.7 Designation of responsible employee and adoption of grievance procedures.

(a) *Designation of responsible employee.* A recipient, other than a small recipient, shall designate at least one person to coordinate its efforts to comply with this part.

(b) *Adoption of grievance procedures.* A recipient, other than a small recipient, shall adopt grievance procedures that incorporate appropriate due process standards and that provide for the prompt and equitable resolution of complaints alleging any action prohibited by this part. Such procedures need not be established with respect to complaints from applicants for employment or from applicants for admission to post secondary educational institutions.

§ 8b.8 Notice.

(a) A recipient, other than a small recipient, shall take appropriate initial and continuing steps to notify participants, beneficiaries, applicants and employees, including those with impaired vision or hearing, and unions or professional organizations holding collective bargaining or professional agreements with the recipient, that it does not discriminate on the basis of handicap in violation of Section 504 and of this part. The notification shall state, where appropriate, that the recipient does not discriminate in the admission or access to, or treatment or employment in, its programs and activities. The notification shall also include an identification of the responsible employee designated pursuant to § 8b.7(a). A recipient shall make the initial notification required by this paragraph within 90 days of the effective date of this part. Methods of initial and continuing notification may include the posting of notices, publications in newspapers and magazines, placement of notices in recipient's publications, and distribution of memoranda or other written communication. A recipient shall take appropriate steps to ensure that notice is available to persons with impaired vision or hearing.

(b) If a recipient publishes or uses recruitment materials or publications containing general information made available to participants, beneficiaries, applicants, or employees, it shall include in those materials or publications a statement of the policy described in paragraph (a) of this section. A recipient may meet the requirement of this paragraph either by including appropriate inserts in existing materials and publications, or by revising and reprinting the materials and publications.

§ 8b.9 Administrative requirements for small recipients.

The Secretary may require small recipients to comply with §§ 8b.7 and 8b.8, in whole or in part, when the Secretary finds a violation of this part or finds that such compliance will not significantly impair the ability of the small recipient to provide benefits or services.

§ 8b.10 Effect of state or local law or other requirements and effect of employment opportunities.

(a) The obligation to comply with this part is not obviated or alleviated by the existence of any state or local law or other requirement that, on the basis of handicap, imposes prohibitions or limits upon the eligibility of qualified handicapped individuals to receive services, participate in programs, or practice any occupation or profession.

(b) The obligation to comply with this part is not obviated or alleviated because employment opportunities in any occupation or profession are or may be more limited for handicapped individuals than for nonhandicapped persons.

Subpart B—Employment Practices

§ 8b.11 Discrimination prohibited.

(a) *General.* (1) No qualified handicapped individual shall, on the basis of handicap, be subjected to discrimination in employment under any program or activity that receives or benefits from Federal financial assistance.

(2) A recipient shall make all decisions concerning employment under any program or activity to which this part applies in a manner which ensures that discrimination on the basis of handicap does not occur and may not limit, segregate, or classify applicants or employees in any way that adversely affects their opportunities or status because of handicap.

(3) A recipient may not participate in a contractual or other relationship that has the effect of subjecting qualified handicapped applicants or employees to discrimination prohibited by this subpart. The relationships referred to in this subparagraph include relationships with employment and referral agencies, with labor unions, with organizations providing or administering fringe benefits to employees of the recipient, and with organizations providing training and apprenticeship programs.

(b) *Specific activities.* The prohibition against discrimination in employment applies to the following activities:

(1) Recruitment, advertising and the processing of applicants for employment;

(2) Hiring, upgrading, promotion, award of tenure, demotion, transfer, layoff, termination, right of return from layoff and rehiring;

(3) Rates of pay or any other form of compensation and changes in compensation; pension or other benefit the applicant or employee receives from any other source.

§ 8b.12 Reasonable accommodation.

(a) A recipient shall make reasonable accommodation to the known physical or metal limitations of an otherwise qualified handicapped applicant or employee unless the recipient can demonstrate that the accommodation would impose an undue hardship on the operation of its program.

(b) Reasonable accommodation may include:

(1) Making the facilities used by the employees in the area where the program is conducted, including common areas used by all employees such as hallways, restrooms, cafeterias and lounges, readily accessible to and usable by handicapped persons; and

(2) Job restructuring, part-time or modified work schedules, acquisition or modification of equipment or devices, the provision of readers or interpreters, and other similar actions.

(c) In determining pursuant to paragraph (a) of this section whether an accommodation would impose an undue hardship on the operation of a recipient's program, factors to be considered include:

(1) The overall size of the recipient's program with respect to number of employees, number of participants, number and type of facilities, and size of budget;

(2) The type of the recipient's operation, including the composition and structure of the recipient's workforce; and

(3) The nature and cost of the accommodation needed.

(d) A recipient may not deny any employment opportunity to a qualified handicapped employee or applicant if the basis for the denial is the need to make reasonable accommodation to the physical or mental limitations of the employee or applicant.

(e) Nothing in this paragraph shall relieve a recipient of its obligation to make its program accessible as required in subpart C of this part, or to provide auxiliary aids, as required by § 8b.4(b)(7).

§ 8b.13 Employment criteria.

(a) A recipient may not make use of any employment test or other selection criterion that screens out or tends to screen out handicapped individuals or any class of handicapped individuals unless;

(1) The test score or other selection criterion, as used by the recipient, is shown to be job-related for the position in question; and

(2) Alternative job-related tests or criteria that do not screen out or tend to screen out as many handicapped individuals are not shown by the Secretary to be available.

(b) A recipient shall select and administer tests concerning employment so as best to ensure that, when administered to an applicant or employee who has a handicap that impairs sensory, manual, or speaking skills, the test results accurately to reflect the applicant's or employee's job skills aptitude, or whatever factor the test purports to measure, rather than reflecting the applicant's or employee's impaired sensory, manual, or speaking skills (except where those skills are the factors that the test purports to measure).

§ 8b.14 Preemployment inquires.

(a) Except as provided in paragraphs (b) and (c) of this section, a recipient may not conduct preemployment inquiry of an applicant for employment as to whether the applicant is a handicapped individual, or as to the nature or severity of a handicap. A recipient may, however, make preemployment inquiry into an applicant's ability to perform job-related functions.

(b) When a recipient is taking remedial action to correct the effects of past discrimination pursuant to § 8b.6(a), when a recipient is taking voluntary action to overcome the effects of conditions that resulted in limited participation in this federally assisted program or activity pursuant to § 8b.6(b), or when a recipient is taking affirmative action pursuant to section 503 of the Act, the recipient may invite applicants for employment to indicate whether and to what extent they are handicapped, *Provided,* that:

(1) The recipient states clearly on any written questionnaire used for this purpose or makes clear orally, if no written questionnaire is used, that the information requested is intended for use solely in connection with its remedial action obligations or its voluntary or affirmative action efforts; and

(2) The recipient states clearly that the information is being requested on a voluntary basis, that it will be kept confidential as provided in paragraph (d) of this section, that refusal to provide it will not subject the applicant or employee to any adverse treatment, and that it will be used only in accordance with this part.

(c) Nothing in this section shall prohibit a recipient from conditioning an offer of employment on the results of a medical examination conducted prior to the employee's entrance on duty, *Provided,* that:

(1) All employees are subject to such an examination regardless of handicap, and

(2) The results of such an examination are used only in accordance with the requirements of this part.

(d) Information obtained in accordance with this section as to the medical condition or history of the applicant shall be collected and maintained on separate forms that shall be accorded confidentiality as medical records, except:

(1) Employing officials may obtain the information after making a conditional decision to make a job offer to the applicant or the applicant was placed conditionally in a job pool or placed conditionally on an eligibility list;

(2) Supervisors and managers may be informed regarding restrictions on the work or duties of qualified handicapped individuals and regarding necessary accommodations;

(3) First aid and safety personnel may be informed, where appropriate, if the condition might require emergency treatment; and

(4) Government officials investigating compliance with the Act shall be provided information upon request.

§ 8b.15 Employment on ships.

No qualified handicapped individual possessing an appropriate license or certificate obtained from the United States Coast Guard pursuant to the requirements of 46 CFR 10.01–1 et seq. and 12.0.–1 et seq. shall, on the basis of handicap, be subjected to discrimination in employment on ships under any program or activity to which this part applies.

Subpart C—Program Accessibility

§ 8b.16 Discrimination prohibited.

No qualified handicapped individual shall, because a recipient's facilities are inaccessible to or unusable by handicapped individuals, be denied the benefits of, be excluded from participation in, or otherwise be subjected to discrimination under any program or activity to which this part applies.

§ 8b.17 Existing facilities.

(a) *Program accessibility.* A recipient shall operate each program or activity to which this part applies so that the program or activity, when viewed in its entirety, is readily accessible to qualified handicapped individuals. This paragraph does not require a recipient to make each of its existing facilities or every part of a facility accessible to and usable by qualified handicapped individuals. However, if a particular program is available in only one location, that site must be made accessible or the program must be made available at an alternative accessible site or sites. Program accessibility requires nonpersonal aids to make the program accessible to mobility impaired persons.

(b) *Methods.* A recipient may comply with the requirements of paragraph (a) of this section through such means as redesign of equipment, reassignment of classes or other services to accessible buildings, assignment of aides to beneficiaries, home visits, delivery of services at alternate accessible sites, alteration of existing facilities and construction of new facilities in conformance with the requirement of § 8b.19, or any other method that results in making its program or activity accessible to handicapped individuals. A recipient is not required to make structural changes in existing facilities where other methods are effective in achieving compliance with paragraph (a) of this section. In choosing among available methods for meeting the requirement of paragraph (a) of this section, a recipient shall give priority to those methods that offer programs and activities to handicapped individuals in the most integrated setting appropriate.

(c) If a small recipient finds, after consultation with a qualified handicapped individual seeking its services, that there is no method of complying with paragraph (a) of this section other than making a significant alteration in its existing facilities or facility, the small recipient may, as an alternative, refer the qualified handicapped individual to other providers of those services that are accessible at no additional cost to the handicapped.

(d) *Time period.* A recipient shall comply with the requirement of paragraph (a) of this section within 60 days of the effective date of this part. Where structural changes in facilities are necessary, such changes shall be made within three years of the effective date of this part, but in any event as expeditiously as possible.

(e) *Transition plan.* In the event that structural changes to facilities are necessary to meet the requirement of paragraph (a) of this section, a recipient shall develop, within six months of the effective date of this part, a transition plan setting forth the steps necessary to complete such changes. The plan shall be developed with the assistance of interested persons, including handicapped persons or organizations representing handicapped persons. A copy of the transition plan shall be made available for public inspection. The plan shall, at a minimum:

(1) Identify physical obstacles in the recipient's facilities that limit the accessibility of its program or activity to qualified handicapped individuals;

(2) Describe in detail the methods that will be used to make the facilities accessible;

(3) Specify the schedule for taking the steps necessary to achieve full program accessibility and, if the time period of the transition plan is longer than one year, identify the steps that will be taken during each year of the transition period; and

(4) Indicate the person responsible for implementation of the plan.

(f) *Notice.* The recipient shall adopt and implement procedures to ensure that interested persons, including persons with impaired vision or hearing, can obtain information as to the existence and location of services, activities and facilities that are accessible to and usable by qualified handicapped individuals.

§ 8b.18 New construction.

(a) *Design and construction.* Each facility or part of a facility constructed by, on behalf of, or for the use of a recipient shall be designed and constructed in such manner that the facility or part of the facility is readily accessible to and usable by qualified handicapped individuals, if the construction was commenced after the effective date of this part.

(b) *Alteration.* Each facility or part of a facility which is altered by, on behalf of, or for the use of a recipient after the effective date of this part of the facility shall, to the maximum extent feasible, be altered in such manner that the altered portion of the facility is readily accessible to and usable by qualified handicapped individuals.

(c) *Standards for architectural accessibility.* Design, construction, or alteration of facilities under this subpart shall meet the most current standards for physical accessibility prescribed by the General Services Administration under the Architectural Barriers Act, at 41 CFR 101–19.603. Alternative standards may be adopted when it is clearly evident that equivalent or greater access to the facility or part of the facility is thereby provided.

Subpart D—Post Secondary Education

§ 8b.19 Application of this subpart.

Subpart D applies to post secondary education programs and activities, including post secondary vocational education programs and activities, that receive or benefit from Federal financial assistance for the operation of, such programs or activities.

§ 8b.20 Admission and recruitment.

(a) *General.* Qualified handicapped may not, on the basis of handicap, be denied admission or be subjected to discrimination in admission or recruitment by a recipient to which this subpart applies.

(b) *Admissions.* In administering its admission policies, a recipient to which this subpart applies:

(1) May not apply limitations upon the number or proportion of handicapped individuals who may be admitted; and

(2) May not make use of any test or criterion for admission that has a disproportionate, adverse effect on handicapped individuals or any class of handicapped individuals unless:

(i) The test or criterion, as used by the recipient, has been validated as a predictor of success in the education program or activity in question; and

(ii) Alternate tests or criteria that have a less disproportionate, adverse effect are not shown by the Secretary to be available.

(3) Shall assure itself that (i) admissions tests are selected and administered so as best to ensure that, when a test is administered to an applicant who has a handicap that impairs sensory, manual, or speaking skills, the test results accurately reflect the applicant's aptitude or achievement level of whatever other factor the test purports to measure, rather than reflecting the applicant's impaired sensory, manual, or speaking skills (except where those skills are the factors that the test purports to measure); (ii) admissions tests that are designed for persons with impaired sensory, manual, or speaking skills are offered as often and in as timely a manner as are other admissions tests; and (iii) admissions tests are administered in facilities that, on the whole, are accessible to handicapped individuals; and

(4) Except as provided in paragraph (c) of this section, may not make pre-admission inquiry as to whether an

applicant for admission is a handicapped individual but, after admission, may make inquiries on a confidential basis as to handicaps that may require accommodation.

(c) *Pre-admission inquiry exception.* When a recipient is taking remedial action to correct the effects of past discrimination pursuant to § 8b.6(a) or when a recipient is taking voluntary action to overcome the effects of conditions that resulted in limited participation in its federally assisted program or activity pursuant to § 8b.6(b), the recipient may invite applicants for admission to indicate whether and to what extent they are handicapped, *Provided,* that:

(1) The recipient states clearly on any written questionnaire used for this purpose or makes clear orally, if no written questionnaire is used, that the information requested is intended for use solely in connection with its remedial action obligations or its voluntary action efforts; and

(2) The recipient states clearly that the information is being requested on a voluntary basis, that it will be kept confidential, that refusal to provide it will not subject the applicant to any adverse treatment, and that it will be used only in accordance with this part.

(d) *Validity studies.* For the purpose of paragraph (b)(2) of this section, a recipient may base prediction equations on first year grades, but shall conduct periodic validity studies against the criterion of overall success in the education program or activity in question in order to monitor the general validity of the test scores.

§ 8b.21 Treatment of students.

(a) *General.* No qualified handicapped student shall, on the basis of handicap, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any academic research, occupational training, housing, health insurance, counseling, financial aid, physical education, athletics, recreation, transportation, other extracurricular, or other post secondary education program or activity to which this subpart applies.

(b) A recipient to which this subpart applies that considers participation by students in education programs or activities not operated wholly by the recipient as part of, or equivalent to, education programs or activities operated by the recipient shall assure itself that the other education program or activity, as a whole, provides an equal opportunity for the participation of qualified handicapped persons.

(c) A recipient to which this subpart applies may not, on the basis of handicap exclude any qualified handicapped student from any course or study, or other part of its education program or activity.

(d) A recipient to which this subpart applies shall operate its programs and activities in the most integrated setting appropriate.

§ 8b.22 Academic adjustments.

(a) *Academic requirements.* A recipient to which this subpart applies shall make such modifications to its academic requirements as are necessary to ensure that such requirements do not discriminate or have the effect of discriminating, on the basis of handicap, against a qualified handicapped applicant or student. Academic requirements that the recipient can demonstrate are essential to the program of instruction being pursued by such student or to any directly related licensing requirement will not be regarded as discriminatory within the meaning of this section. Modifications may include changes in the length of time permitted for the completion of degree requirements, substitution of specific courses required for the completion of degree requirements, and adaptation of the manner in which specific courses are conducted.

(b) *Other rules.* A recipient to which this subpart applies may not impose upon handicapped students other rules, such as the prohibition of tape recorders in classrooms or of dog guides in campus buildings, that have the effect of limiting the participation of handicapped students in the recipient's education program or activity.

(c) *Course examinations.* In its course examinations or other procedures for evaluating student's academic achievement in its program, a recipient to which this subpart applies shall provide such methods for evaluating the achievement of students who have a handicap that impairs sensory, manual, or speaking skills as will best ensure that the results of the evaluation represents the student's achievement in the course, rather than reflecting the student's impaired sensory, manual, or speaking skills (except where such skills are the factors that the test purports to measure).

(d) *Auxiliary aids.* (1) A recipient to which this subpart applies shall ensure that no handicapped student is denied the benefits of, excluded from participation in, or otherwise subjected to discrimination under the education program or activity operated by the recipient because of the absence of educational auxiliary aids for students with impaired sensory, manual, or speaking skills. A recipient shall operate each program or activity to which this subpart applies so that, when viewed in its entirety, auxiliary aids are readily available.

(2) Auxiliary aids may include taped text, interpreters or other effective methods of making orally delivered materials available to students with hearing impairments, readers in libraries for students with visual impairments, classroom equipment adapted for use by students with manual impairments, and other similar services and actions. Recipients need not provide attendants, individually prescribed devices, readers for personal use or study, or other devices or services of a personal nature.

§ 8b.23 Housing provided by the recipient.

(a) A recipient that provides housing to its nonhandicapped students shall provide comparable, convenient, and accessible housing to handicapped students at the same cost as to others. At the end of transition period provided for in Subpart C, such housing shall be available in sufficient quantity and variety so that the scope of handicapped students choice of living accommodations is, as a whole, comparable to that of nonhandicapped students.

(b) *Other Housing.* A recipient that assists any agency, organization, or person in making housing available to any of its students shall take such action as may be necessary to assure itself that such housing is, as a whole, made available in a manner that does not result in discrimination on the basis of handicap.

§ 8b.24 Financial and employment assistance to students.

(a) *Provision of financial assistance.* (1) In providing financial assistance to qualified handicapped individuals, a recipient to which this subpart applies may not (i) on the basis of handicap, provide less assistance than is provided to nonhandicapped persons, limit eligibility for assistance, or otherwise discriminate or (ii) assist any entity or person that provides assistance to any of the recipient's students in a manner that discriminates against qualified handicapped individuals on the basis of handicap.

(2) A recipient may administer or assist in the administration of scholarships, fellowships, or other forms of financial assistance established under wills, trust, bequest, or similar legal instruments that require awards to be made on the basis of factors that discriminate or have the effect of discriminating on the basis of handicap only if the overall effect of the award of

scholarships, fellowships, and other forms of financial assistance is not discriminatory on the basis of handicap.

(b) *Assistance in making available outside employment.* A recipient that assists any agency, organization, or person in providing employment opportunities to any of its students shall assure itself that such employment opportunities, as a whole, are made available in a manner that would not violate Subpart B if they were provided by the recipient.

(c) *Employment of student by recipients.* A recipient that employs any of its students may not do so in a manner that violates Subpart B.

§ 8b.25 Nonacademic services.

(a) *Physical education and athletics.* (1) In providing physical education courses and athletics and similar programs and activities to any of its students, a recipient to which this subpart applies may not discriminate on the basis of handicap. A recipient that offers physical education courses or that operates or sponsors intercollegiate, club, or intramural athletics shall provide to qualified handicapped students an equal opportunity for participation in these activities.

(2) A recipient may offer to handicapped students physical education and athletic activities that are separate or different only if separation of differentiation is consistent with the requirements of § 8b.22(d) and only if no qualified handicapped student is denied the opportunity to compete for teams or to participate in courses that are not separate or different.

(b) *Counseling and placement services.* A recipient to which this subpart applies that provides personal, academic, or vocational counseling guidance, or placement services to its students shall provide these services without discrimination on the basis of handicap. The recipient shall ensure that qualified handicapped students are not counseled toward more restrictive career objectives than are nonhandicapped students with similar interests and abilities. This requirement does not preclude a recipient from providing factual information about licensing and certification requirements that may present obstacles to handicapped persons in their pursuit of particular careers.

(c) *Social organizations.* A recipient that provides significant assistance to fraternities, sororities, or similar organizations shall assure itself that the membership practices of such organizations do not permit discrimination otherwise prohibited by this subpart.

Subpart E—Procedures

§ 8b.26 Procedures

The enforcement provisions applicable to Title VI of the Civil Rights Act of 1964 found at §§ 8.7–8.15 of this Subtitle shall apply to this part.

Malcolm Baldrige,

Secretary of Commerce.

[FR Doc. 82-10609 Filed 4-21-82; 9:29 am]

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Friday
April 23, 1982

Part V

Department of Agriculture

Food and Nutrition Service

Food Stamp Program; 1980 Amendments to the Food Stamp Act of 1977; Policy Interpretations; and Miscellaneous Technical Amendments

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Parts 271, 272, 273, 274, and 278

[Amdt. No. 189]

Food Stamp Program; 1980 Amendments to the Food Stamp Act of 1977; Policy Interpretations; and Miscellaneous Technical Amendments

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final rulemaking.

SUMMARY: This rulemaking contains final regulations for the Food Stamp Program (FSP) to implement certain segments of the 1980 Amendments to the Food Stamp Act of 1977 aimed at reducing fraud, abuse and program costs. Included in this rulemaking are regulations implementing provisions of the Act related to referring illegal aliens to the Immigration and Naturalization Service (INS); prorating income and counting resources of ineligible aliens; making administrative fraud determination hearings optional; and eliminating depreciation as a cost of doing business for self-employed households.

In addition to these new provisions, a series of policy interpretations and technical amendments are included in this final action to clarify provisions published on October 17, 1978. These interpretations and technical amendments cover numerous aspects of program operations.

DATES: This final action is effective June 1, 1982 and shall be fully implemented no later than July 1, 1982. In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 350), the reporting or recordkeeping provisions that are included in this final rule (Sections 272.1 and 273.4) have been or will be submitted for approval to the Office of Management and Budget (OMB). They are not effective until OMB approval has been obtained.

FOR FURTHER INFORMATION CONTACT: Thomas O'Connor, Supervisor, Policy and Regulations Section, Program Standards Branch, Program Development Division, Family Nutrition Programs, Food and Nutrition Service, United States Department of Agriculture, Alexandria, Virginia 22302 (703) 756-3429.

SUPPLEMENTARY INFORMATION:

Classification

This final action has been reviewed under Executive Order 12291 and Secretary's Memorandum No. 1512-1, and has been classified not major because the provisions 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, industries, Federal, State or local governments, or geographical region; and 3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. These provisions will not significantly raise the Food Stamp Program's total benefit and administrative expenses. Some of the provisions, such as those dealing with fraud, should offset some increases. Because these provisions deal exclusively with the administration of the Food Stamp Program, they will not affect industry and trade.

This final action has also been reviewed with regard to the requirements of the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat. 1164, September 19, 1980). The Administrator, Food and Nutrition Service, has certified that the action does not have a significant economic impact on a substantial number of small entities. The rule would implement several provisions of Pub. L. 96-249 which affect food stamp certification issues. Examples are requirements to count the income and resources of ineligible aliens, and to report persons determined to be illegal aliens to the Immigration and Naturalization Service. These provisions do not represent major changes in certification policy and should have no significant impact on State or county agency workload, staffing needs, or paperwork. Most of the remaining provisions are technical amendments to clarify current regulations which also would not have an economic impact on small entities.

Introduction

On January 16, 1981 the Department issued proposed regulations (46 FR 4642) to implement those segments of the 1980 Amendments to the Food Stamp Act related to certifying residents of shelters for battered women and children, referring illegal aliens to to the Immigration and Naturalization Service (INS), prorating income and counting resources of ineligible aliens, making administrative fraud determination hearings optional, and eliminating depreciation as a cost of doing business for self-employed households. That action also proposed to incorporate into regulations several policy interpretations and technical amendments to clarify provisions published on October 17, 1978 (43 FR 47846). The program areas covered in the policy interpretations and technical amendments portions of the proposed rule included: 1) Certification processing standards; 2) bilingual services; 3) treatment of earned income received by a nonhousehold member; 4) administrative disqualification of authorized representatives; 5) destruction of unusable coupons; 6) availability of FSP information to the public; 7) claims processing requirements; 8) reporting of changes in household circumstances; 9) treatment of resources in relation to disqualified persons; 10) clarification of when a facility would be considered an institution for program purposes; 11) deletion of the requirement that a group home must be authorized by FNS in order for residents (acting on their own behalf) to use coupons to purchase meals at the facility; and 12) participation of residents in drug and alcoholic treatment centers on Indian reservations.

As explained later in this preamble, the provisions relating to certifying shelters for battered women; reductions of assistance because of receipt of food stamps; treatment of income and resources while awaiting verification of citizenship; handling of verification of citizenship when households move during the 2-month certification pending verification period; and bilingual services do not appear in this final rulemaking. All remaining provisions proposed in the January 16 rule are addressed in this final action.

All comment letters received by close of business March 24, 1981 were reviewed and considered during the development of the final provisions contained in this action. The Department received 64 comment letters from 16 State welfare agencies, one local welfare agency, 6 FNS Regional Offices, 38 public interest groups, and 3 members of the general public. This preamble discusses changes made from the proposed regulations as a result of those comments. The preamble also addresses other concerns of commenters where changes were not made. A full understanding of the basis and purpose of these final provisions may require reference to the January 16, 1981 Federal Register publication, and to the extent applicable, the contents of the proposed rule are incorporated by reference.

1980 Amendments

Shelters for battered women and children

The January 16, 1981 proposed rule contained several provisions related to

the eligibility of residents of shelters for battered women and children. The final provisions on this subject were addressed in a separate rulemaking published December 8, 1981 (46 FR 60160).

Reporting Illegal Aliens to the Immigration and Naturalization Service (INS)

Section 118 of Pub. L 96–249 requires State agencies to report illegal aliens to the INS. The January 16 proposed rules added a new section 7 CFR 273.4 to establish three circumstances under which an illegal alien would be reported to INS. The Department received several comments on the three reporting conditions, mainly from State welfare agencies and public interest groups, who raised various concerns about the conditions.

Because the law clearly provides authority for certification personnel to determine when a person should be reported to INS and because of difficulties with the proposed reporting conditions expressed by commenters, the Department has decided not to include the three conditions in this final rule and 7 CFR 273.4 has been modified accordingly. However, because many aliens who are legally present in the U.S. are not eligible for food stamps, State agencies are cautioned that a determination that a person is an *ineligible* alien is not equivalent to a determination that a person is an *illegal* alien.

The proposed rule also stated that failure to report an illegal alien to FNS would not be assessed as a Quality Control (QC) error. The Department did not receive comments objecting to this proposal; however, the proposal has not been adopted in the final rule (§ 273.4(e)(4)). The QC review system is designed to measure the accuracy of a household's allotment and only those actions or procedures affecting certification are relevant to the QC review. Whether or not an illegal alien is reported to INS has no effect on a household's eligibility or allotment and there is no need to establish an actual regulatory provision to state that this reporting requirement will not be assessed as a QC error.

It should be noted, however, that this reporting requirement will be monitored through the State agencies' Management Evaluation (ME) system. Should a State agency determine through ME that a project area is not satisfying the requirement for reporting illegal aliens to INS, the State agency is required to take necessary action to bring the project area into compliance with the regulations.

Prorating Income and Counting Resources of Ineligible Aliens

The Department received several comments on this portion of the proposed rule which specified that a pro-rata share of the income of an ineligible alien household member and the total amount of that member's resources would be considered available to the remaining household members when determining FSP eligibility. Those commenting, mainly State welfare agencies, supported the provision as proposed. This provision is specifically required by the Food Stamp Act amendments of 1980 and 7 CFR 273.4(c) has been revised accordingly.

Optional Fraud Hearings

The Department received several comments that supported the proposed revision to 7 CFR 273.16(d) that would relieve a State agency of the requirement to have an administrative fraud hearing system if the State agency had an agreement with the State's Attorney General and/or county prosecutors to ensure the prompt prosecution of cases referred. Developing and completing the agreement should increase the coordination between the State agency and its prosecutors and result in a greater awareness of the issue of food stamp fraud among State prosecutors.

One FNS Regional Office opposed this provision and stated that the Department should establish tolerance levels that would enable Regional Office staff to evaluate a State agency's handling of alleged food stamp fraud. The tolerance levels would test the actual performance of State agencies by looking at the number of cases that are actively pursued by prosecutors. State agencies which are not able to meet the minimum tolerance levels would be required to utilize the administrative fraud hearing system. The Department rejected this suggestion because, as stated in the preamble to the proposed rules, there would be significant difficulties in establishing any initial, basic tolerance levels and because, once established, the levels would not accurately reflect differences among the States. The Department believes that these final provisions respond to the needs of each State agency and provide flexibility that would not be possible if the Department were to establish national tolerance levels and require all State agencies to demonstrate compliance with those levels.

The Virginia State agency, citing a State law that requires local welfare directors to pursue prosecution in all cases of fraud, suggested that FNS should not require an agreement, but simply require State agencies to advise FNS about how they will act in cases where food stamp fraud is suspected. The agreement, however, does more than simply require that food stamp workers refer cases of alleged food stamp fraud for possible prosecution: the agreement also outlines how prosecutors will handle the referrals. It is this latter feature of the agreement that is of specific interest to the Department and that would not be present if a State agency intends to justify deletion of its administrative fraud hearing system only on the basis of a State law. The law, however, would be sufficient, it it were combined with information that indicates that prosecutors are actively following through on cases of alleged food stamp fraud that are referred to them. The Department has retained the proposed provisions in the final rule and has included a provision to allow the State agency to delete its administrative fraud hearing system if State law requires the referral of alleged fraud cases for prosecution, but only if the State agency can demonstrate adequate follow-up on the referrals by prosecutors.

Self Employment—Depreciation as a Cost of Doing Business

The Department received very few comments on the proposal to no longer allow an income deduction for depreciation as a cost of doing business for self-employed households. The majority of comments received were from State welfare agencies which generally supported the provision as proposed. Therefore, the provision has been adopted in this final rule (7 CFR 273.11(a)(4)).

Policy Interpretations

Earned Income Received by Nonhousehold Members

The Department received very few comments on the proposal to establish a method for handling earned income received jointly by household members and nonhousehold members. The proposal specified that State agencies attempt to determine the amount earned by each household member and nonmember and count the household's portion as earned income. If the determination could not be made, State agencies would prorate the income of all those intended to receive it, and count the wages of the household members. The commenters, mostly State welfare agencies, generally supported the provision as proposed. Therefore, the

provision has been adopted, unchanged, in this final action (7CFR 273.11(d)).

Verification of Citizenship

The proposed rules would have contained two provisions regarding verification of citizenship. The proposal provided that if verification of citizenship for an individual in the household is not received by the end of the 2-month grace period for verification provided under the current rules, the individual whose citizenship is in question shall be determined ineligible and that individual's prorated share of income and total resources would be considered available to the remaining household members. Current rules at 7 CFR 273.2(f)(2) specify that in such cases income and resources shall not be considered available to the remaining household member(s).

The proposal also would have required that form FNS–286, Certification of Transfer of Household Benefits, be the mechanism used to keep track of when to terminate the certification of people who are certified for 2 months pending verification of citizenship, when such households move from one project area to another during the 2-month certification period. The proposal further provided that the new project area would be responsible for processing the termination after attempting to contact the old project area to ensure verification had not been provided by the household in the intervening time.

The Department has decided not to finalize these provisions at this time. Another proposed rule regarding verification of citizenship has been published which directly affects these areas. The proposal appeared in the Federal Register of April 2, 1982 at 46 FR 14160.

Technical Amendments

No Aid Reduction

The proposed rule would have expanded the current rules at 7 CFR 272.1(b) containing a provision which prohibits the reduction of assistance to food stamp recipients by any participating State or political subdivision because of the receipt of food stamp benefits and specified the types of governmental action which would be considered reductions in aid. The discussion of the aid reduction prohibition was inadvertently omitted from the preamble to the proposed rule. The Department would prefer not to finalize this provision without first bringing the matter to the public's attention through a proposed explanatory preamble and, thereby, giving interested parties the opportunity to submit comments.

Therefore, this provision of the proposed rule does not appear in this final rule. The Department will reassess its position on this issue. If a change is determined to still be necessary, the Department will repropose the provision at a later date.

Drug and Alcoholic Treatment Centers on Indian Reservations

As explained in the preamble to the January 16 proposed rule, current statutory and regulatory definitions of treatment centers require them to be certified by the State agency responsible for their administration. This certification is performed pursuant to Pub. L. 91–616, "Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970" and Pub. L. 92–255, "Drug Abuse Office and Treatment of 1972." Many Indian reservation-based alcoholism programs are not State certified due to various agreements between the States and the reservations within their jurisdictions. However, the Indian alcoholism programs were originally Pub. L. 91–616 program funded by the National Institute on Alcohol Abuse and Alcoholism (NIAAA) and pursuant to a Memorandum of Agreement between NIAAA, the Indian Health Service (IHS), are transferred to IHS for administration. There is no reason why these programs should be denied the participation granted to nonreservation-based programs, simply because certification required by current rules cannot be obtained through the State agency. Certification can be obtained through IHS.

The Department did not receive any comments objecting to the proposed amendment to permit Program participation by residents of reservation-based treatment centers sponsored by the National Institute on Alcohol Abuse and Alcoholism and the Indian Health Service. Therefore, 7 CFR 271.2 and 278.1(e) are amended by this final action to adopt the proposal as written.

Availability of Program Regulations and State Plans and Procedures

The Department received several comments on this provision of the proposed rule. Most comments were from State welfare agencies and public interest groups. While several State agencies supported the elimination of the requirement that all project areas maintain copies of Federal Regulations and State Plans of Operation and procedures, other State agencies were opposed to the proposed requirement that these documents must still be maintained in at least one large project area of the State. Some State agencies recommended that maintenance of these documents be limited to State agencies' headquarters offices. The Department accepted this suggestion. 7 CFR 272.1(d)(1) has been modified to require that only the State agency headquarters office maintain Federal Regulations and State plans and procedures for public inspection. State agencies could still require that project areas within a State maintain these documents. Such a requirement would be at the option of the State agency. (Note: The proposed rule for this provision stated that paragraph (e)(2), which was redesignated from paragraph (d)(2), was proposed for revision to accommodate this provision. The proposed rule should have stated that paragraph (e)(1), redesignated from paragraph (d)(1), was being proposed for revision. However, since paragraph (d)(1) is not being redesignated as (e)(1), the final rule amends 7 CFR 272.1(d)(1) to accommodate the final version of this provision and paragraph (d)(2) is unchanged.)

Many public interest groups supported the proposed provision but wanted the regulations to specify that copies of these documents would be available on request "free of charge" from the FNS National Office, FNS Regional Offices, and State agencies. The Department did not adopt this recommendation. Current regulations (7 CFR 272.1(d)) state that copies of Federal regulations may be obtained from the FNS National Office or the FNS Regional Offices. To expand this provision to State agency offices would require that the FNS National Office supply State agencies with bulk supplies of regulations to fill individual requests for copies. The cost and administrative burden related to such a change far outweigh the need for State agencies to maintain bulk supplies of regulations to respond to individual requests. The Department will provide the regulations (reprints of the Federal Register) without charge, provided the number of copies requested is within reason (usually up to 10 copies) and the regulations requested are not voluminous. The Department believes that filling such requests through National and Regional FNS offices will adequately meet the needs of individuals requesting regulations.

Treatment of Social Security Payments to Eligible Households

The proposed rules contain a provision to clarify that that portion of social security educational benefits used

for tuition and mandatory fees is to be considered as an income exclusion. This provision was not adopted in the final rule. Social security educational benefits will be phased out due to recent amendments in the Social Security Act and, thus, clarification in regulations is no longer necessary.

Reporting Changes Between Application and Certification

The Department received only a few comments on this portion of the proposed rule, mainly from State welfare agencies and FNS Regional Offices. The Department proposed to require an applicant household to report changes in circumstances that occur between the time an application is filed and the time of the interview. It was proposed that such changes be reported at the interview. Additionally, it was proposed that changes occurring after the interview be reported within 10 days of the date the household is certified. The commenters raised three issues. First, one commenter recommended that a household be required to report changes within 10 days of the date of the notice of eligibility, rather than 10 days from the date of certification. While this is a technical change, it is important because State agencies' internal record systems do not always retain the actual dates of eligibility determinations. Further, clients are not always aware of those dates. The Department has adopted the commenter's suggestion.

The second issue raised by comments concerns the handling of resources when an applicant reports a change. Current regulations (7 CFR 273.10(b)) state that resources available at the time of application are to be considered in determining eligibility. The Department wants to clarify that this does not mean that reported changes in resources must be ignored even if the change is reported at the interview. Therefore, the Department is amending 7 CFR 273.10(b) to require State agencies to consider resources available at the time of the interview in determining initial eligibility. This is being done in view of the desirability of linking eligibility as closely as possible to the most current information.

The final issue raised by comments is whether applicants must report all changes at the interview or only those currently reportable by certified households according to 7 CFR 273.12(a)(1). The proposed rule inadvertently required an applicant to report only changes which now must be reported after certification. In the final rule, the Department is requiring an applicant to report all changes at the time of the interview. This is being done since the interview will usually consist of a complete review of all information on the application.

Change Reporting Requirements for Applicants and Households With Fluctuating Income

In the proposed rule, the Department set forth a new standard for the reporting of changes in fluctuating income. Until this time, it has not been clear whether a household has to measure income changes of more than $25 from the amount the State agency used as monthly income on the worksheet, from the highest and lowest amounts averaged, or from some other figure.

The Department proposed to replace the current $25 threshold with the following permanent changes: changes in wage rates, in full-time or part-time status, and in sources of income. Some commenters supported the proposal. Others opposed it, calling it burdensome, an example of over-regulation, and too confusing a change with too little resulting benefit. Still others commented that the Department had overlooked reporting a fluctuation in number of hours worked, and by doing so, had relieved the household of the responsibility to report possibly significant changes.

The Department has decided not to publish a final rule on this subject. Within the next two years, as a result of recent amendments to the Food Stamp Act (The Omnibus Reconciliation Act of 1981, Pub. L. 96–35), State agencies will be implementing monthly reporting systems for their food stamp cases. These systems will solve the problem of what changes recipients must report. The State agencies will have the authority to require recipients to report all changes. In the meantime, State agencies have the authority to specify the base from which changes are measured. By keeping the regulation as it is now the Department can avoid forcing the State agencies to revise their procedures and forms for only a brief time.

Another issue raised by a commenter is whether Aid to Families with Dependent Children (AFDC) monthly reports of fluctuating income must be processed for food stamp purposes. A State agency suggested that it be required to act on reports only if the FSP would require a household to report the change. The Department has not adopted this suggestion. When State agencies are required to process changes, they are not required to automatically adjust allotments. Rather, they must first review the change to see if it will affect future allotments and to see if the reported change indicates continued change. Not all AFDC reported changes would involve State agencies in adjustments to the food stamp cases. However, it is worthwhile to preserve the right of recipients to always be able to report those changes on the assumption that the State agency will take whatever action is appropriate.

Disqualification of Authorized Representative

The Department received several comments on the provision of the January 16 proposed rule to provide State agencies the power to disqualify an authorized representative, for up to one year, from acting for the certified household if the State agency can substantiate that the representative misrepresented the household's circumstances without the household's knowledge. The majority of comments were from State welfare agencies who generally supported the provision.

Some commenters requested that an authorized representative be prohibited from appealing the disqualification determination. The Department agrees. Current regulations provide households the right to appeal any action by the State agency that affects their participation in the program (7 CFR 273.15(a)) and hold only the household, not the authorized representative, liable for any overissuance caused by the misrepresentation of their authorized representative (7 CFR 273.1(f)(1)(i)). The Department sees no need for both parties to be able to appeal the disqualification action. Therefore, the final rule does not provide the opportunity for the authorized representative to appeal a disqualification action. Additionally, the final rule clarifies that if a disqualified person acts as an authorized representative for more than one household, each household has the right to appeal the disqualification action.

One FNS Regional Office and one State agency recommended that the provision to allow administrative disqualification of authorized representatives not apply in the case of drug addict and alcoholic treatment centers and certain group homes that act as authorized representatives on behalf of their residents. The Department agrees with this recommendation. Administrative disqualification of the authorized representatives for residents of institutions would cause an undue hardship on those residents as they would not be in a position to name a new representative. The intent of the administrative disqualification provision is to protect the program and the

household alike, by providing State agencies the opportunity to disqualify the representative and/or request the household to name a new representative. Households are held liable for any overissuances that result from misrepresentation by their authorized representatives. In the case of authorized representatives for drug and alcoholic treatment centers and certain group homes, current regulations (7 CFR 273.11(e)) hold the organization or institution strictly liable for overissuances, not the households they represent. The Department feels this liability provision is sufficient program protection. Further, the organization or institution may well replace the employee guilty of misrepresentation to protect itself from further liability claims.

Two commenters requested that the limit on the length of the disqualification period (one year) be dropped, to allow State agencies to set a limit. The Department did not adopt this recommendation believing that allowing disqualification for up to a year provides sufficient flexibility. A State agency option to disqualify the representative for more than a year could impose a real hardship on the household(s) involved.

Nonfraud Claims Processing—Repayment with Coupons

A large number of commenters, including State agencies and advocacy groups, supported the Department's proposal that State agencies accept food stamps as repayment for nonfraud claims at the household's option. There were no comments that opposed the provision. The Department has, therefore, retained this provision in final regulations and 7 CFR 273.18(e)(i) has been revised accordingly. Several commenters did suggest, though, that the provision be expanded to allow for the reduction of food stamp allotments in order to pay nonfraud claims. The Department rejected this suggestion because the Secretary will be considering this issue in a separate rulemaking. Recently enacted legislation, the Omnibus Reconciliation Act of 1981, provides the Secretary with the authority to reduce allotments in order to collect certain nonfraud claims. The Department will be proposing regulations in the near future related to the new legislative provision.

A public interest group suggested that the final rule ought to provide for the return of a household's repayment of a nonfraud claim if it is determined at a fair hearing that the household was coerced into repaying the claim. The Department considered this suggestion, but it was not included in the final rule because repayment with food stamps is strictly a household option and the Department has no information to indicate that coercion is a widespread practice. Should information surface that indicates coercion is occurring, it would be the Department's intent to take whatever action is necessary to stop such a practice by a State agency.

Nonfraud and Fraud Claims Processing—$100 Level

The Department proposed that the level for requiring processing of nonfraud and fraud claims be increased from $35 to $100, or whatever lower amount is determined cost-effective by the State agency. The Department also proposed to change from $35 to $100 the level at which State agencies shall not pursue fraud cases through their administrative fraud hearings systems. The Department is not finalizing these provisions at this time. Recent legislation, the Omnibus Reconciliation Act of 1981, contains provisions relative to fraud and nonfraud claims and pursuit of fraud cases. The Department will reevaluate this issue in light of the legislation and will address the issues in the final rules to implement the new legislation.

Nonfraud Claims Collection—Demand Letter

The proposal to delete the requirement of 7 CFR 273.18(b)(3)(ii) that a nonfraud demand letter contain the statement that household eligibility or benefits will not be affected if a household falls behind in making payments or is unable to pay the claim was supported by a number of commenters. The proposed deletion was also opposed by a number of commenters. The Department decided to delete the statement as proposed, in order to strengthen claims collection efforts.

The absence of the statement from the demand letter will not actually have any negative impact on food stamp households. The preamble to the proposed rule explained, and it is reiterated here, that the provision does not permit benefits to be terminated or reduced if a household is unable to pay a nonfraud claim.

Other Technical Amendments

The January 16, 1981 proposed rule contained an amendment to drop the phrase "authorized by FNS for that purpose" from 7 CFR 274.10(d), as it relates to group living arrangements; however, the reason for dropping the phrase was not explained in the preamble to the proposed rule. The Department has decided to finalize the provision (with modifications as explained below) because it is simply a technical amendment to incorporate clearer regulatory language, and it is not the Department's intent to change current policy.

The current provision at 7 CFR 274.10(d) specifies that residents of group living arrangements may use coupons issued to them to purchase meals prepared for them at group living arrangement facilities authorized by FNS for that purpose. The phrase "authorized by FNS for that purpose" has created some confusion. The phrase has been incorrectly interpreted by some agencies to mean that a group living facility must be authorized by FNS in order to prepare and serve meals to their eligible food stamp residents before residents of such facilities may use their coupons to purchase the meals. The phrase was intended to explain that although the provision provides authority for residents of group homes to spend their coupons at the facility, the facility must be authorized by FNS to redeem the coupons at a wholesaler, or be authorized by the household to redeem coupons through retail food stores as the authorized representative of the household involved. In other words, the word "authorized" appearing in the current provision refers to authorization for redemption purposes.

This final rule revises 7 CFR 274.10(d) to clarify this intent and eliminate the confusion caused by current language. However, the final version is modified from the proposed version. It became apparent that simply dropping the phrase "authorized by FNS for that purpose" would not achieve the needed clarification. Therefore, the final version of the provision goes into more detail. Additionally, the Department realized that this same clarity problem also exists in 7 CFR 274.10(d) as it relates to providing residents of drug and alcoholic treatment and rehabilitation centers and residents of shelters for battered women and children the authority to spend their coupons at the facilities. The Department is taking this opportunity to incorporate clearer language for these facilities as well. The revisions appear in § 274.10(d) of this final rule.

The proposed rule contained another technical amendment that was not fully explained in the preamble to the proposed rule. Current regulations at 7 CFR 273.1(e) state, in part, that individuals shall be considered residents of an institution if the institution provides the individual with the majority of their meals as part of the institution's normal services. Individuals

determined to be residents of an institution are ineligible for program participation. There has been some confusion in the past as to what is meant by "majority of their meals." The January 16, 1981 rules proposed to define the phrase as meaning "at least 50 percent of three meals daily." The Department received only one comment on the provision of the rule and that commenter suggested that we change the phrase to say "over 50 percent of three meals daily." The Department has adopted the commenter's suggestion in this final rule.

The Department received very few comments on the remaining proposed technical amendments of the January 16, 1981 rules which provided: 1) an amendment to 7 CFR 273.2(e)(1) to state that the household may bring someone to the certification interview; 2) an amendment to 7 CFR 273.9(c) to require income exclusions for certain payments to Yakima and Muscalero Apache Tribes and for payments to VISTA volunteers; 3) amendments to 7 CFR 273.2 (g)(1), (h), (h)(1)(i)(d), (h)(2)(i)(A), (h)(3)(i), and (h)(4)(iii) for clarification of certain certification processing standards; 4) amendments to 7 CFR 273.8(d), (e), (h) and (i) to clarify the treatment and handling of certain resources with regard to ineligible aliens; 5) an amendment to 7 CFR 273.2(f)(1)(ii)(B) to clarify what documentation may be presented as proof of alien status; and 6) an amendment to 7 CFR 273.8 to require a resource exclusion for certain payments to the Yakima and Muscalero Apache Tribes; and (7) an amendment to 7 CFR 274.8(b) to raise the level from $200 to $500 a month for destruction of unusable coupons by State agencies without prior FNS approval. Most comments were from State welfare agencies which generally supported the provisions. The Department has adopted these provisions in the final rule.

One FNS Regional Office did, however, ask that the regulatory language related to the income exclusion for VISTA payments be modified to drop the list of Title I and II programs contained in the provision, in order to avoid continuous updates to the list through the time-consuming regulatory process. The Department did not drop the lists. It was not intended that the lists be inclusive nor that they be continually updated through regulatory procedures. The intent is to simply inform readers of our knowledge (at the time of this rule) of current programs under the Domestic Volunteer Service Act (including VISTA) that would fall under the provision. Thus, 7 CFR 273.9 is modified by this final rule to clarify our intent and specify that the FNS National Office will keep FNS Regional Offices informed of changes in the programs under the Domestic Volunteer Service Act, so that they may alert the State agencies.

The proposed rule contained a technical amendment to 7 CFR 273.2 (f)(i)(ii)(e), and 273.4(a) to reflect categories of lawfully present aliens as they have been redefined by the Refugee Act of 1980, (Pub. L. 96–212, 94 Stat 102), which are permitted to apply for FSP participation. The proposed amendments did not raise any concern to commenters and are adopted by this final rule. The Refugee Act of 1980 added two new sections to the Immigration and Nationalization (IN) Act (sections 207 and 208) for categorizing refugees, parolees, and aliens granted asylum. The IN Act also removed the separate and distinct alien category of "conditional entrant" (section 203)(a)(7) of this IN law). Aliens formerly categorized in accordance with section 203(a)(7) are now being categorized pursuant to section 207 of the IN Act. While section 203(a)(7) of the IN Act no longer exists, reference to section 203(a)(7) of that act is still necessary for FSP verification purposes as the Immigration and Naturalization Service (INS) has informed us that some INS documents will still contain an annotation to section 203(a)(7) of the IN Act during the transition to the new categorization under section 207. Therefore, INS documents presented as proof of alien status which are annotated with section 203(a)(7) are still valid documents until they expire (two years from date of issuance). The final version of the amendment to 7 CFR 273.4 (a) is slightly modified from the proposed language to more clearly define the types of aliens covered under section 207 and 208 of the Immigration and Nationalization Act.

The Department recently became aware of another technical problem with current regulations that was not directly addressed in the proposed rule, but which needs to be clarified. On October 17, 1978, the Department issued final rules (43 FR 47846) which, among other things, specify that a disqualified household member shall not be counted as a household member but that the disqualified member's resources shall be counted towards the eligibility of the remaining household members (7 CFR 273.11(c)(1)). At the same time, a conforming amendment was added at 7 CFR 273.8(j) on the treatment of resources of nonhousehold members. On January 31, 1980, the Department issued final rules (45 FR 7208), after consideration of comments from the public, which specified that persons failing to comply with the requirement to supply a social security number would be disqualified from the program. Thus, an amendment was made to 7 CFR 273.11(c) to reflect this decision. However, a conforming amendment was not made to the section of regulations (appearing at 7 CFR 273.8(j)) regarding the treatment of resources to reflect this new class of disqualified household members.

Since 7 CFR 273.8(j) is being amended by this final action due to the addition of still another class of nonhousehold members (ineligible aliens), we are taking this opportunity to add an appropriate reference to the treatment of resources for persons considered nonhousehold members due to disqualification for noncompliance with the requirement to supply a social security number.

Additionally, the Department is taking this opportunity to delete 7 CFR 273.8(e)(11)(viii), regarding an exclusion from resources for certain earned income tax credits. This provision is already specified in 7 CFR 273.8(e)(11)(v) of that same section and 7 CFR 273.8(e)(11)(viii) was an unintentional duplication of the provision.

We are also taking this opportunity to incorporate into regulations, Section (9)(c) of Pub. L. 96–420 (the Maine Indian Claims Settlement Act of 1980), enacted October 10, 1980. Section (9)(c) of Pub. L. 96–420 prohibits any payments from the State of Maine to Indian households pursuant to Section 5 of Pub. L. 96–420 from being considered as income or resources for the purpose of denying such households other Federal benefits to which they may be otherwise eligible to receive. Therefore, 7 CFR 273.8(e)(11) and 273.9(c)(10) are revised in this final rule accordingly.

List of Subjects in 7 CFR

Part 271

Administrative practice and procedure, Food stamps, Grant programs—social programs

Part 272

Alaska, Civil rights, Food stamps, Grant programs—social programs, Reporting and recordkeeping requirements

Part 273

Administrative practice and procedure, Aliens, Claims, Food stamps, Fraud, Grant programs—social programs, Penalties, Reporting and

recordkeeping requirements, Social Security, Students

Part 274

Administrative practice and procedure, Food stamps, Grant programs—social programs, Reporting and recordkeeping requirements

Part 278

Administrative practice and procedure, Banks, banking, Claims, Food stamps, Groceries—retail, Groceries, General line—wholesaler, Penalties.

Accordingly, 7 CFR Parts 271, 272, 273, 274, and 278 are amended by this final rule as follows:

PART 271—GENERAL INFORMATION AND DEFINITIONS

1. In § 271.2, the definition of "drug addiction or alcoholic treatment and rehabilitation program" is revised to read as follows:

§ 271.2 Definitions.

* * * * *

"Drug addiction or alcoholic treatment and rehabilitation program" means any drug addiction or alcoholic treatment and rehabilitation program conducted by a private nonprofit organization or institution which is certified by the State agency or agencies designated by the Governor as responsible for the administration of the State's programs for alcoholics and drug addicts pursuant to Pub. L. 91–616, Comprehensive Alcohol Abuse and Alcoholism Prevention Treatment and Rehabilitation Act of 1970 and Pub. L. 92–255, Drug Abuse Office and Treatment Act of 1972 as providing treatment that can lead to the rehabilitation of drug addicts or alcoholics. If an alcoholic treatment and rehabilitation program is located on an Indian reservation and the State does not certify or license reservation-based centers, approval to participate may be granted if the requirements of paragraphs (a), (b), and (d)(1) of § 278.1 are met and the program either is funded by the National Institute on Alcohol Abuse and Alcoholism (NIAAA) pursuant to Pub. L. 91–616 or was so funded and has subsequently been transferred to Indian Health Service (IHS) funding.

* * * * *

PART 272—REQUIREMENTS FOR PARTICIPATING STATE AGENCIES

2. In § 272.1, paragraph (d)(1) is revised and a new subparagraph (27) is added to paragraph (g). The changes read as follows:

§ 272.1 General terms and conditions.

* * * * *

(d) *Information available to the public.* (1) Federal regulations, Federal procedures embodied in FNS notices and policy memos, and State Plans of Operation (including specific planning documents such as Corrective Action Plans) shall be available upon request for examination by members of the public during office hours at the State agency headquarters as well as at FNS Regional and National offices. State agency handbooks shall be available for examination upon request at each local certification office within each project area as well as at the State agency headquarters and FNS Regional and National offices. State agencies, at their option, may require other offices within the State to maintain a copy of Federal Regulations.

* * * * *

(g) *Implementation.* * * *

(27) *Amendment 189.* State agencies shall implement the provisions of Amendment No. 189 no later than July 1, 1982.

* * * * *

PART 273—CERTIFICATION OF ELIGIBLE HOUSEHOLDS

3. In § 273.1, the two introductory sentences to paragraph (e) are revised, the 4th sentence of paragraph (f)(1)(i) is revised, the last sentence of paragraph (f)(4)(iii) is removed, and new sentences are added to the end of (f)(4)(iii). The changes read as follows:

§ 273.1 Household concept.

* * * * *

(e) *Residents of institutions.* Individuals shall be considered residents of an institution when the institution provides them with the majority of their meals (over 50% of three meals daily) as part of the institution's normal services and the institution has not been authorized to accept coupons. Residents of institutions are not eligible for participation in the program with the following exceptions: * * *

(f) *Authorized representatives.*

(1) * * *

(i) *Making application for the program.* * * * The State agency shall inform the household that the household will be held liable for any over issuance which results from erroneous information given by the authorized representative, except as provided in § 273.11(e) and § 273.16(a). * * *

* * * * *

(4) * * *

(iii) * * * State agencies which have obtained evidence that an authorized representative has misrepresented a household's circumstances and has knowingly provided false information pertaining to the household, or has made improper use of coupons, may disqualify that authorized representative from participating as an authorized representative in the Food Stamp Program for up to one year. The State agency shall send written notification to the affected household(s) and the authorized representative thirty days prior to the date of disqualification. The notification shall include: the proposed action; the reason for the proposed action; the household's right to request a fair hearing; the telephone number of the office; and, if possible, the name of the person to contact for additional information. This provision is not applicable in the case of drug and alcoholic treatment centers and those group homes which act as authorized representatives for their residents.

* * * * *

4. In § 273.2:

a. A new sentence is added after the second sentence and before the third sentence in paragraph (e)(1);

b. A new sentence is added to the end of (f)(1)(ii)(B), and paragraphs (f)(1)(ii)(C), (f)(1)(ii)(E), and (f)(1)(ii)(F), are revised;

c. The first sentence of paragraph (g)(1) is revised; and

d. The introductory text of paragraph (h) is revised; the first sentence of paragraph (h)(1)(i)(D) is revised; the last two sentences of paragraph (h)(2)(i)(A) are revised; the second sentence of paragraph (h)(3)(i) is revised; and the third sentence of paragraph (h)(4)(iii) is revised.

The changes read as follows:

§ 273.2 Application processing.

* * * * *

(e) *Interviews.*

(1) * * * The applicant may bring any person he or she chooses to the interview. * * *

* * * * *

(f) *Verification.* * * *

(1) *Mandatory verification.* * * *

(ii) *Alien status.* * * *

(B) * * * Because delays in delivering the I–551 cards are lengthy, an interim document provided to new immigrants, Form I–181–B, may be presented. This form is given at the time of adjustment of status to lawful permanent residence. It is imprinted with the stamped annotation, "Processed for I–551, Temporary Evidence of Lawful Admission for Permanent Residence."

(C) Aliens in the categories specified in § 273.4(a)(4) through (a)(6) shall present an INS form I–94: *Arrival-*

Departure Record. The State agency shall accept the INS form I–94 as verification of eligible alien status only if the form is annotated with section 203(a)(7), 207, 208, 212(d)(5) or 243(h) of the Immigration and Nationality Act or if the form is annotated with any one of the following terms or a combination of the following terms: refugee, parolee, paroled, or asylum. An INS form I–94 annotated with any one of the letters (A) through (L) shall be considered verification of ineligible alien status unless the alien can provide other documentation from INS which indicates that the alien is eligible. If the INS form I–94 does not bear any of the above annotations and the alien has no other verification of alien classification in his or her possession, the State agency shall advise the alien to submit form G–641, *Application for Verification of Information from Immigration and Naturalization Service Records*, to INS. State agencies shall accept this form when presented by the alien and properly annotated at the bottom by an INS representative as evidence of lawful admission for permanent residence or parole for humanitarian reasons. The alien shall also be advised that classification under Section 203(a)(7), 207, 208, 212(d)(5), or 243(h) of the Immigration and Nationality Act shall result in eligible status; that the alien may be eligible if acceptable verification is obtained; and that the alien may contact INS, as stated previously, or otherwise obtain the necessary verification or, if the alien wishes and signs a written consent, that the State agency will contact INS to obtain clarification of the alien's status. If the alien does not wish to contact INS, the household shall be given the option of withdrawing its application or participating without that member.

* * * * *

(E) If the proper INS documentation is not available, the alien may state the reason and submit other conclusive verification. The State agency shall accept other forms of documentation or corroboration from INS that the alien is classified pursuant to section 101(a)(15), 101(a)(20), 207, 208, 212(d)(5), 243, or 249 of the Immigration and Nationality Act, or other conclusive evidence such as a court order stating that deportation has been withheld pursuant to section 243(h) of the Immigration and Nationality Act.

(F) While awaiting acceptable verification, the alien whose status is questionable shall be ineligible. The income and resources of the ineligible alien shall be treated in the same manner as a disqualified individual set forth in § 273.11(c), and shall be considered available in determining the eligibility of any remaining members.

* * * * *

(g) *Normal processing standard.*—(1) *Thirty-day processing.* The State agency shall provide eligible households that complete the initial application process an opportunity to participate as soon as possible, but no later than 30 calendar days following the date the application was filed. * * *

* * * * *

(h) *Delays in processing.* If the State agency does not determine a household's eligibility and provide an opportunity to participate within 30 days following the date the application was filed, the State agency shall take the following action:

(1) *Determining cause.* * * *

(i) * * *

(D) For households that have failed to appear for an interview, the State agency must have attempted to reschedule the initial interview within 30 days following the date the application was filed. * * *

* * * * *

(2) *Delays caused by the household.*

(i) * * *

(A) * * * However, if a notice of denial is sent and the household takes the required action within 60 days following the date the application was filed, the State agency shall reopen the case without requiring a new application. No further action by the State agency is required after the notice of denial or pending status is sent if the household failed to take the required action within 60 days following the date the application was filed, or if the State agency chooses the option of holding the application pending for only 30 days following the date of the initial request for the particular verification that was missing, and the household fails to provide the necessary verification by this 30th day.

* * * * *

(3) *Delays caused by the State agency.*

(i) * * * The State agency shall not deny the application if it caused the delay, but shall instead notify the household by the 30th day following the date the application was filed that its application is being held pending. * * *

* * * * *

(4) *Delays beyond 60 days.* * * *

(iii) * * * A notice of denial need not be sent if the notice of pending status informed the household that it would have to file a new application if verification was not received within 30 days following the date of the initial request.

* * * * *

5. Section 273.4 is revised in its entirety to read as follows:

§ 273.4 Citizenship and alien status.

(a) *Citizens and eligible aliens.* State agencies shall prohibit participation in the program by any person who is not a resident of the United States and one of the following:

(1) A United States citizen.

(2) An alien lawfully admitted for permanent residence as an immigrant as defined in sections 101(a)(15) and 101(a)(20) of the Immigration and Nationality Act.

(3) An alien who entered the United States prior to June 30, 1948, or some later date as required by law, and has continuously maintained residency in the United States since then, and is not ineligible for citizenship, but is considered to be lawfully admitted for permanent residence as a result of an exercise of discretion by the Attorney General pursuant to Section 249 of the Immigration and Nationality Act.

(4) An alien who is qualified for entry after March 17, 1980 because of persecution or fear of persecution on account of race, religion, or political opinion pursuant to section 207 (formerly section 203(a)(7)) of the Immigration and Nationalization Act.

(5) An alien who qualifies for conditional entry prior to March 18, 1980 pursuant to former section 203(a)(7) of the Immigration and Nationalization Act.

(6) An alien granted asylum through an exercise of discretion by the Attorney General pursuant to section 208 of the Immigration and Nationalization Act.

(7) An alien lawfully present in the United States as a result of an exercise of discretion by the Attorney General for emergent reasons or reasons deemed strictly in the public interest pursuant to Section 212(d)(5) of the Immigration and Nationality Act, or as a result of a grant of parole by the Attorney General.

(8) An alien living within the United States for whom the Attorney General has withheld deportation pursuant to Section 243 of the Immigration and Nationality Act because of the judgement of the Attorney General that the alien would otherwise be subject to persecution on account of race, religion, or political opinion.

(b) *Ineligible aliens.* Aliens other than those described above shall not be eligible to participate in the program as a member of any household. Among those excluded are alien visitors,

tourists, diplomats and students who enter the United States temporarily with no intention of abandoning their residence in a foreign country.

(c) *Income and resources.* The income and resources of an ineligible alien who would be considered a member of a household if he or she did not have ineligible alien status shall be considered in determining eligibility or level of benefits of the household in the same manner as the income and resources of a disqualified individual as set forth in § 273.11(c).

(d) *Awaiting verification.* If verification of eligible alien status as required by § 273.2(f) is not provided on a timely basis, the eligibility of the remaining household members shall be determined. The income and resources of the individual whose alien status is unverified shall be treated in the same manner as a disqualified member as set forth in § 273.11(c) and considered available in determining the eligibility of the remaining household members. If verification of eligible alien status is subsequently received, the State agency shall act on the information as a reported change in household membership in accordance with timeliness standards in § 273.12.

(e) *Reporting illegal aliens.* (1) The State agency shall immediately inform the local INS office whenever personnel responsible for the certification or recertification of household determine that any member of a household is ineligible to receive food stamps because the member is present in the United States in violation of the Immigration and Nationality Act.

(2) When a household indicates inability or unwillingness to provide documentation of alien status for any household member, that member should be classified as an ineligible alien. When a person indicates inability or unwillingness to provide documentation of alien status, that person should be classified as an ineligible alien. In such cases the State agency shall not continue efforts to obtain that documentation.

6. In § 273.8:

a. The last sentence in paragraph (d) is revised;

b. Paragraph (e)(11)(viii) is removed, (e)(11)(ix) is redesignated as (e)(11)(viii) and new paragraphs (e)(11)(ix),(e)(11)(x), and (e)(13) are added;

c. Paragraphs (h)(1)(iii), (h)(1)(vi) and (h)(4)(iii) are revised;

d. The first sentence of paragraph (i)(1) and paragraph (i)(2)(iii) are revised; and

e. Paragraph (j) is revised.

The changes read as follows:

§ 273.8 Resource eligibility standards.

* * * * *

(d) * * * The resource shall be considered totally inaccessible to the household if the resource cannot practically be subdivided and the household's access to the value of the resource is dependent on the agreement of a joint owner who refuses to comply. For the purpose of this provision, ineligible aliens or disqualified individuals residing with the household shall be considered household members.

(e) * * *

(11) * * *

(ix) Payments received by the Confederated Tribes and Bands of the Yakima Indian Nation and the Apache Tribe of the Mescalero Reservation from the Indian Claims Commission as designated under Pub. L. 94–433, Section 2.

(x) Payments to the Passamaquoddy Tribe and the Penobscot Nation or any of their members received pursuant to the Maine Indian Claims Settlement Act of 1980 (Pub. L. 96–420, Section 5).

* * * * *

(13) Where an exclusion applies because of use of a resource by or for a household member, the exclusion shall also apply when the resource is being used by or for an ineligible alien or disqualified person whose resources are being counted as part of the household's resources. For example, work related equipment essential to the employment of an ineligible alien or disqualified person shall be excluded (in accordance with paragraph (e)(5) of this section), as shall one burial plot per ineligible alien or disqualified household member (in accordance with paragraph (e)(2) of this section).

* * * * *

(h) *Handling of licensed vehicles.* * * *

(1) * * *

(iii) Necessary for long distance travel, other than daily commuting, that is essential to the employment of a household member (or ineligible alien or disqualified person whose resources are being considered available to the household), for example, the vehicle of a traveling sales person or a migrant farmworker following the work stream.

* * * * *

(vi) Necessary to transport a physically disabled household member (or ineligible alien or disqualified person whose resources are being considered available to the household) regardless of the purpose of such transportation (limited to one vehicle per physically disabled person). A vehicle necessary to transport a physically disabled person need not have special equipment or be used primarily by the physically disabled person.

* * * * *

(4) * * *

(iii) Any other vehicle used to transport household members (or an ineligible alien or disqualified household member whose resources are being considered available to the household) to and from employment, or to and from training or education which is preparatory to employment in compliance with the job search criteria. A vehicle customarily used to commute to and from employment shall be covered by this equity exclusion during temporary periods of unemployment. The equity value of licensed vehicles not covered by this exclusion, and of unlicensed vehicles not excluded by paragraphs (e)(3), (4), or (5) of this section, shall be attributed toward the household's resource level.

* * * * *

(i) *Transfer of resources.* (1) At the time of application, households shall be asked to provide information regarding any resources which any household member (or ineligible alien or disqualified person whose resources are being considered available to the household) had transferred within the 3-month period immediately preceding the date of application. * * *

(2) * * *

(iii) Resources which are transferred between members of the same household (including ineligible aliens or disqualified persons whose resources are being considered available to the household);

* * * * *

(j) *Resources of nonhousehold members.* The resources of nonhousehold members, defined in § 273.1(b), shall not be counted as available to the household unless the member is disqualified from the program for fraud in accordance with § 273.16, or for failing to comply with the requirement to provide an SSN in accordance with § 273.6, or is an ineligible alien in accordance with § 273.4 who would be considered a household member if not for his or her ineligible alien status.

7. In § 273.9:

a. A new paragraph (iv) is added to paragraph (b)(1), and paragraph (b)(3) is revised;

b. Paragraph (c)(10)(iii) is revised, and new paragraphs (ix) and (x) are added to paragraph (c)(10).

The addition and revisions read as follows:

§ 273.9 Income and deductions.

* * * * *

(b) *Definition of income.* * * *

(1) * * *

(iv) Payments under Title I (VISTA, University Year for Action, etc.) of the Domestic Volunteer Service Act of 1973 (Pub. L. 93–113 Stat., as amended) shall be considered earned income and subject to the earned income deduction prescribed in § 273.10(e)(1)(B), excluding payments made to those households specified in paragraph (c)(1)(iii) of this section.

* * * * *

(3) The earned or unearned income of an individual disqualified from the household for fraud in accordance with § 273.16, for failing to comply with the requirement to provide an SSN in accordance with § 273.6, or of an individual determined to be an ineligible alien in accordance with § 273.4, shall continue to be counted as income, less a pro rata share for the individual. Procedures for calculating this pro rata share are described in § 273.11(c).

* * * * *

(c) *Income exclusions.* * * *

* * * * *

(10) * * *

(iii) Any payment to volunteers under Title II (RSVP, Foster Grandparents and others) of the Domestic Volunteer Services Act of 1973 (Pub. L. 93–113) as amended. Payments under Title I of that Act (including payments from such Title I programs as VISTA, University Year for Action, and Urban Crime Prevention Program) to volunteers shall be excluded for those individuals receiving food stamps or public assistance at the time they joined the Title I program, except that households which were receiving an income exclusion for a Vista or other Title I Subsistence allowance at the time of conversion to the Food Stamp Act of 1977 shall continue to receive an income exclusion for VISTA for the length of their volunteer contract in effect at the time of conversion. Temporary interruptions in food stamp participation shall not alter the exclusion once an initial determination has been made. New applicants who were not receiving public assistance or food stamps at the time they joined VISTA shall have these volunteer payments included as earned income. The FNS National Office shall keep FNS Regional Offices informed of any new programs created under Title I and II or changes in programs mentioned above so that they may alert State agencies.

* * * * *

(ix) Payments by the Indian Claims Commission to the Confederated Tribes and Bands of the Yakima Indian Nation or the Apache Tribe of the Mescalero Reservation (Pub. L. 95–443).

(x) Payments to the Passamaquoddy Tribe and the Penobscot Nation or any of their members received pursuant to the Maine Indian Claims Settlement Act of 1980 (Pub. L. 96–420, Section 5).

* * * * *

8. In § 273.10, paragraph (b) is revised as follows:

§ 273.10 Determining household eligibility and benefit levels.

* * * * *

(b) *Determining resources.* Available resources at the time the household is interviewed shall be used to determine the household's eligibility.

* * * * *

9. In § 273.11:

a. The last sentence of paragraph (a)(2)(ii) is revised, paragraph (a)(4)(ii) is removed, and paragraph (a)(4)(iii) is redesignated as (a)(4)(ii);

B. Newly designated paragraph (a)(4)(ii) is revised;

c. The title and introductory text of paragraph (c) and paragraph (c)(5) are revised;

d. Paragraph (d) is revised;

e. Paragraph (e)(5) is revised; and

f. Paragraphs (f)(5)(i) and (f)(5)(ii) are revised and a new paragraph (iii) is added to paragraph (f)(5).

The changes read as follows:

§ 273.11 Action on households with special circumstances.

(a) *Self-employment income.* * * *

(2) *Determining monthly income from self-employment.* * * *

(ii) * * * The cost of producing the self-employment income shall be calculated by anticipating the monthly allowable costs of producing the self-employment income.

* * * * *

(4) *Allowable costs of producing self-employment income.* * * *

(ii) In determining net self-employment income, the following items shall not be allowable as costs of doing business:

(A) Payments on the principal of the purchase price of income-producing real estate and capital assets, equipment, machinery, and other durable goods;

(B) Net losses from previous periods;

(C) Federal, State, and local income taxes, money set aside for retirement purposes, and other work-related personal expenses (such as transportation to and from work), as these expenses are accounted for by the 18 percent earned income deduction specified in § 273.9(d)(2); and

(D) Depreciation.

* * * * *

(c) *Treatment of income and resources of disqualified members.* Individual household members may be disqualified for fraud, or for failure to obtain or refusal to provide an SSN, or for being an ineligible alien. During the period of time that such household members are ineligible, the eligibility and benefit level of any remaining household members shall be determined as follows:

* * * * *

(5) *Reduction or termination of benefits within the certification period.* When an individual is disqualified within the household's certification period, the State agency shall determine the eligibility or ineligibility of the remaining household members based, as much as possible, on information in the case file.

(i) *Fraud disqualification.* If a household's benefits are reduced or terminated within the certification period because one of its members had been disqualified for fraud, the State agency shall notify the remaining members of their eligibility and benefit level at the same time the disqualified member is notified of his or her disqualification. The household is not entitled to a notice of adverse action but may request a fair hearing to contest the reduction or termination of benefits.

(ii) *SSN disqualification.* If a household's benefits are reduced or terminated within the certification period because one or more of its members required to provide an SSN is being disqualified for failure to meet the SSN requirement, the State agency shall issue a notice of adverse action in accordance with § 273.13(a)(2), which informs the household that the individual without an SSN is being disqualified, the reason for the disqualification, the eligibility and benefit level of the remaining members, and the actions the household must take to end the disqualification.

(iii) *Ineligible aliens.* If a household's benefits are reduced or terminated within the certification period because one or more of its members is being disqualified as an ineligible alien, the State agency shall issue a notice of adverse action, in accordance with § 273.13(a)(2), which informs the household that the individual is being disqualified, the reason for the disqualification, the eligibility and benefit level of the remaining members, and the actions the household must take to end the disqualification, if applicable.

(d) *Treatment of income and resources of other nonhousehold members.*

(1) For those nonhousehold members that have not been disqualified, such as SSI recipients in cash-out States, the income and resources of the nonhousehold member shall not be considered available to the household. Cash payments from the nonhousehold member to the household will be considered income under the normal income standards set in § 273.9(b). Vendor payments, as defined in § 273.9(c)(1), shall be excluded as income. If the household shares deductible expenses with the nonhousehold member, only the amount actually paid or contributed by the household shall be deducted as a household expense. If the payments or contributions cannot be differentiated, the expenses shall be prorated evenly among persons actually paying or contributing to the expense and only the household's pro rata share deducted.

(2) When the earned income of one or more household members and the earned income of a nonhousehold member are combined into one wage, the income of the household members shall be determined as follows:

(i) If the household's share can be identified, the State agency shall count that portion due to the household as earned income.

(ii) If the household's share cannot be identified the State agency shall prorate the earned income among all those whom it was intended to cover and count that prorated portion to the household.

(e) *Residents of drug/alcoholic treatment and rehabilitation programs.* * * *

(5)(i) When the household leaves the center, the center shall provide the resident household with its ID card and any untransacted ATP cards. The household, not the center, shall be allowed to sign for and receive any remaining authorized benefits reflected on HIR cards. The departing household shall also receive its full allotment if already issued and if no coupons have been spent on behalf of that individual household. These procedures are applicable at any time during the month. However, if the coupons have already been issued and any portion spent on behalf of the individual, and the household leaves the treatment and rehabilitation program prior to the 16th day of the month, the treatment center shall provide the household with one half of its monthly coupon allotment. If the household leaves on or after the 16th day of the month and the coupons have already been issued and used, the household does not receive any coupons.

(ii) Once the household leaves the treatment center, the center is no longer allowed to act as that household's authorized representative. The center, if possible, shall provide the household with a change report form to report to the State agency the household's new address and other circumstances after leaving the center and shall advise the household to return the form to the appropriate office of the State agency within 10 days.

(iii) The treatment center shall return to the State agency any coupons not provided to departing residents at the end of each month. These returned coupons shall include those not provided to departing residents because they left either prior to the 16th and the center was unable to provide the individual with the coupons or they left on or after the 16th of the month.

* * * * *

(f) *Residents of group living arrangements who receive benefits under title II or title XVI of the Social Security Act.* * * *

(5)(i) When the household leaves the facility, the group living arrangement, either acting as an authorized representative or retaining use of the coupons on behalf of the residents (regardless of the method of application), shall provide residents with their ID cards (if applicable) and any untransacted ATP cards. The household, not the group living arrangement, shall be allowed to sign for and receive any remaining authorized benefits reflected on HIR cards. Also, the departing household shall receive its full allotment if issued and if no coupons have been spent on behalf of that individual household. These procedures are applicable at any time during the month. However, if the coupons have already been issued and any portion spent on behalf of the individual, and the household leaves the group living arrangement prior to the 16th day of the month, the facility shall provide the household with its ID card (if applicable) and one half of its monthly coupon allotment. If the household leaves on or after the 16th day of the month and the coupons have already been issued and used, the household does not receive any coupons. If a group of residents have been certified as one household and have returned the coupons to the facility to use, the departing residents shall be given a pro rata share of one-half of the coupon allotment if leaving prior to the 16th day of the month and shall be instructed to obtain ID cards or written authorizations to use the coupons from the local office.

(ii) Once the resident leaves, the group living arrangement no longer acts as his/her authorized representative. The group living arrangement, if possible, shall provide the household with a change report form to report to the State agency the individual's new address and other circumstances after leaving the group living arrangement and shall advise the household to return the form to the appropriate office of the State agency within 10 days.

(iii) The group living arrangement shall return to the State agency any coupons not provided to departing residents at the end of each month. These returned coupons shall include those not provided to departing residents because they left on or after the 16th of the month or they left prior to the 16th and the facility was unable to provide them with the coupons.

* * * * *

10. In § 273.12, paragraph (a)(2) is revised, paragraph (a)(3) is redesignated as paragraph (a)(4), a new paragraph (a)(3) is added, and newly designated paragraph (a)(4) is revised. The additions and revisions read as follows:

§ 273.12 Reporting changes.

(a) *Household responsibility to report.*

* * * * *

(2) Certified households shall report changes within 10 days of the date the change becomes known to the household. Optional procedures for reporting changes are contained in § 273.12(f) for households in States with FNS-approved forms for jointly reporting food stamp and public assistance changes and food stamp and general assistance changes.

(3) An applying household shall report all changes related to its food stamp eligibility and benefits at the certification interview. Changes, as provided in paragraph (a)(1) of this section, which occur after the interview but before the date of the notice of eligibility, shall be reported by the household within 10 days of the date of the notice.

(4) State agencies shall not impose any food stamp reporting requirements on households except as provided in paragraph (a) of this section.

* * * * *

11. In § 273.16, paragraphs (d)(1) through (d)(9) are redesignated as paragraphs (d)(2) through (d)(10) respectively, and introductory paragraph of (d) is designated as (d)(1) and revised to read as follows:

§ 273.16 Fraud disqualification.

* * * * *

(d) *Administrative disqualification.*

(1)(i) State agencies shall establish procedures for conducting fraud hearings which must conform with the procedures outlined in this section. State agencies must have a system to pursue alleged fraud cases through prosecution in addition to, or instead of, pursuing them through fraud hearings. An administrative fraud hearing or referral for prosecution action should be initiated by the State agency in cases in which the State agency has sufficient documentary evidence to substantiate that an individual has committed one or more acts of fraud as defined in paragraph (b) of this section. State agencies may conduct administrative hearings in cases in which the State agency believes the facts of the individual case do not warrant civil or criminal prosecution through the appropriate court system and in cases previously referred for prosecution that were declined by the appropriate legal authority. The State agency may initiate an administrative fraud hearing or refer a case for prosecution regardless of the current eligibility of the individual. The disqualification period for nonparticipants at the time of the fraud hearing or court decision shall be deferred until the individual applies for and is determined eligible for program benefits. Administrative fraud hearings shall not be conducted if the amount the State agency contends has been fraudulently obtained is less than $35 or if the value of coupons used to obtain ineligible items is under $35. The administrative fraud hearing may be conducted regardless of whether other legal action is planned against the household member.

(ii) (A) FNS shall allow a State agency to delete its administrative fraud hearing system if the State agency has entered into an agreement with the State Attorney General's Office, or where necessary with the county prosecutor's office, that provides that prosecution will be pursued in cases where appropriate. This agreement shall include information on how, and under what circumstances, cases will be accepted for possible prosecution and any other criteria set by the prosecutor for accepting cases for prosecution, such as a minimum amount of fraudulent overissuance.

(B) FNS shall allow a State agency to delete its administrative fraud hearing system if there is a State law that requires the referral of fraud cases for prosecution but only if the State agency demonstrates to FNS that it is actually referring cases for prosecution and that prosecutors are following up on the State agency's referrals.

(C) A State agency that deletes its administrative fraud hearing system in accordance with paragraphs (d)(1)(ii)(A) or (d)(1)(ii)(B) of this section shall refer cases of alleged fraud for prosecution in accordance with its agreement with prosecutors, if one is in effect, or State law.

(iii) FNS may require a State agency to establish an administrative fraud hearing system if it determines that the State agency is not promptly or actively pursuing suspected fraud claims through the courts.

* * * * *

12. In § 273.18, paragraph (b)(3)(ii) is revised and a new paragraph (iii) is added to paragraph (e)(1).

The revision and addition read as follows:

§ 273.18 Claims against households.

* * * * *

(b) *Nonfraud claims.* * * *

(3) *Collecting nonfraud claims.*

* * * * *

(ii) State agencies shall initiate collection action by sending the household a written demand letter, designed by FNS, which informs the household of the amount owed, the reason for the claim, how the household may pay the claim, and the household's right to a fair hearing if the household disagrees with the State agency's determination. FNS may grant deviations from the designed letter under conditions specified in § 273.2(b). If the household pays the claim, payments shall be accepted and submitted to FNS in accordance with the procedures outlined in paragraphs (e) and (f) of this section. If the household does not respond to the first demand letter, additional demand letters shall be sent at reasonable intervals such as 30 days, until the household has responded by paying or agreeing to pay the claim, or until the criteria for suspending collection action, as specified in paragraph (b)(4) of this section, have been met. The State agency may postpone collection action on nonfraud claims in cases where an overissuance is being referred for possible prosecution or for a fraud hearing and the State agency is advised in writing that collection action will prejudice the case.

* * * * *

(e) *Method of collecting payments.*

(1) * * *

(iii) *Coupons for repayment.* The State agency shall accept food stamp coupons as partial or full payment of a nonfraud claim if the household prefers to use this method of repayment.

* * * * *

PART 274—ISSUANCE AND USE OF FOOD COUPONS

13. In § 274.8, paragraphs (b)(1)(i) and (b)(3) are revised as follows:

§ 274.8 State agency reporting and destruction of unusable coupons.

* * * * *

(b) *Destruction of unusable coupons.*

(1) * * *

(i) It had been determined that the value of coupons does not exceed $500.00 per coupon issuer or bulk storage point for any month; and

* * * * *

(3) If the value of the coupons to be destroyed exceeds $500.00 per coupon issuer or bulk storage point per month, the State agency shall request FNS approval prior to any destruction of the coupons.

* * * * *

14. In § 274.10, paragraph (d) is revised to read as follows:

§ 274.10 Use or redemption of coupons by eligible households.

* * * * *

(d) *Residents of certain institutions.*

(1) Members of eligible households who are narcotics addicts or alcoholics and who regularly participate in a drug or alcoholic treatment and rehabilitation program may use coupons to purchase food prepared for them during the course of such program by a private nonprofit organization or institution which is authorized by FNS to redeem the coupons through wholesalers in accordance with § 278.1, or which redeems coupons at retail food stores as the authorized representative of participating households in accordance with § 278.2(g)

(2) Eligible residents of a group living arrangement may use coupons issued to them to purchase meals prepared especially for them at a group living arrangement which is authorized by FNS to redeem coupons at wholesalers in accordance with § 278.1, or which redeems coupons at retail food stores as the authorized representative of participating households in accordance with § 278.2(g).

(3) Residents of shelters for battered women and children as defined in § 271.2 may use their coupons to purchase meals prepared especially for them at a shelter which is authorized by FNS in accordance with § 278.1 to redeem at wholesalers, or which redeems at retailers as the authorized

representative of participating households in accordance with § 278.2(g).

* * * * *

PART 278—PARTICIPATION OF RETAIL FOOD STORES, WHOLESALE FOOD CONCERNS AND BANKS

15. In § 278.1, a new sentence is added after the first sentence in paragraph (e) to read as follows:

§ 278.1 Approval of retail food stores and wholesale food concerns.

* * * * *

(e) * * * If an alcoholic treatment and rehabilitation program is located on an Indian reservation and the State does not certify or license reservation-based centers, approval to participate may be granted if the requirements of paragraphs (a), (b), and (d)(1) of this section are met and the program either is funded by the National Institute on Alcohol Abuse and Alcoholism (NIAAA) pursuant to Pub. L. 91–616, or was so funded and has subsequently been transferred to Indian Health Service (IHS) funding.* * *

* * * * *

(91 Stat. 958 (7 U.S.C. 2011–2027))

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Dated: April 20, 1982.

Samuel J. Cornelius,

Administrator.

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Part VI

Department of Labor

Office of Federal Contract Compliance

Government Contractors: Affirmative Action Requirements

DEPARTMENT OF LABOR

Office of Federal Contract Compliance Programs

41 CFR Parts 60-1, 60-2, 60-4, and 60-30

Government Contractors: Affirmative Action Requirements

AGENCY: Office of Federal Contract Compliance Programs (OFCCP), Labor.

ACTION: Proposed rule.

SUMMARY: These proposed rules would revise selected sections of the Department's regulations implementing Executive Order 11246, as amended, which establishes nondiscrimination and affirmative action requirements for Federal contractors and federally assisted construction contractors. These proposals are the result of OFCCP's analysis of public comments received in response to an Advance Notice of Proposed Rulemaking (ANPR). The ANPR sought comment from the public regarding five issues affecting the contract compliance program. In brief, the issues concern the methodology to calculate the availability of minorities and women, the appropriateness of seeking back pay as a remedy for discrimination under the Executive Order, two issues concerning construction contractors, and the design criteria for job groups.

DATES: Comments must be received by May 24, 1982.

Note.—In the past, OFCCP has often reviewed and considered all comments submitted, even if they were submitted after the close of the comment period. Due to the short time frame projected for completion of a final rule on the issues contained in this proposal, OFCCP may not, in this instance, be able to follow its prior practice of reviewing comments received after the closing date.

ADDRESSES: Send comments to James W. Cisco, Director, Division of Program Policy, Office of Federal Contract Compliance Programs, U.S. Department of Labor, Washington, D.C. 20210.

FOR FURTHER INFORMATION CONTACT: James W. Cisco, Director, Division of Program Policy, Office of Federal Contract Compliance Programs, U.S. Department of Labor, Washington, D.C. 20210, telephone (202) 523-9426.

SUPPLEMENTARY INFORMATION: On December 30, 1980, OFCCP published a final rule revising the regulations at 41 CFR Chapter 60 (see 45 FR 86216, corrected January 23, 1981, at 46 FR 7332) which implement Executive Order 11246, as amended, the Vietnam Era Veterans' Readjustment Assistance Act of 1974 (hereinafter cited as 38 U.S.C. 2012), and section 503 of the Rehabilitation Act of 1973, as amended.[1] The rule was to take effect on January 29, 1981.

On January 27, 1981, OFCCP postponed the effective date of the final rule to allow time to review the regulation fully. As a result of this review OFCCP, on August 25, 1981, published a proposed revision of the December 30, 1980, rule (at 46 FR 42968). The August 25, 1981, proposal postponed the effective date of the December 30, 1980, rule until final action on the proposal. The comment period for the August 25, 1981, proposal ended October 26, 1981.

During the process of reviewing the deferred December 30, 1980, regulations, OFCCP determined that certain issues should be submitted to the public for comment prior to proposing rule changes on these items. This determination led to the issuance of the ANPR on July 14, 1981 (at 46 FR 36213) and the rule proposed today. On August 21, 1981, the ANPR was amended (at 46 FR 42490) to include one additional issue. The amended ANPR listed five issues: (1) the methods used by nonconstruction contractors to determine the availability of minorities and women; (2) the appropriateness of back pay as a remedy under Executive Order 11246; (3) Executive Order coverage of a Federal construction contractor's nonfederally funded construction projects; (4) the methods used by nonconstruction contractors to develop job groups for their utilization analyses; and (5) the methods used to set goals for women and minorities in construction. The comment period for the ANPR ended September 14, 1981.

OFCCP has now developed proposed rules on these five issues. That proposal is described below. OFCCP expects to issue a single final rule, addressing the issues raised by the instant proposed rule, as well as the issues raised by the separate proposal published on August 25, 1981 (at 46 FR 42968). OFCCP tentatively projects publication of the final rule during the summer of 1982. The rule proposed today would revoke both the currently effective rules and the final regulations published December 30, 1980, to the extent that such final rules are inconsistent with this proposal.[2]

In drafting these proposed rules, OFCCP has attempted to clearly set forth all major obligations related to the five issues addressed which would be imposed on the public; OFCCP believes it is generally inappropriate to include such obligations in compliance manuals, as it has done in the past. OFCCP has also sought to establish minimum requirements and allow contractors the flexibility to achieve equal or greater compliance with OFCCP's objective of increased employment opportunities for minorities and women through different technical means or processes. In accordance with Executive Order 12291, OFCCP has been mindful of cost burdens placed on the public by virtue of these rules and has sought to minimize the costs consistent with our mandate under Executive Order 11246.

The Equal Employment Opportunity Commission (EEOC) has reviewed this notice of proposed rulemaking and agreed to its publication for public comment. OFCCP will continue its close coordination with EEOC.

I. General Discussion of Comments Received

OFCCP received 187 comments in response to the ANPR. Of these, 57 came from contractors and other businesses, 33 from contractor associations, 25 from education and research agencies (including colleges and universities), 15 from individuals, 8 from law firms, 5 from state agencies, 7 from local government agencies, 4 from Federal government agencies, 4 from minority groups, 19 from women's groups, 7 from other interest groups, 2 from private consulting firms, and 1 from a labor union.

II. Topic Analyses

Job Groups and the Workforce and Utilization Analyses (41 CFR 60-2.11)—The workforce and utilization analyses which nonconstruction contractors are required to develop are described in 41 CFR 60-2.11.

In developing goals and timetables for its affirmative action program (AAP), a nonconstruction contractor must first determine the availability of minorities and women for each job group at the establishment. OFCCP has traditionally required nonconstruction contractors to consider at least the eight factors found

[1] OFCCP has previously used the shorthand designation "section 402" to refer to sections of Vietnam Era Veterans' Readjustment Assistance Act of 1972, as amended (section 503(a), Pub. L. 92-540, 86 Stat. 1097 (38 U.S.C. 2012), as amended by section 402, Pub. L. 93-508, 88 Stat. 1593 (38 U.S.C. 2010); and Pub. L. 96-466, 94 Stat. 2171). In this proposal, OFCCP has used the designation "38 U.S.C. 2012" to refer to the requirements under the Veterans Act. Upon final rulemaking OFCCP intends to make conforming changes throughout 41 CFR Chapter 60.

[2] This proposal constitutes a separate proposal from that published on August 25, 1981. However, in order to minimize confusion, the section numbering scheme and wording found in the August 25, 1981, proposal are followed in this proposal.

at 41 CFR 60–2.11(b) when determining availability.

Another significant step in the utilization analysis is the establishment of job groups. In formulating job groups, the contractor divides job titles, irrespective of the organizational components in which they are located, into job groups having similar work content, compensation rate, and promotional opportunity. The job group becomes the basic unit for analysis of availability and for the establishment of goals and timetables.

The regulation published today proposes a number of changes. Section 60–2.11 would be reorganized into three paragraphs to: (a) describe the workforce analysis; (b) prescribe the method for establishing job groups; and (c) describe the utilization analysis. In addition, terms frequently used in connection with assessing availability would be defined for the first time, and incorporated into the definitions section of the regulations at § 60–1.3.

Comments to the ANPR and the provisions of OFCCP's proposed rule are discussed separately below for the two issues. Because it is necessary to develop job groups before conducting the availability analysis, the job group issue is discussed first.

Establishing Job Groups—The amended ANPR, published on August 21, 1981, raised questions concerning the methods contractors should use to formulate job groups, including whether OFCCP should retain the current criteria for formulating job groups, whether higher level jobs should be grouped with those which serve as a promotional pool, whether a minimum number of employees should be prescribed for each job group, whether special standards for job groups should be permitted for smaller contractors, and whether individual standards should be established for each industry. One set of questions published with the original ANPR on July 14, 1981, asked whether OFCCP should consider establishment of standardized job groups; these questions are considered herein as part of the job group issue.

Twenty-one commentators believed that the current approach to job groups should be changed, while 11 believed that it should not be changed. Commentators favoring revision of the current approach generally supported using subdivisions of EEO 1 categories as job groups, broadening the elements used to formulate job groups (currently similarity of job content, wage rate, and opportunity), or arranging groups by promotional tracks (vertical job groups).

Nineteen commentators favored standardization of job groups and 40 opposed. those favoring standardized job groups generally favored using EEO–1 categories with some adjustments (usually subdivided for different salary levels). Only a very few commentators favored standardized use of the occupational categories employed by the 1980 Census. Commentators opposing standardized job groups expressed the general sentiment that job groups among industries are too dissimilar for standardization, and that contractors must be allowed flexibility.

The 24 commentators addressing this issue were evenly divided about whether criteria other than similarity of job content, wage rate, and opportunities should be considered in forming job groups. Those favoring other criteria tended to support subdivisions of EEO–1 categories, vertical job groups, or additional factors chosen by the employer.

Of the 20 commentators responding to the question of whether there should be a minimum size for job groups, 13 opposed such a standard. Some commentators cited statistical problems in establishing job groups which are excessively small, but they often said that such problems could be overcome by aggregating smaller job groups. Minimum job group sizes specified by commentators ranged from 15, through the more-often quoted 50, to 150. Commentators generally opposed separate standards for small contractors, as well as separate standards by industry.

The rule proposed today would reorganize existing § 60–2.11(b) into two subparagraphs. Also, two different alternative rules, Alternative A and Alternative B, are proposed for § 60–2.11(b)(1). On final rulemaking, it is presently contemplated that only one rule will be promulgated. this rule may consist of one of the published proposed alternatives, another suggested alternative, or any combination thereof.

Current OFCCP regulations require that the contractor formulate job groups according to three criteria: similarity of content, wages and opportunity. Alternative A would retain these three criteria. Alternative B would provide for a system of vertical job grouping, whereby the contractor would be allowed to combine in the same group "all jobs having related content and wage structure and, for those jobs serving as the customary entry position into the group, similar prerequisites for hiring, promotion or other initial assignment thereto." Under this proposal, job groups would include entry level jobs requiring similar training and experience plus jobs which are usually or frequently filled by transfer or promotion from those entry level jobs.

The ANPR published on August 21, 1981, posed questions relating to OFCCP's current methods for establishing job groups. Since the concept of vertical job groups is newly proposed, commentators are asked to express their preference for one of the two alternative rules, and to discuss the advantages and disadvantages of both. In addition, commentators are asked to address themselves to the following specific questions on vertical job groups:

1. If the seniority provisions of a bargaining agreement allow movement laterally/vertically into all jobs covered by the agreement, should those jobs be considered a single job group? If not, how should this job group be segmented?

2. How would the analysis of availability be conducted for a job group: (a) which included jobs with several skill levels (e.g., management, professional and technical; or laborer, operator and craft); (b) in instances where there were several points of entry into the group; and (c) where availability varied at different levels of the job group?

3. How could the agency be assured that combining lower and higher level jobs into a vertical job group would not mask underrepresentations and concentrations?

4. How much movement from one lower level job to a job at a higher level would be expected before these two jobs could be combined into the same job group?

5. Given that job groups are based upon internal movement of employees, what additional information should the contractor submit at the desk audit phase of the compliance review to ensure the acceptability of job groups?

6. To what extent would the vertical job group methodology be appropriate for different workforces (e.g., blue collar versus white collar, structured lines of progression versus unstructured lines, matrix organizations)?

7. What would be the cost and other burdens incurred by contractors with a change to vertical job groups?

Section 60–2.11(b)(2) would provide general guidance to contractors in applying the design criteria for job groups, and would encourage contractors to establish job groups of at least 50 employees. While the current regulations provide no guidance about the optimum size for a job group, OFCCP's Federal Contract Compliance Manual directs enforcement personnel to consider job groups of at least 50 employees as optimum. Since goals are

established by job groups, and are based upon some percentage availability of minorities and women, a job group of at least 50 is frequently considered useful to avoid setting goals which are less than one whole person. In large workforces job groups of substantially more than 50 may be appropriate. However, it is not OFCCP's intent to require that contractors have at least 50 employees in all cases, because the configuration of the contractor's workforce may make it inappropriate to do so. Therefore, § 60–2.11(b)(2) simply encourages the use of job groups of at least 50 employees.

In the comments received in response to the job groups questions of the ANPR, a key concern was to ensure that contractors are provided sufficient flexibility. Section 60–2.11(b)(2) would achieve this goal by requiring OFCCP compliance personnel to defer to the contractor's formation of job groups unless there is specific evidence that the groups have been formed in violation of § 60–2.11(b)(1).

Workforce and Utilization Analyses—The 8-factor availability analysis has evoked criticism from contractors and minority and women's organizations alike. Many of these groups state, for example, that a computation involving eight separate factors can be complex, time consuming and costly; that some of the eight factors necessitate the use of statistical data which often inaccurately estimate the availability of minorities and women; that several of the factors duplicate each other; that some of the factors do not in fact measure availability; that the methodology for women varies without justification from the methodology for minorities; and that the regulations fail to provide adequate instructions as to how to carry out the required analysis. The agency frequently becomes involved in unproductive confrontations with contractors because of the complexity and subjectivity of the eight factor methodology. Such confrontations have not produced the desired results of the program.

In the last several years, OFCCP has studied ways of altering the utilization analysis to address the problems that have come to the attention of OFCCP. For example, in 1976 and 1978 OFCCP commissioned separate studies which made several recommendations as to the ways in which the determination of availability could be simplified and improved. As an additional part of this process, OFCCP sought public input in its ANPR.

The ANPR requested comment on several issues concerning the availability analysis, including how the 8-factor analysis should be altered, whether OFCCP should require contractors to weight factors in determining availability, how 1980 Census data should be used, whether job groups should be standardized, and whether contractors should consider "potential" availability.

The 8-factor availability analysis elicited the largest number of comments of any issue in the ANPR. Most of the commentators expressed a belief that some of the factors should be retained as part of some new way of assessing availability. Contractors and their associations generally favored some combination of "external" availability determined from requisite skill data among the population in general and "internal" availability determined from promotable and/or transferable minorities and women already employed by the contractor. Constituency groups tended to favor a wider approach, keeping some of the factors designed to consider "potential" availability, as well as the requisite skill and promotable/transferable factors. Contractors were split on the question of whether "potential" availability of minorities and women should be considered.

In response to the question of whether OFCCP should require "weighting" of factors, 38 comments opposed specified weighting requirements and 22 favored them. Many commentators expressed the belief that, while the weighting of factors was necessary to reach a quantitative determination of availability, the relative measures applied to each factor should not be regidly and uniformly established by OFCCP. In their view, the contractor should instead be premitted to establish its own system for evaluating the factors used to assess availability, and to demonstrate the validity of its method; OFCCP's role, they suggested, should simply be to provide technical assistance.

Several changes are proposed to § 60–2.11(a) regarding the workforce analysis. Currently, the workforce analysis is a listing of job titles in pay order for each department or similar organizational unit, indicating the pay for each job title. For each job title in the workforce analysis, the contractor indicates the number of employees by sex and by four minority designations. OFCCP would amend this section by stating that it is the contractor's option to list jobs either from low to high pay or high to low pay within departments or similar organizational units. The proposed rule would also change the minority designations found in this section to conform OFCCP's regulations to the designations of minorities currently used by OFCCP and other government agencies.

Currently, § 60–2.11(a) requires that the contractor include rates of pay for each job title. OFCCP's policy has been to permit coding of pay rates provided that the key to the code is made available to OFCCP's compliance officers offsite. To address contractor concerns about the confidentiality of pay rates, the rule proposed today would continue to permit the contractor to code pay rates, but would clarify what types of information the contractor must make available to OFCCP for offsite analysis. The proposed rule would provide that the contractor need not release confidential data relating to specific salaries of individual executives for OFCCP's offsite analysis, but that OFCCP may remove information offsite pertaining to the ranges of such salaries and may transcribe information pertaining to specific individual salaries and remove such transcriptions. In addition, the rule would provide that the limitations applicable to OFCCP would not limit discovery permitted under Part 60–30.

Most of proposed § 60–2.11(c) is derived from the current version of § 60–2.11(b). The focal point of the existing section is an 8-factor analysis for determining availability. Upon consideration of the ANPR comments, OFCCP proposes to maintain a factored methodology but to modify the specific factors in several respects. In addition, the proposal would codify existing OFCCP policy that the utilization analysis is to be conducted separately for women, total minorities, and for individual minority groups exceeding 2 percent of the population of the immediate labor area.

The current regulations require "[a]n analysis of all major job groups * * *" (emphasis supplied); the proposal would delete the term "major" as a reflection of current OFCCP policy that all job groups at the establishment are to be analyzed for underutilization.

The introductory paragraph to § 60–2.11(c)(1) would state existing policy that analyses are to be conducted using the most current and discrete statistical information, and would provide examples of such data. Subparagraph (1) would then establish two possible methods for determining availability.

The first method of determining availability would be a four-factor analysis, replacing the eight factors currently listed in the regulations. The factors would be as follows:

a. The percentage of minorities and women in the civilian labor force in the immediate labor area;

b. The percentage of minorities and women with requisite skills in the immediate labor area;

c. The percentage of minorities and women with requisite skills in the relevant recruitment area;

d. The percentage of minorities and women among those promotable or transferable within the contractor's organization.

Most of the commentators responding to the ANPR expressed the opinion that it is proper for contractors to assess availability, and that some of the existing factors should be retained. The four factors above received support from a wide range of commentators, and OFCCP believes they represent the most meaningful indicia of internal and external availability. Further, OFCCP compliance officers would be able to perform audits more quickly and with greater attention to meaningful data.

As previously noted, commentators generally were opposed to a regulatory requirement prescribing specific weights for each factor. OFCCP believes there is merit to this position. Therefore, OFCCP is proposing that contractors will consider each factor, and will calculate availability by weighting all factors. Contractors could assign a zero weight to any factor inapplicable to the availability calculation.

The second method of determining availability would be an alternative available to contractors for their establishments located within Standard Metropolitan Statistical Areas (SMSAs). Rather than conduct the four-factor analysis, the contractor could, at its option, use a single availability estimate for all job groups at the establishment. The estimate would be the civilian labor force figure for minorities and women in the SMSA.

Some commentators, in addition to commenting on the current methodology for computing availability, suggested methods of their own. One oft-cited alternative was to collapse all external factors into one. OFCCP believes this option would be confusing to contractors because they would receive no guidance on what candidate pools OFCCP deems relevant to external availability. OFCCP accordingly is not proposing to adopt this approach.

Section 60–2.11(c)(2) would prohibit contractors from drawing their immediate labor area or relevent recruitment area, or assigning weights, in a way that would artificially exclude minorities and/or women.

A number of definitions critical to conducting the utilization analysis would be codified into the regulations, and included in the definitions section at §60–1.3. Those terms for which definitions are proposed are: "availability," "civilian labor force," "immediate labor area," "relevant recruitment area," "minorities and women with requisite skills," and "promotable or transferable:"

Back Pay—In the ANPR, OFCCP requested public comment upon the appropriateness of back pay as a remedy under Executive Order 11246, as amended. In addition to the invitation to comment generally upon the issue, five questions were posed. Relatively few commentators responded to all five questions. The general thrust of the comments concerned whether the President has authority to recover back pay relief under the Executive Order; whether the Executive Order in particular authorizes back pay; and whether, even assuming that OFCCP has authority to seek back pay, it should do so and, if so, what policies it should follow in determining who should be awarded back pay.

Contractors, for the most part, took the position that OFCCP should not seek to remedy discrimination through retrospective relief primarily because they believe that OFCCP lacks back pay authority. In their opinion, OFCCP's focus should be strictly prospective, that is, concerned only with contractor affirmative action. Women's and minority groups were of the opinion that OFCCP must continue to seek out and to remedy discrimination through the use of back pay if the purposes of the Executive Order are to be achieved. These constituency groups generally concentrated upon the desirability of OFCCP continuing to seek back pay from an administrative/policy viewpoint while only briefly discussing the legal basis for OFCCP's back pay authority.

There was considerable disagreement among both supporters and opponents regarding the circumstances in which back pay is appropriate and the standards that should apply to its collection. Commentators often expressed the belief that even when back pay is appropriate, assessment of back pay should follow standards established under Title VII of the Civil Rights Act of 1964, as amended (Title VII) or should be limited to the amount necessary to recover actual and proven wage loss.

Commentators who commented upon alternatives to back pay cited the sanctions enumerated in section 209(a) of Executive Order 11246, particularly the debarment of contractors who discriminate. While law firms generally found the debarment approach acceptable, contractors, contractor associations and constituency groups asserted that debarment has been rarely used in the past, is only a limited deterrent to discrimination, and does nothing to make whole the actual victims of the discrimination. Some commentators supported the idea of a penalty system or fines similar to those imposed by agencies such as the Occupational Safety and Health Administration.

The related question of whether contractor actions such as the establishment of training programs were suitable in lieu of back pay received 44 comments. Many of the commentators who stated that such actions would be appropriate nevertheless stated that they should not be used in lieu of appropriate monetary relief. In addition, 48 commentators expressed the opinion that there are forms of relief other than back pay available; however, few of them actually offered an alternative they deemed adequate.

The major alternatives considered by OFCCP were to refrain from seeking back pay or to continue to exercise its back pay authority within confines similar to those imposed by Title VII. OFCCP has historically maintained that it can seek back pay for victims of discrimination and has recovered back pay since at least 1967. Upon reexamination of the authority issue, the Department of Labor has also concluded that the Executive Order vests OFCCP with the legal authority to seek back pay for victims of discrimination. OFCCP has determined that it is appropriate to seek back pay under the circumstances herein discussed. Therefore, OFCCP is proposing to adopt the latter alternative.

Those favoring the elimination of OFCCP's back pay remedy, made several arguments, including: (1) it is duplicative and wasteful, since Title VII already provides both the remedy and an agency to enforce a comparable antidiscrimination law; (2) it leads to unnecessary confrontations with the contractor; (3) OFCCP investigators are not adequately trained to investigate for back pay; (4) the threat of debarment is sufficient incentive for contractors not to discriminate; and, (5) the due process protections afforded by the OFCCP administrative enforcement procedures are inadequate.

With respect to (1) above, OFCCP is of the opinion that duplication is not a serious problem since, for the most part, the EEOC and OFCCP investigate different types of complaints. Moreover, as a result of the most recent the Memorandum of Understanding (46 FR 7435, January 23, 1981) the agencies have

agreed to establish a closer coordination of operations.

With respect to (2) above, OFCCP notes that unnecessary confrontations are already being greatly reduced, if not eliminated, by new OFCCP operational procedures and policies. The fact that these proposed regulatory changes would establish uniform nationwide standards should further eliminate the bases for such confrontations by enabling for compliance officers to more easily make appropriate back pay determinations. In addition, the proposed rules would offer contractors the option of seeking an impartial arbitrator to determine the distribution of back pay awards.

With respect to (3) above, OFCCP has initiated vigorous training to increase its investigators' skills, especially with respect to discrimination and back pay issues.

With respect to (4) above, OFCCP is of the view that while debarment is an important contractual sanction, it is not a substitute for remedies to individual victims because it does nothing to make whole the persons injured by the discrimination.

Finally, with respect to (5) above, OFCCP is not persuaded that the due process protections provided under the OFCCP hearing regulations in Part 41 CFR 60–30 are inadequate. Apart from the fact that these regulations are in many respects similar to the Federal Rules of Civil Procedure, a contractor which is dissatisfied with the recommended decision of the Administrative Law Judge has several opportunities to have that decision reviewed. Specifically, it may be reviewed by the Secretary of Labor, and the contractor may also seek judicial review of the final agency decision.

For these reasons, OFCCP remains unconvinced that back pay should be eliminated as an Executive Order remedy for discrimination.

OFCCP is, however, proposing today to amend several sections of its regulations which are concerned with back pay. First, a new § 60–1.71(a) would establish the new standards under which OFCCP will seek back pay for victims of discrimination. Paragraph (a)(1) of this section would set out OFCCP's general intent to seek back pay for identifiable victims of discrimination. Paragraph (a)(2) would provide that the contractor's back pay liability would be limited to a two year period which would commence either from the date OFCCP notified a contractor that a complaint had been filed against it or the date on which OFCCP notified the contractor of an alleged violation. With regard to notification of contractors of the filing of a complaint, OFCCP shall implement appropriate management instructions to ensure that notification is made promptly after receipt of the complaint. (This two year limitation is also contained in the August 25, 1981, proposal.)

The standards under which OFCCP would seek back pay and under which the contractor would be required to provide back pay are set out in paragraph (a)(3), and would provide that only identifiable victims of discrimination who have suffered economic loss due to the contractor's discriminatory actions will be entitled to back pay. The contractor's monetary liability would be limited by the number of jobs, job opportunities, wage opportunities and/or career opportunities, as applicable, which would have been available but for the discriminatory policies and/or actions of the contractor. In addition, interim earnings or amounts earnable with reasonable diligence by the person or persons discriminated against would operate to reduce the back pay allowable. This latter standard is the same as that currently found in Section 706 of Title VII. OFCCP requests that commentors direct their attention, in addition to matters set forth above, to the question of whether unemployment compensation received by discriminatees should be treated as interim earnings and therefore subject to set-off against a back pay award.

OFCCP expects that, in most cases, the contractor and OFCCP will be able to mutually agree on the extent of monetary relief and the identity of the persons who would be entitled to monetary relief under the regulation. In particular, OFCCP assumes that this will be so in cases of individual discrimination. However, OFCCP is aware that in a number of instances, particularly those involving a class of alleged discriminatees, problems have developed between contractor representatives and agency personnel, especially with regard to the identification of actual victims. This is not, however, a problem unique to the Executive Order program. A review of Title VII cases reveals that such determinations are extremely complex and often absorb a considerable amount of resources. Thus, OFCCP has been exploring a variety of ways to achieve a less costly, less confrontational, and more expeditious resolution of these matters.

One of these, the use of mutually agreed upon arbitration with a disinterested third party as arbitrator, appears to be a reasonable approach for certain situations. Therefore, this proposal would also permit in § 60–1.71(b) the voluntary arbitration of the issues of the extent of the monetary relief and the number and identity of persons entitled to back pay relief. For arbitration to take place, it would be necessary for the Director and contractor to agree in writing to arbitrate specified issues. If the Director and contractor are unable to agree to arbitration, the matter could proceed to an administrative law judge in accordance with existing procedures. OFCCP believes that this process would eliminate or significantly reduce confrontations between contractors and compliance officers and, at the same time, address contractor assertions that monetary settlement awards are made in a less than accurate fashion.

OFCCP contemplates that the arbitration process could be used at any time during the enforcement process. Thus, arbitration could be agreed to in a conciliation or settlement agreement (either before or after an administrative hearing). And, as discussed below, it could be agreed to in a consent decree in conjunction with the conditional reinstatement of a debarred contractor.

Section § 60.1.71(b)(2) provides the procedure for selecting an arbitrator. If the contractor and OFCCP cannot agree on an individual to conduct the arbitration, they would be required to select an arbitrator from a panel of arbitrators submitted to them by the Federal Mediation and Conciliation Service. The arbitrator so selected would be empowered to review and receive documentary evidence and to receive oral testimony on: (i) the specific identity of the discriminatees, (ii) the economic losses suffered by such discriminatees, and (iii) the extent of mitigation with respect to each victim.

The parties to the arbitration would be the Director and the contractor. In instances where arbitration followed an enforcement proceeding under Part 60–30, any person or organization previously granted party status by the Administrative Law Judge pursuant to 41 CFR 60–30.24 could also participate in arbitration as a party.

In evaluating the evidence, the arbitrator would be governed by the standards in proposed § 60–1.71(a). After evaluating the evidence, the arbitrator would issue findings and determinations on the appropriateness of each specific entitlement claim. The findings and determinations would be forwarded to the Director, OFCCP, who would then issue a final administrative order. The Director would be required to adopt the arbitrator's findings and determinations

unless they were found to be arbitrary, capricious, or beyond the authority granted to the arbitrator.

Section 60–1.70 as proposed on August 25, 1981, set out detailed standards for reinstatement of debarred contractors. Paragraph (b)(1) of today's proposal would provide that reinstatement of debarred contractors may be conditioned upon the contractor entering into a consent decree pursuant to which it satisfies the Director, OFCCP, that it will establish and implement policies and actions sufficient to be in compliance with the provisions of the applicable program under which the contractor was debarred.

The proposal would also add a new section (b)(2) to incorporate the arbitration procedures contained in today's proposed § 60–1.71(b). Specifically, paragraph (b)(2) would permit a contractor to be conditionally reinstated as an eligible bidder upon entering into a consent decree if there are unresolved matters which have been remanded to an Administrative Law Judge for hearing or, where appropriate, referred to an arbitrator upon agreement by the contractor and OFCCP. When the matter involves back pay both the Administrative Law Judge and the arbitrator would be bound by the standards contained in proposed § 60–1.71(a).

As specified in paragraph (b)(3), where the contractor has entered into a consent decree as a condition of reinstatement, a breach of the consent decree could result in the original debarment being reinstated after a hearing before an Administrative Law Judge. Another change proposed for this section is the revision of paragraph (d) to provide that the decision on reinstatement would be made by the Director, rather than by the Director or the Secretary. This change is proposed to provide consistency within the reinstatement process.

In the interest of maximizing the effectiveness of the arbitration proposal, OFCCP requests comments on alternative approaches to resolution of this problem generally as well as on the following specific questions:

1. Would contractors be willing to participate voluntarily in arbitration of back pay disputes? If not, why not? If only under certain circumstances, under what circumstances and why?

2. Should arbitration be available at any time in the compliance/enforcement process or should it be only available prior to the initiation of an enforcement action, i.e. the filing of an administrative complaint?

3. Who should pay the arbitration costs? Should the costs be borne by the contractor above and beyond the amount set aside for the back pay awards? Should the back pay awards be reduced by an amount sufficient to pay the arbitration costs? Should the costs be shared by the contractor and the individual claimants on a formula basis?

4. Should there be review of the arbitrator's findings and determinations, or should they be final? If review is appropriate, should it be conducted by the Director, the Secretary, or an administrative law judge?

5. Should review of the arbitrator's findings and determinations be limited to the arbitrary and capricious standard set forth in the proposed rule? If not, what standard would be more appropriate and why?

6. Should the regulation set forth procedures for filing objections to the arbitrator's findings and determinations prior to a final administrative order?

7. Should the regulation require that the arbitrator issue his/her findings and determinations within an established period of time after the close of the arbitration hearing? If so, how much time would be appropriate?

8. Is the arbitration procedure as proposed workable in resolving problems of back pay? Will it result in cost and/or time savings for the contractor? If not, why not? Is there any way the proposed procedure can be improved?

9. Should these arbitration procedures apply to matters under 38 U.S.C. 2012 and section 503 as well as under Executive Order 11246?

10. Should these or similar arbitration procedures apply to matters other than back pay, e.g. resolution of disputes concerning reasonable commuting distance? If so, what types of disputes would be appropriate for resolution through arbitration?

Section 60–30.27 would be amended to provide that the Administrative Law Judge's recommended decision for debarment may be based solely upon a finding that the contractor violated the Executive Order, with or without a finding on whether back pay is required. However, if the Administrative Law Judge's findings do include individual back pay awards, such awards must be in accordance with the standards set out in § 60–1.71(a). Section 60–30.30 would be amended to provide that, where the identity of and/or the amounts of back pay due discriminatees have not been determined, the Secretary's final order must provide for further proceedings if the former contractor seeks reinstatement and complies with the provisions of § 60–1.70.

Coverage of Nonfederal Construction Contracts—The existing rule, which took effect on May 8, 1978 (43 FR 14888, April 7, 1978), and was amended effective November 3, 1980 (45 FR 65976, October 3, 1980), requires a nonexempt construction contractor to comply with 41 CFR Part 60–4 with regard to its total construction workforce even though some of the contractor's employees perform work on nonfederally involved construction contracts or subcontracts, and even though such nonfederally involved work may occur in geographic areas where the contractor does not currently have work on federally involved construction projects.

The ANPR posed several questions concerning this requirement. Of the 69 comments regarding whether the Executive Order should apply to nonfederal work, 15 came from contractors, all of whom were opposed to such application. Thirteen of 15 contractor associations also opposed application of the Executive Order. In contrast, 3 minority and 10 women's organizations supported coverage of nonfederal work, while none were opposed. Opponents of full coverage cited paperwork and compliance costs; expressed the belief that the contractual basis of Executive Order 11246 limits coverage to Federal contract work; and stated that no protection other than Title VII is necessary on nonfederally involved contracts. Commentators favoring coverage stated that the program should be consistently applied (as between supply and service contractors and construction contractors); that all of a company which contracts with the government receives the benefit of public money, and that public money should not be used to condone discrimination; and that full workforce coverage was necessary to prevent the employment of women and minorities solely on federally involved construction projects.

Thirty-seven commentators expressed opinions on whether OFCCP should make a distinction between Federal and nonfederal work in the same geographic area, with 4 commentators favoring distinctions and 33 opposing. Commentators favoring distinctions generally expressed the belief that nonfederal projects should not be covered, whether within the same geographic area as the Federal work or in different areas.

OFCCP, after reviewing the comments on this issue, has determined that coverage of a contractor's nonfederal work in geographic areas where the contractor does not currently have work on federally involved projects would place an unnecessary burden on contractors by increasing paperwork

requirements and the costs attendant thereto. Coverage under the Executive Order of nonfederal contracts in areas absent a federally involved construction contract would require additional reporting requirements, and possibly certifications, to adequately track and monitor work performed under such contracts. Therefore, OFCCP is now proposing that the Executive Order apply only to a construction contractor's total workforce (federally involved and nonfederally involved) *in the geographic area where the contractor is performing federally involved work.* The proposal would exempt, by adding a new subsection to § 60–1.5, a construction contractor's nonfederally involved construction contracts in geographic areas where the contractor does not currently have work on federally involved projects. Nonfederally involved work in the covered geographic area, whether that work was begun before or after the beginning of the federally involved construction contract, would be covered by the Executive Order during the period of time in which the contractor has a federally involved construction contract or subcontract for construction work in the same geographic area.

Accordingly, OFCCP proposes to amend 41 CFR 60–4.1, 60–4.2(d)(2), 60–4.3(a) and 60–4.6 to reflect that only that nonfederal construction work located in a geographic area in which the contractor is performing federally involved construction work is subject to Executive Order regulatory requirements. In addition, OFCCP has proposed two new definitions for 41 CFR 60–1.3; "covered geographic area" (which would refer to the area in which construction work would be subject to Executive Order requirements) and "federally involved construction contract" (which would be a shorthand form of reference for Federal and federally assisted construction contracts and subcontracts). Commentators are reminded that this proposal follows the section numbering scheme and wording found in the August 25, 1981, proposal. As a result, the threshold for affirmative action requirements and certain reporting requirements for construction contractors appear as they did in the August 25, 1981, proposal rather than as in the existing regulations.

Goals for Minorities and Women in Construction—In the ANPR, OFCCP requested comment on a number of questions concerning the establishment of goals for minorities and women in construction work. This proved to be the area in which commentators were least responsive. On the question of sources of a data base for determining the availability of women and minorities for construction work, most commentators (33 of 39) stated that there is a better data source than the Census. Most of the suggestions, however, pointed toward refinements of Census data rather than replacement of this data base. Suggestions included adjusting the Census for an undercount of minorities, using EEO–4 data in conjunction with information about the number of graduates from training programs and unemployment data, and using unspecified sources of information relating to applicant skills and interests in construction work.

In response to the question of whether OFCCP should calculate goals for women based on information other than their participation rates in particular labor pools, 29 commentators responded, 21 favoring other information and 8 opposed. Those favoring other sources recommended using the civilian labor force participation rate, apprenticeship and training data, and more specific information pertaining to the availability of women for work in specific trades.

One question concerned the evidence that applicants and employees are not willing to travel to project sites (particularly from city residences to rural areas). Of the 22 commentators addressing this question, few presented anything more specific than existing commuting patterns, absentee rates, or their own experiences. A number of commentators felt that no general evidence exists supporting the proposition, or that economic circumstances (such as the area's level of unemployment) are factors in people's willingness to travel to worksites.

Questions concerning whether a single goal for particular areas is too high received a variety of responses, some relating to goals for a given locality and some relating to single goals for different trades. Some contractors believed that goals in their area bore little resemblance to demographic characteristics of the area. Others, addressing the question of single goals for all trades, stated that there is a significant difference among trades, and that a single goal for minorities or women is inappropriate. Constituency groups tended to express the opinion that the goals now established are baseline goals which can be and have been exceeded when affirmative action has been mandated.

Another question asked was whether the minority experienced civilian labor force is an adequate data base for determining the availability of minorities for construction work. Of the 21 commentators on this issue, 15 stated that this measure is insufficient. The two women's groups and the single minority group commenting on this issue opposed the labor force measure, asserting that wider or more refined bases, such as total population statistics, education level adjustments to labor force statistics, and employment levels in laborer and helper positions should be used. Contractors suggested that refinements such as the number of minorities currently in construction work should be used.

A related question was whether Census data should be refined to take into account vocational and/or experience levels of construction workers and the impact of these refinements on minority availability. The 17 commentators on this issue were divided almost evenly. Those agreeing with such refinements stated that information for determining availability should be as accurate as possible, and that information pertaining to educational levels and training would focus availability determinations on qualified applicants. Those opposed tended to believe that such measures would reflect historical discrimination, and would allow discrimination to persist, and would result in the use of quickly outdated data.

Upon considering the varying opinions expressed in the comments, OFCCP has elected to defer any change in minority goals until publication of 1980 Census data. At that time, any double counting will be eliminated, and other changes may also be proposed.

With respect to the goal for women, OFCCP today proposes that the goal remain at the 6.9% level, but that a revision to 41 CFR 60–4.2(d)(2) be made regarding the application of the goal. Under the existing rule, the goal applies separately to each trade. Under today's proposal, the goal would apply to all onsite construction work in the aggregate rather that on a trade-by-trade basis. In addition, the proposed rule contains a proviso that a contractor would be presumed to have made a good faith effort to achieve the goal if at least 6.9% of the total hours worked in "entry level" onsite positions (e.g., helpers, trainees and apprentices) were worked by women. This approach would recognize the continuing absence of significant numbers of women from the skilled construction trades and would therefore encourage contractor efforts to provide an entree for women into the construction field.

In addition to the amendment being proposed today, OFCCP considered a

number of alternative formulations for goals for women. For example, the 6.9% goal for women could be applied, as in the proposed rule, to all onsite construction work in the aggregate, but without the proposal's presumption of good faith effort based upon the participation of women in entry level positions. Alternatively, the 6.9% goal could, as in the current regulation, be applied on a trade-by-trade basis, but the contractor's achievement of at least 80% of the goal for each particular trade could raise a presumption of good faith effort.

OFCCP specifically invites public comment on the two options discussed above as well as on the proposed rule. In addition, any other proposed formulations for the application of goals for women in construction are welcomed.

Construction Issues Not Contained in the ANPR—OFCCP proposes to amend § 60–4.3(a) (at paragraph 14 of the Standard Federal Equal Employment Opportunity Construction Contract Specifications (Executive Order 11246)) to mention specifically the requirement that federally involved construction contractors submit the Form CC–257 (Quarterly Employment Utilization Report). OFCCP has required submission of the form on a monthly basis for some time. The rule proposed today would merely codify existing requirements that the form be submitted, but would amend the reporting period from monthly to quarterly.

OFCCP applauds contractors' voluntary participation in Hometown Plans as a means for increasing the utilization of minorities and women in the construction industry. To encourage further contractor participation in voluntary Hometown Plans, today's proposal would amend § 60–4.3 (at paragraph 3 of the Specifications) and § 60–4.5 to provide that each contractor or subcontractor participating in an approved Hometown Plan would be individually required to make a good faith effort to meet its fair share of the goals for utilization of minorities and women under the Plan. The current standard requires each participating contractor to make a good faith effort to achieve each goal under the Plan.

Finally, the proposal contains a clarification of certain requirements contained in § 60–4.8 to emphasize that makeup goals and timetables, and back pay and seniority relief for identifiable victims, must be included in conciliation agreements only where appropriate to remedy discrimination.

III. Preliminary Regulatory Impact Analysis

Initial Regulatory Flexibility Act Analysis—The regulations proposed today do not appear to require a regulatory impact analysis under Executive Order 12291 because they would, if adopted, result in substantial cost savings for contractors without significantly affecting employee protections under Executive Order 11246, 38 U.S.C. 2012 and section 503. The proposed revisions would, in fact, substantially improve the overall administration of the Federal contract compliance programs. Nevertheless, because of the interest of the public and of the government procuring agencies in the OFCCP programs, the Department has concluded that the regulation should be treated as a "major" rule under Executive Order 12291.

Accordingly, the Department has prepared a Preliminary Regulatory Impact Analysis (PRIA) to identify and quantify, where possible, the cost impact of the proposed changes and various alternatives that were explored, and to inform the public of the economic considerations supporting these proposed revisions in acordance with Executive Order 12291. The Department has combined its Preliminary Regulatory Impact Analysis with the required Initial Regulatory Flexibility Act Analysis (see 5 U.S.C. 603). Following is a summary of the Regulatory Impact/Regulatory Flexibility Analysis.

1. *Back pay*—After careful review of the ANPR comments, the Department, as an initial matter, reaffirmed its position that the Executive Order does indeed authorize the Secretary to seek back pay as a remedy for unlawful discrimination.

The Department next considered a number of options for determining the proper scope of back pay relief, including placing heavy reliance on the debarment process in lieu of back pay as an incentive to end discrimination, seeking civil penalties or fines in place of back pay for violations of the Executive Order, and refraining entirely from investigating affected class problems and referring all discrimination matters to EEOC.

Another series of options revolved around specific criteria for applying back pay as a remedy, including whether to use back pay selectively in affected class claims and to focus on other remedies or sanctions authorized by the Executive Order.

Having determined that back pay was an appropriate remedy in all discrimination cases, the Department then examined the question of what standards should govern the use of that remedy. The two primary options considered were to continue the present OFCCP back pay policy, and to establish back pay standards consistent with those under Title VII.

Under today's proposal, OFCCP back pay standards would parallel those established under Title VII. The Department would limit the situations in which it would seek back pay to those that would constitute discrimination under accepted Title VII standards. The analysis, which is based upon a sampling of OFCCP back pay settlements, estimates the impact of the proposed changes in award eligibility criteria, mitigation requirements, and the limitation period for awards. Adoption of the proposed Title VII back pay criteria would result in overall savings in back pay costs of 23 percent, or over $1.18 million in FY 1981. Average costs per affected contractor would fall by over $3,500. The aggregate number of back pay beneficiaries affected by the proposal would be about 1,300 individuals in 1981. At the same time, however, average benefit levels would rise in systemic discrimination cases. In particular, where the group of potential discriminatees is larger than available job opportunities, average benefits would increase over 22 percent from $1,262 to $1,535 per beneficiary.

2. *Coverage of Non-federally Involved Construction Contracts*—The primary options considered were elimination of all coverage of non-federally involved work, coverage of all non-federally involved work (the existing rule), and coverage of non-federally involved work only in a geographic area where the contractor is performing federally involved construction work.

The Department has proposed that while some coverage of non-federal work is necessary to maintain compliance in the construction industry, coverage should be limited to a Federal contractor's work force in a given geographic area. Of the 85,715 contractors performing both federally involved and non-federally involved construction work, an estimated 11,743 (approximately 15 percent of the total) perform work in more than one geographic area and would be affected by the rule. These contractors would experience substantial cost savings at their non-federally involved construction sites. The number of smaller contractors which would be affected by the proposed change is unknown, but the Department believes that today's proposal would carry substantial benefits in terms of reduced paperwork for smaller contractors.

3. *Goals for Minorities and Women in the Construction Industry*—In light of the ANPR comments, the Department has concluded that any change in minority goals should await the 1980 Census results. The Department has also determined that there presently is no better data source for determining the availability of women, either nationally or regionally. The available data suggest that there is no significant difference among the construction trades in the employment of females, and that an overall 6.9 percent goal would be a meaningful affirmative action target for the construction industry, in light of the industry's performance to date.

The proposed rule would therefore retain the 6.9 percent nationwide female goal, but apply it to a contractor's entire work force, rather than to each craft separately. The proposed rule also provides that a contractor's achievement of 6.9 percent female employment in its entry level positions (such as helpers and apprentices) would be *prima facie* evidence of good faith efforts. While in theory these changes could result in some reduction in the numbers of females employed in highly skilled jobs, the reality is that current participation rates are extremely low even in the face of relatively high goals. Moreover, the proposed rule would assure that more women are hired into the entry level positions expected to be available in the immediate future where they can receive the training necessary to become skilled journeymen. Thus, the long-run effect would be to increase the supply of skilled female workers in the construction trades. Also, the proposed rule would not impose any new costs or paperwork requirements on contractors; in fact, costs will decline as contractors would only be required to monitor female participation against the entire work force, instead of individual participation rates by craft.

4. *Availability Analysis*—In addition to the rule proposed today, the Department considered two alternatives for refining the existing methodology:

One alternative would have been to consider only two factors to measure external and internal availability. Another alternative involved the use of applicant flow data in combination with Census availability factors.

The proposed rule would simplify the existing analysis by reducing the number of factors use to calculate availability from eight to four, and would permit certain contractors to use an even simpler one-factor analysis. The proposed changes would significantly reduce the complexity, time requirements and cost of preparing the availability analysis, while lowering the confrontation that frequently ensues between OFCCP and contractors over the resulting availability levels. Resultant cost savings are estimated to range from $8.5 million to more than $9.6 million.

5. *Job Groups*—Among the alternatives considered were establishing a standardized definition of job groups based solely on the nine EEO–1 job categories (either alone or subdivided by salary bands), and establishing a minimum size for job groups.

Two alternative rules are proposed. Alternative A would maintain the present job group definition (i.e., similar content, wage rates and promotion opportunities). Alternative B would provide for "vertical" job groups. Whichever alternative is ultimately adopted, the regulation would be modified to clarify that job group design criteria are to be applied flexibly and to encourage contractors to establish job groups of at least 50 employees. Alternative A, when combined with the 50 employee recommeded size, would give contractors more flexibility without increasing costs or diminishing affirmative action efforts. For the "vertical" job group alternative, short-term costs could increase to the extent that contractors revise their job group analysis. However, long-run costs could drop where this approach (when combined with the other provisions) has the effect of decreasing the number of job groups.

Copies of the complete analysis may be obtained from the Director, Office of Federal Contract Compliance Programs, U.S. Department of Labor, Washington, D.C. 20210. The Department requests comments and additional information on all economic assumptions used in the analysis as well as any alternative suggestions designed to achieve the objectives of Executive Order 11246 at lower costs.

IV. Preparation of this Document

This document was prepared under the direction and control of Robert B. Collyer, Deputy Under Secretary of Labor for Employment Standards, and Ellen M. Shong, Director, Office of Federal Contract Compliance Programs.

V. List of Subjects

41 CFR Part 60–1 Government contracts, Government procurement, Employment, Equal employment opportunity, Civil rights, Investigations, Administrative practice and procedure.

41 CFR Part 60–2 Government contracts, Government procurement, Employment, Equal employment opportunity, Civil rights, Investigations, Administrative practice and procedure.

41 CFR Part 60–4 Government contracts, Government procurement, Employment, Equal employment opportunity, Civil rights, Construction industry, Investigations, Administrative practice and procedure.

41 CFR Part 60–30 Government contracts, Government procurement, Employment, Equal employment opportunity, Civil rights, Administrative practice and procedure.

VI. Proposed Rule

Accordingly, it is proposed to amend the proposed rule on 41 CFR Parts 60–1, 60–2, 60–4 (46 FR 42968, Aug. 25, 1981), as set forth below.

Signed at Washington, D.C. this 20th day of April 1982.

Robert B. Collyer,

Deputy Under Secretary of Labor for Employment Standards

Ellen M. Shong,

Director, OFCCP

PART 60–1—OBLIGATIONS OF CONTRACTORS AND SUBCONTRACTORS

Authority: Sec. 201, EO 11246 (30 FR 12319), as amended by EO 11375 (32 FR 14303) and EO 12086 (43 FR 46501); 38 U.S.C. 2012; and 29 U.S.C. 793.

1. 41 CFR 60–1.3 is amended by adding the following definitions:

§ 60–1.3 Definitions.

* * * * *

"Availability" means the percentage of minorities and women among those persons who may reasonably be considered eligible currently, or may reasonably be considered eligible during the term of the affirmative action program, as determined in accordance with § 60–2.11(c).

* * * * *

"Civilian labor force" means persons classified in accordance with criteria established by the Bureau of the Census, U.S. Department of Commerce (this definition can be found in Appendix B of Census of Population publications).

* * * * *

"Covered geographic area" means the Standard Metropolitan Statistical Area (SMSA) or, for those areas located outside of the SMSAs, the Economic Area (EA) where the nonexempt construction contractor is performing work on a federally involved construction contract.

* * * * *

"Federally involved construction contract" means any nonexempt Federal construction contract or subcontract or

federally assisted construction contract or subcontract or any construction contract or subcontract that is necessary in whole or in part to the performance of a nonexempt Federal nonconstruction contract or subcontract.

* * * * *

"Immediate labor area" means that geographic area from which employees and applicants may reasonably commute to the contractor's establishment. The immediate labor area may include one or more contiguous cities, counties, or Standard Metropolitan Statistical Areas (SMSAs) or parts thereof, in which the establishment is located.

"Minorities and women with requisite skills" means minorities and women who have demonstrated they possess the skills for the job in question (e.g., through performance on another job), those who have completed training or educational programs designed to provide skills for the job in question, and those who could reasonably be expected to acquire those skills within a relatively short time after placement.

* * * * *

"Promotable or transferable" means, within the context of developing data for availability, those employees who are currently employed in a job group or groups which serve or could serve as a source from which selections are or could be made for another job group.

* * * * *

"Relevant recruitment area" means the geographic area from which the contractor may reasonably recruit its employees. It is at least the area from which the contractor recruits, and may include geographic areas not contiguous with the immediate labor area.

* * * * *

2. 41 CFR 60–1.5 is amended by adding a new § 60–1.5(a)(7) to read as follows:

§ 60–1.5 Exemptions.

(a) * * *

(7) *Construction Contracts Outside of Covered Geographic Areas.* The requirements of the Executive Order shall not be applicable to a construction contractor's nonfederally involved construction work performed in a Standard Metropolitan Statistical Area or Economic Area in which such contractor is not performing on a federally involved construction contract.

* * * * *

3. 41 CFR Part 60–1 is amended by adding a new 41 CFR 60–1.70 (b) and (d) to read as follows:

§ 60–1.70 Petition for reinstatement of debarred contractors.

* * * * *

(b)(1) Rescission of the debarment order and reinstatement of the contractor's eligibility for further contracts may be conditioned on the contractor entering into a consent decree pursuant to which it satisifies the Director that it has established and will implement personnel and employment policies in compliance with the provisions of the Order, 38 U.S.C 2012, or section 503. In carrying out his/her responsibilities under this section, the Director may require that compliance reviews be conducted of the contractor's establishments, and that the contractor supply copies of any information relevant to determining its compliance with the Order, 38 U.S.C. 2012, or section 503. Reinstatement also may be conditioned on a program of compliance which may include meeting requirements not specifically mentioned in the debarment order where meeting these requirements is necessary to achieve compliance with the Order, 38 U.S.C. 2012, or section 503.

(2) A debarred contractor may be conditionally reinstated as an eligible bidder if it satisfies the Director that it has brought itself into full compliance with all matters except for those which will be subject to a subsequent hearing or arbitration under this section. Where the contractor petitions for reinstatement, and the debarment was based on a determination that the debarred contractor has discriminated in violation of the Executive Order, and the extent of the monetary relief or the number or identity of persons entitled to relief has not been determined, the matter shall be remanded to the Administrative Law Judge or, if the Director and contractor so agree, referred to an arbitrator in accordance with § 60–1.71(b) of this part. When there are other issues determined by the Director to be appropriate for hearing, the Director may refer the matter to an Administrative Law Judge. On remand, the Administrative Law Judge shall proceed in accordance with the procedures in §§ 60–30.25 through 60–30.30 of this chapter, except that reasonable discovery shall be allowed with respect to those issues which will be determined on remand. Recovery of back pay in any proceedings shall be governed by § 60–1.71(a) of this part. Prior to the conditional reinstatement by the Director, the debarred contractor must enter into a consent decree which provides for all relief other than that which is the subject of any hearing on remand or referral.

(3) A breach of the consent decree may result in reinstatement of the original debarment after a hearing before an Administrative Law Judge.

* * * * *

(d) The Director's decision on the petition for reinstatement shall constitute a final administrative order.

* * * * *

4. 41 CFR Part 60–1 is amended by adding a new 41 CFR 60–1.71 to read as follows:

§ 60–1.71 Back pay.

(a)(1) OFCCP will seek back pay for identifiable victims of discrimination.

(2) OFCCP will not seek back pay for more than two years prior to the date on which OFCCP (or its predecessor compliance agency) notified the contractor of receipt of a complaint filed pursuant to § 60–1.61 (or its predecessor § 60–1.21), § 60–250.23 (or its predecessor § 60–250.26), or § 60–741.23 (or its predecessor § 60–741.26), or the date on which OFCCP notified the contractor that it was in violation of the Executive Order, 38 U.S.C. 2012, or section 503.

(3) The contractor will not be required to provide back pay and OFCCP will not seek back pay except under the following conditions: (i) Only identifiable victims who have suffered economic loss due to the contractor's discriminatory actions will be entitled to back pay; (ii) Monetary liability will be limited to the number of jobs, job opportunities, wage opportunities and/or career opportunities which would have been available to victims, but for the discrimination; (iii) Interim earnings or amounts earnable with reasonable diligence by the person or persons discriminated against shall operate to reduce the back pay allowable.

(b)(1) If a dispute arises between OFCCP and the contractor as to the extent of the monetary relief or the number or identity of persons entitled to relief, the Director and the contractor may agree in writing at any time to select an impartial arbitrator whose duties shall be to receive testimony and factual evidence on (i) the specific identity of the discriminatees, (ii) the economic losses suffered by such discriminatees, and (iii) the extent of mitigation with respect to each victim. The arbitrator shall then issue findings and determinations on the matter of individual back pay awards.

(2) If the Director and the contractor are unable to agree upon the identity of a specific individual to serve as an arbitrator, they shall request that the Federal Mediation and Conciliation Service submit, pursuant to 29 CFR 1404.12 a panel of arbitrators qualified in employment discrimination matters. The Director and the contractor shall

alternately strike a name from the submitted panel until one remains. Where the Director and the contractor find the panel unacceptable, or where the arbitrator selected is unable to serve, a new panel may be requested.

(3) The parties to the arbitration shall be the Director and the contractor. In instances where arbitration follows an enforcement proceeding under Part 60–30, any person or organization granted party status by the Administrative Law Judge pursuant to 41 CFR 60–30.24 may also participate in arbitration as a party. Parties may be represented by counsel.

(4) A transcription of the arbitration proceedings shall be prepared.

(5) The arbitrator's findings and determinations on individual back pay awards shall be served on the parties and, together with the transcript and any exhibits, shall be certified to the Director. The Director shall adopt the arbitrator's findings and determinations as a final administrative order unless he/she finds that they are arbitrary, capricious, or beyond the authority granted to the arbitrator: *Provided,* That if the Director takes no action within 30 days of receipt of the findings and determinations, they shall automatically become final. The final administrative order shall be served on all parties.

PART 60–2—AFFIRMATIVE ACTION PROGRAMS

Authority: Sec. 201, EO 11246 (30 FR 12319), as amended by EO 11375 (32 FR 14303) and EO 12086 (43 FR 46501).

5. 41 CFR 60–2.11 is retitled and revised to read as follows:

§ 60–2.11 Required workforce and utilization analyses.

Based upon the government's experience with compliance reviews under the Executive Order program and the contractor reporting system, minority groups are most likely to be underutilized in departments and jobs within departments that fall within the following Employer's Information Report (EEO–1) designations: officials and managers, professionals, technicians, sales workers, office and clerical and craftsmen (skilled). As categorized by the EEO–1 designations, women are likely to be underutilized in departments and jobs within departments as follows: officials and managers, professionals, technicians, sales workers (except over-the-counter sales in certain retail establishments), craftsmen (skilled and semi-skilled). Therefore, the contractor shall direct special attention to such jobs in its analysis and goal setting for minorities and women. Affirmative action programs must contain an analysis of the establishment's workforce and an analysis of the establishment's utilization of minorities and women.

(a) *Workforce analysis.* The contractor shall list each job title as it appears in applicable collective bargaining agreements or payroll records, ranked according to pay within each department or other similar organizational unit. Ranking may be according to ascending or descending order of pay, but must include department or unit supervision. All job titles, including all managerial job titles, must be listed. If there are separate work units or lines of progression within a department, a separate list must be provided for each such work unit or line, including unit supervisors. For lines of progression, there must be indicated the order of jobs in the line through which an employee could move to the top of the line. Where there are no formal progression lines or usual promotional sequences, job titles shall be listed by department, job families, or disciplines, in order of wage rates or salary ranges (in either ascending or descending order). For each job title, the total number of incumbents, the total number of male and female incumbents, and the total number of male and female incumbents in each of the following groups must be listed: Blacks not of Hispanic origin; Hispanics; Asians or Pacific Islanders; American Indians or Alaskan Natives. The wage rate or salary range for each job title must be given or a salary code indicated. The contractor may maintain onsite confidential (i.e., not in the public domain) information pertaining to specific salaries for individual executives. OFCCP shall not remove such data regarding individual executives for offsite analysis unless the contractor agrees: *Provided,* That (1) OFCCP may remove offsite information pertaining to ranges of such executive salaries or keys to codes relating to such ranges, (2) OFCCP may transcribe data pertaining to specific salaries and take the transcriptions offsite, and (3) the limitations described herein shall not serve to limit discovery permitted under 41 CFR Part 60–30.

Note.—Two provisions, "Alternative A" and "Alternative B" are being proposed for § 60–2.11(b)(1). This subsection would set forth the requirements for developing job groups. OFCCP has not taken a position as to which alternative will be adopted on final rulemaking. However, on final rulemaking only one rule will be promulgated. This rule may consist of one of the published proposed alternatives, any other suggested alternative, or any combination thereof. Accordingly, comments are invited on both proposals and, in addition, any other proposals are invited.

Alternative A

(b) *Establishing job groups.* (1) The contractor shall divide the workforce of the establishment into job groups, taking into consideration the following criteria: (i) the similarity of work content among jobs; (ii) the similarity of compensation rates among jobs; and (iii) the similarity of promotional opportunities among jobs.

Alternative B

(b) *Establishing job groups.* (1) A job group shall consist of all jobs having related content and wage structure and, for those jobs serving as the customary entry position into the group, similar prerequisites for hiring promotion or other initial assignment thereto. That is, job groups should include entry level jobs requiring similar training and experience plus jobs which are usually or frequently filled by transfer or promotion from those entry level jobs.

(2) Consideration of the criteria above should be based upon the specific circumstances present at each establishment. Contractors are encouraged to establish, to the extent feasible, job groups of at least 50 employees. The contractor shall be provided flexibility to ensure that job groups are appropriate. OFCCP compliance personnel shall defer to the contractor's formation of job group unless there is specific evidence that the groups have been formed in violation of § 60–2.11(b)(1).

(c) *Utilization analysis.* The contractor shall conduct an analysis of all job groups at the establishment to determine whether minorities or women are currently underutilized in any of the job groups. The contractor shall conduct such analysis separately for women, total minorities, and for individual minority groups exceeding 2 percent of the population of the immediate labor area. For each job group the contractor shall state whether or not there is underutilization. where underutilization is identified, the contractor shall proceed in accordance with this Part.

(1) *Determining availability.* To identify those job groups which are underutilized, the contractor must first determine the availability of minorities and women for each job group. Normally, analyses are conducted using the most current and discrete statistical information, such as census data, data from local job service offices, or data from colleges or other training institutions.

For each establishment, the contractor shall choose one of the following methods for determining availability:

(i) *Four-factor method.* In determining availability under this method, the contractor shall consider each of the following factors:

(A) The percentage of minorities and women in the civilian labor force in the immediate labor area;

(B) The percentage of minorities and women with requisite skills in the immediate labor area;

(C) The percentage of minorities and women with requisite skills in the relevant recruitment area;

(D) The percentage of minorities and women among those promotable or transferable within the contractor's organization.

The contractor shall conduct the analysis by assigning a weight to each factor, the total of all weights being 100 percent, or one. Factors which are inapplicable to the availability calculation may receive a zero weight. As part of its affirmative action program, the contractor shall provide a written rationale for the weight it assigns each factor.

(ii) *Civilian labor force method.* As an alternative to the four-factor analysis, for establishments located within a Standard Metropolitan Statistical Area (SMSA), the contractor may elect to use the civilian labor force data for the SMSA as availability for all job groups.

(2) The contractor may not draw its immediate labor area and its relevant recruitment area or assign weights to the four factors is such a way as to artificially exclude minorities or women.

PART 60–4—CONSTRUCTION CONTRACTORS—AFFIRMATIVE ACTION REQUIREMENTS

Authority: Sec. 201, EO 11246 (30 FR 12319), as amended by EO 11375 (32 FR 14303) and EO 12086 (43 FR 46501).

6. 41 CFR 60–4.1 is revised to read as follows:

§60–4.1 Scope and application.

This Part applies to all contractors and subcontractors which hold any Federal or federally assisted construction contract in excess of $10,000. The regulations in this Part are applicable to all of a construction contractor's or subcontractor's construction employees who are engaged in onsite construction, including those construction employees who work on a nonfederally involved construction site in the covered geographic area. This Part also establishes procedures which all Federal contracting officers and all applicants, as applicable, shall follow in soliciting for and awarding Federal or federally assisted construction contracts. Procedures also are established which administering agencies shall follow in making any grant, contract, loan, insurance, or guarantee involving federally assisted construction which is not exempt from the requirements of Executive Order 11246, as amended. In addition, this Part applies to construction work performed by contruction contractors and subcontractors for Federal nonconstruction contractors and subcontractors if the construction work is necessary in whole or in part to the performance of a nonconstruction contract or subcontract.

7. 41 CFR 60–4.2(d)(2) is amended by revising paragraphs 2 and 3 of the "Notice of Requirement for Affirmative Action to Ensure Equal Employment Opportunity (Executive Order 11246) (Part II)" to read as follows:

§ 60–4.2 Solicitations.

* * * * *

(d) * * *

(2) * * *

Notice of Requirement for Affirmative Action to Ensure Equal Employment Opportunity (Executive Order 11246) (Part II)

* * * * *

2.a. Goals. (i) Goals for Minorities. The goals, and (if applicable) timetables for minority participation, expressed as a percentage of the total number of hours worked (including paid classroom time) by the contractors' aggregate workforce in each trade on all construction work in the covered geographic areas, are as follows:

Goal _____

_____

Timetable (if applicable) _____

_____

Covered geographic area _____

_____

(ii) Goals for Women. The goals, and (if applicable) timetables for participation of women, expressed as a percentage of the total number of hours worked (including paid classroom time) by the contractors' aggregate onsite workforce on all construction work in the covered geographic area, are as follows:

Goal _____

_____

Timetable (if applicable) _____

_____

Covered geographic area _____

_____

Provided, That the contractor shall be presumed to have made a good faith effort to achieve the goal if at least ——% of the total hours worked in entry level onsite positions (e.g., helpers, trainees and apprentices) are worked by women.

b. These goals are applicable to all of the contractor's construction work (whether or not it is federally involved) performed in the covered geographic area if the contractor holds a federally involved construction contract or subcontract of $50,000 or more, and if during any six (6) consecutive months of the 12 calendar months preceding the award of the contract or subcontract, the contractor's or subcontractor's employment of trade workers (both on and off site, and including laborers) totalled 20,000 or more hours. Nonfederally involved construction work in the covered geographic area is covered during the period of time in which the contractor has a federally involved construction contract or subcontract or construction in the same covered geographic area. Nonfederally involved work is covered whether it was begun before or after the beginning of such federally involved construction contract.

c. The Contractor's compliance with the Executive Order and the regulations in 41 CFR Part 60–4 shall be based on its implementation of the Equal Opportunity Clause, specific affirmative action obligations required by the specifications set forth in 41 CFR 60–4.3(a), and its efforts to meet the goals.

d. The hours of minority employment and training must be substantially uniform throughout the length of the contract, and in each trade, and the contractor shall make a good faith effort to emply minorities evenly on each of its projects. The hours of employment and training of women must also be substantially uniform throughout the length of the contract and the contractor shall make a good faith effort to employ women evenly on each of its projects. The transfer of minority and female employees or trainees from contractor to contractor or from project to project for the purpose of meeting the contractor's goals shall be in violation of the contract, the Executive Order and the regulations in 41 CFR Part 60–4. Compliance with the goals will be measured against the total work hours performed.

3. As used in this Notice, and in the contract resulting from this solicitation, the "covered geographic area" is (insert description of the geographic areas where the contract is to be performed giving the state, county and city, if any).

8. 41 CFR 60–4.3(a) is amended by revising the introductory text, and by revising an introductory paragraph and paragraphs 3, 4, and 14 of "Standard Federal Equal Employment Opportunity Construction Contract Specifications (Executive Order 11246)"

§ 60–4.3 Equal opportunity clauses.

(a) The equal opportunity clause published at 41 CFR 60–1.4(a) of this part is required to be included in and is part of, all Federal contracts and subcontracts, including construction contracts and subcontracts in excess of $10,000. The equal opportunity clause published at 41 CFR 60–1.4(b) is required to be included in, and is a part of, all nonexempt federally assisted construction contracts and subcontracts in excess of $10,000. In addition to the clauses described above, all Federal contracting officers, all applicants and all nonconstruction contractors, as applicable, shall include the specifications set forth in this section in all federally involved construction

contracts of $50,000 or more to be performed in geographic areas designated by the Director pursuant to § 60–4.6 of this part.

Standard Federal Equal Employment Opportunity Construction Contract Specifications (Executive Order 11246)

These specifications are applicable to all construction contractors and subcontractors (i) having a federally involved construction contract or subcontract of $50,000 or more; and (ii) employing trade workers (both on and off site, and including laborers) for a total of 20,000 hours of work, in any six (6) consecutive month period during the 12 calendar months preceding the award of the contract or subcontract.

* * * * *

3. If the contractor is participating (pursuant to 41 CFR 60–4.5) in a Hometown Plan approved by the U.S. Department of Labor in the covered geographic area either individually or through an association, its affirmative action obligations on all work in the Plan area (including goals and timetables) shall be in accordance with that Plan for those trades which have unions participating in the Plan. Contractors must be able to demonstrate their participation in and compliance with the provisions of any such Hometown Plan. Each contractor or subcontractor participating in an approved Plan is individually required to comply with its obligations under the EEO clause, and to make a good faith effort to meet its fair share of the goals for utilization of minorities and women under the Plan. The overall good faith performance by other contractors or subcontractors toward a goal in an approved Plan does not excuse any covered contractor's or subcontractor's failure to take good faith efforts to achieve its fair share of the Plan's goals and timetables.

4. The contractor shall implement the specific affirmative action standards provided in paragraphs 7 a through i of these specifications. The goals set forth in the solicitation from which this contract resulted are expressed as percentages of the total hours of employment (including paid classroom time) of minorities and women the contractor shall reasonably be able to achieve on both federally involved and nonfederally involved projects in the covered geographic area. Goals are published periodically in the Federal Register in notice form, and such notices may be obtained from any Office of Federal Contract Compliance Programs' office or from Federal procurement contracting officers. The contractor is expected to make substantially uniform progress in meeting its goals.

* * * * *

14. The contractor shall designate a responsible official to monitor all employment related activity to ensure that the company EEO policy is being carried out, to submit reports, including the Form CC–257 (Quarterly Employment Utilization Report) or such form as may hereafter be promulgated in its place, relating to the provisions hereof as may be required by the government and to keep records. Records shall at least include for each employee the name, address, telephone numbers, construction trade, union affiliation if any, employee identification number when assigned, social security number, race, sex, status (e.g., mechanic, apprentice, trainee, helper, or laborer), dates of changes in status, hours worked per week in the indicated trade, rate of pay, and locations at which the work was performed. Records shall be maintained in any easily understandable and retrievable form; however, to the degree that existing records satsify this requirement, contractors shall not be required to maintain separate recoreds.

* * * * *

9. The introductory text of 41 CFR 60–4.5(a) is revised to read as follows:

§ 60–4.5 Hometown plans.

(a) A contractor particpating, either individually or through an association, in an approved Hometown Plan (including heavy highway affirmative action plan) shall comply with its affirmative action obligations under Executive Order 11246 by complying with its obligations under the Plan: *Provided,* That each contractor or subcontractor participating in an approved Plan is individually required to comply with the equal opportunity clause set forth in 41 CFR 60–1.4; to make a good faith effort to meet its fair share of the goals for utilization of minorities and women under the Plan; and that the overall good performance by other contractors and subcontractors toward a goal in an approved Plan does not excuse any covered contractor's or subcontractor's failure to take good faith efforts to achieve its fair share of the Plan's goals and timetables. If a contractor is not participating in an approved Hometown Plan, it shall comply with the specifications set forth in § 60–4.3 of this Part and with the goals and timetables for the appropriate area as listed in the notice required by 41 CFR 60–4.2 with regard to that trade. For the purposes of this Part 60–4, a contractor is not participating in a Hometown Plan for a particular trade if it:

* * * * *

10. 41 CFR 60–4.6 is revised to read as follows:

§ 60–4.6 Goals and timetables.

The Director, from to time, shall issue goals and timetables for minorities and women which shall be based on appropriate workforce, demographic or other relevant data and which shall cover construction contracts performed in specific geographic areas. The goals, which shall be applicable to a covered contractor's or subcontractor's entire workforce (federally and nonfederally involved) which is working in the area covered by the goals and timetables, shall be published as notices in the Federal Register, and shall be inserted by the contracting officers and applicants, as applicable, in the Notice required by 41 CFR 60–4.2. Nonfederally involved construction work in the covered geogaphic area is covered during the period of time in which the contractor has a federally involved construction contract or subcontract for construction in the same covered geographic area. Non-federally involved construction work is covered whether it was begun before or after the beginning of federally involved construction contract.

11. 41 CFR 60–4.8 is revised to read as follows:

§ 60–4.8 Show cause notice.

If an investigation or compliance review reveals that a construction contractor or subcontractor has violated the executive Order, any contract clause, specifications or the regulations in this chapter and if administrative enforcement is contemplated, the Director shall issue to the contractor or subcontractor a notice to show cause which shall contain the items specified in paragraph (i)–(iv) of 41 CFR 60–1.64(c)(1). If the contractor does not show good cause within 30 days, or in the alternative, fails to enter into an acceptable conciliation agreement which includes where appropriate to remedy discrimination, make up goals and timetables, and backpay and seniority relief for identifiable victims or any of the above, OFCCP shall follow the procedure in 41 CFR 60–1.68: *Provided,* That where a conciliation agreement has been violated, no show cause notice is required prior to the initiation of enforcement proceedings.

PART 60–30—RULES OF PRACTICE FOR ADMINISTRATIVE PROCEEDINGS TO ENFORCE EQUAL OPPORTUNITY UNDER EXECUTIVE ORDER 11246, 38 U.S.C. 2012, AND SECTION 503

Authority: Sec. 201, EO 11246 (30 FR 12319), as amended by EO 11375 (32 FR 14303) and EO 12086 (43 FR 46501); 38 U.S.C 2012; and 29 U.S.C 793.

12. 41 CFR 60–30.27 is revised to read as follows:

§ 60–30.27 Recommended decision.

Within a reasonable time after the filing of briefs, the Administrative Law Judge shall recommend findings, conclusions, and a decision. These recommendations shall be certified, together with the record to the Secretary of Labor for a final Administrative Order. The recommended findings, conclusions, and decisions shall be served on all parties and amici to the

proceeding. In appropriate circumstances, including the existence of a class of discriminatees, the decision may include a finding of violation, with or without a finding on whether back pay is required, and a recommendation of debarment: *Provided,* That if findings on individual entitlements to back pay and the amounts owing to individual class members are made, they shall be made in accordance with § 60–1.71(a) of this chapter.

13. 41 CFR 60–30.30 is revised to read as follows:

§ 60–30.30 Final administrative order.

(a) After expiration of the time for filing exceptions, and responses thereto, the Secretary or the Under Secretary, in the absence of the Secretary or if the Secretary disqualifies himself or herself for any reason, shall make a final Administrative Order which shall be served on all parties. If the Secretary concludes that the defendant has violated the Order, 38 U.S.C. 2012 or section 503, an Administrative Order shall be issued which shall enjoin the violations, and require the contractor to provide whatever remedies are appropriate, including back pay and affirmative action relief, and which shall impose whatever sanctions are appropriate, or any of the above. In any event, failure to comply with the Administrative Order shall result in the immediate termination and suspension of the defendant's contracts and/or debarment of the defendant from further contracts: *Provided,* That the portion of any order under Executive Order 11246 terminating, cancelling, or suspending contracts shall not become effective until the consultation requirements of section 209(a)(5) of the Order, as amended by Executive Order 12086, have been satisfied.

(b) where a debarment is based upon a contractor's employment discrimination against individuals or a class of discriminatees, and where the identity of such individuals and/or the amounts owing to them have not been determined, the Secretary's Order shall provide that, in the event the former contractor seeks reinstatement as an eligible bidder pursuant to § 60–1.70 of this chapter, such determination of indivduals or amounts owing will be made pursuant to § 60–1.71 of this chapter.

[FR Doc. 82–11267 Filed 4–22–82; 8:45 am]

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federal register

Friday
April 23, 1982

Part VII

Department of Education

Training Program for Special Programs Staff and Leadership Personnel

DEPARTMENT OF EDUCATION

34 CFR Part 642

Training Program for Special Programs Staff and Leadership Personnel

AGENCY: Education Department.

ACTION: Final regulations.

SUMMARY: The Secretary of Education is issuing final regulations for the Training Program for Special Programs Staff and Leadership Personnel. These final regulations reflect statutory changes contained in the Education Amendments of 1980. The regulations will govern the funding of grants to meet the training needs of Special Programs staff and leadership personnel employed in or preparing for employment in projects under the Special Programs for Students from Disadvantaged Backgrounds.

EFFECTIVE DATE: Unless Congress takes certain adjournments, these regulations will take effect 45 days after publication in the Federal Register. If you want to know the effective date of these regulations, call or write the Department of Education contact person. At a future date the Secretary will publish a notice in the Federal Register stating the effective date of these regulations.

FOR FURTHER INFORMATION CONTACT: Mary Kathleen Smith, (Room 3514, ROB–3), Department of Education, 400 Maryland Avenue, SW., Washington, D.C. 20202. Telephone: (202) 245–2511.

SUPPLEMENTARY INFORMATION: The Education Amendments of 1980 changed the Training Program from a contract program to a discretionary grant program. These regulations reflect this change, as well as other statutory changes made by the Amendments.

These regulations incorporate by reference Part 75 and Part 77 of the Education Department General Administrative Regulations (EDGAR); therefore, the regulations do not repeat certain types of information and requirements found in EDGAR.

However, the general selection criteria in EDGAR (34 CFR 75.202 through 75.206) have been repeated in these regulations for the convenience of the applicant (§ 642.31 (a) through (e)).

In order to meet the training needs of local areas, the Secretary has allowed for flexibility in these regulations. As explained in § 642.34, the Secretary may announce in the application notice published in the Federal Register funding priorities for that year. The Secretary establishes these priorities after consultation with representatives of regional and State associations of professionals having special knowledge of the training needs of the staff and leadership personnel of projects under the Special Programs.

To avoid any implication of overregulation, the Secretary has deleted from these final regulations the list of topics that appeared in § 642.11 of the notice of proposed rulemaking. As an aid to potential applicants, the following is a list of *examples* of Training Program topics the Secretary considers for funding unless the Secretary specifies in the annual application notice topics for funding priority:

(a) Project evaluation.
(b) Assessments of the needs of a project, its staff, and its participants.
(c) Curriculum design.
(d) Techniques of instruction.
(e) Academic counseling.
(f) Career counseling.
(g) Tutorial programs.
(h) Project management.
(i) Tests and measurements.
(j) Orientation to other programs and projects that can supplement or complement a project under the Special Programs.

Summary of Comments, Responses, and Changes

In the notice of proposed rulemaking published in the Federal Register on December 31, 1980 (45 FR 86922–86926), the Secretary invited comments on the proposed regulations for the Training Program.

The following includes a summary of the substantive public comments received and the Secretary's response to those comments, including any changes. The comments and responses are organized in the same order as the referenced sections are organized in these final regulations. Section numbers and section headings in parentheses are the numbers and headings that appeared in the notice of proposed rulemaking but that have been renumbered, retitled, or deleted in these final regulations.

The Secretary has made a number of other changes in these regulations in an effort to deregulate and to reduce burdens on applicants and grantees. Each of these changes is also described together with an explanation for the change. In addition, some technical and editorial revisions have been made in the language of the regulations.

Section 642.1 Training Program for Special Programs Staff and Leadership Personnel.

Comment. One commenter expressed concern that § 642.1 did not adequately reflect the language of the legislation.

Response. A change has been made. This section has been revised to more accurately reflect the authorizing legislation.

Section 642.2 Eligible applicants. (Eligible grantees.)

Comment. One commenter noted that "combinations of institutions of higher education" are listed as eligible applicants in § 642.2(a)(2) of the proposed regulations, but that the Education Amendments of 1980 did not list combinations as eligible for grants.

Response. A change has been made. Combinations of institutions of higher education and references to combinations have been deleted from these regulations.

Comment. One commenter expressed concern over the requirement of § 642.2(b) of the proposed regulations stating that unless an applicant was applying for a grant that was national or inter-regional, the applicant could apply for a grant only for a project to serve the region or State in which it was located. The commenter stated that this requirement had no basis in the authorizing legislation and was, therefore, overregulating.

Response. A change has been made. The former paragraph (b) of § 642.2 has been deleted from these final regulations.

Section 642.3 Eligible project participants.

Comment. Four commenters noted that § 642.3(b) of the proposed regulations precluded attendance at a training session in another region even if the session were relevant to the needs of the project. In addition, the commenters said this limitation has no basis in law.

Response. A change has been made. The former paragraph (b) of § 642.3 has been deleted from these final regulations. However, it should be noted that a Training Program project may pay the travel costs of the participants who attend the training session. Therefore, limitation of funds will affect the distance from which participants will be coming. The Training Program project can provide training to more participants by choosing to serve those who are closer to the training site.

Other changes. The Secretary has deleted paragraphs (a) (2), (a)(4), and (c) from these final regulations and has renumbered the remaining paragraphs. Internal review of the proposed regulations showed that the categories of individuals who were eligible to be trained were too broad and accordingly those individuals who had been listed as eligible in paragraphs (a)(2) and (a)(4) have been removed from the class of participants to be trained.

Paragraph (c)—which deals with funding priorities—has been removed from these regulations.

Section 642.5 Definitions that apply to the Training Program.

Changes. The Secretary has deleted two definitions from these final regulations, has revised one, and has added one to § 642.5(b).

The definition of "combination of institutions of higher education" is deleted because a combination is not an eligible applicant, and the term is no longer applicable to these regulations. (See comment and response to § 642.2.)

The definition of "region" is deleted so that there is more flexibility to provide training. Defining "region" to mean any one of the ten federally-recognized regions of the United States is too limiting.

The definition of "leadership personnel" is revised because many of the categories of individuals listed in the proposed definition are too broad. The term has been redefined to mean project directors, coordinators, and other individuals involved with the supervision and direction of projects under the Special Programs but not holding staff positions.

The definition of "Special Programs" is added to these final regulations. The definition was left out of the proposed regulations in error.

Section 642.10 Activities the Secretary assists under the Training Program. (Kinds and scope of projects assisted under the Training Program.)

Changes. Paragraph (b) of this section concerning scope of training has been deleted because the requirement appeared to be overregulating.

Paragraph (c) of this section has been moved to § 642.34(a) to be more logically grouped with other provisions related to how the Secretary makes grants under this program.

Section 642.11 (Training Program topics.)

Changes. The Secretary has deleted this section to avoid the appearance of prescribing training topics through regulations and to permit applicants greater flexibility in proposing topics for funding. Some of the topics appear elsewhere in this preamble as examples.

Section 642.12 (Consultation with regional and State professional associations.)

Comment. Four commenters recommended broadening the scope of the consultation with regional and State professional associations to include other planning elements in addition to the categories of personnel, kinds and scope of training, and training topics.

Response. A change has been made. Section 642.12 has been deleted. The Secretary has determined that the statutory provision regarding consultation (section 417F of the Act) is clearly stated and requires no elaboration. The reference to consultation now appears in § 642.34 of these regulations.

Section 642.13 (Training activities and services.)

Change. This section has been deleted from these final regulations.

Section 642.20 (How to apply for funds.)

Change. This section has been deleted from these final regulations because it duplicates § 642.5 regarding the applicability of EDGAR.

Section 642.30 How the Secretary evaluates an application for a new award.

Comment. Several commenters questioned the limitation of experience to the three previous years (§ 642.30(b)).

Response. No change has been made. The Secretary has determined that for efficient administration of the statutory requirement that an applicant's experience be considered, it is best to focus on the previous three years. Records are available at the project and records are readily available in the Department of Education. In addition, applicants that have had poor experience will not be penalized indefinitely.

Changes. Paragraph (b) has been revised. The sentence concerning the awarding of up to 30 additional points for experience has been deleted. Point assignments for past performance appeared in a separate notice of proposed rulemaking for § 642.32.

Section 642.31 Selection criteria the Secretary uses.

Comment. Three commenters questioned the practicability of § 642.31(g)(2)(iv) (the extent to which the training will complement and not duplicate the training efforts of the Department of Education) since the Department does not publish its plans for training in advance. The commenters suggested that having this as a criterion for funding may make the legislated goal—ensuring that the training opportunities are appropriate to meet the needs in the local areas being served by the Special Programs—less capable of attainment.

Response. A change has been made. The Secretary has deleted this paragraph from the final regulations.

Other changes. The Secretary has deleted paragraphs (f), *Project Design;* (g), *Benefit and impact;* (h), *Commitment;* and (j), *Staff and consultants* because those criteria duplicated the EDGAR criteria in paragraphs (a) through (e). The points have been distributed among the remaining criteria.

Section 642.32 Past performance. (Prior experience.)

Change. Section 642.32 has been deleted. The Secretary has republished a proposed rule for the treatment of past performance. A notice of proposed rulemaking was published in the **Federal Register** on December 14, 1981, 46 FR 61060–61062.

Sections 642.33 Geographic distribution.

Comment. One commenter questioned the authority for the geographic distribution criteria of the proposed regulations.

Response. A change has been made. The Secretary has revised the language to reflect the deletion of the strict definition of "region." However, the Secretary has retained the concept of geographic distribution for two reasons: (1) Funding projects at locations easily accessible to prospective participants greatly reduces travel costs to the project. This makes more funds available for services to participants. (2) Often a grantee that is located near participants is more aware of the needs of those participants.

Section 642.34 Priorities for funding.

Change. This section has been added to the final regulations to inform applicants of funding priorities.

Section 642.42 Performance standards.

Change. This section has been deleted from the final regulations.

Section 642.50 Recordkeeping.

Change. To decrease the burden on grantees and to avoid the appearance of prescribing specific recordkeeping items through regulations, the Secretary has deleted this section. Grantees need only to conform to the EDGAR requirements (See 34 CFR 75.730–75.734).

Assessment of Educational Impact

In the notice of proposed rulemaking, the Secretary requested comments on whether the proposed regulations would require transmission of information that

is already being gathered by or is available from any other agency or authority of the United States.

Based on the absence of any comments on this matter and the Department's own review, it has been determined that the regulations in this document do not require information that is already being gathered by or is available from any other agency or authority of the United States.

Invitation to Comment

To assist the Department in complying with the specific requirements of Executive Order 12291 and its overall requirements of reducing regulatory burden, public comment is invited on whether there may be further opportunities to reduce any regulatory burdens found in these regulations.

List of Subjects in 34 CFR Part 642

Education, Education of disadvantaged, Grant programs—education, Teachers.

Citation of Legal Authority

A citation of statutory or other legal authority is placed in parentheses on the line following each substantive provision of these regulations.

(Catalog of Federal Domestic Assistance No. 84.103, Training Program for Special Programs Staff and Leadership Personnel)

Dated: April 20, 1982.

T. H. Bell,

Secretary of Education.

The Secretary adds a new Part 642 to Title 34 of the Code of Federal Regulations to read as follows:

PART 642—TRAINING PROGRAM FOR SPECIAL PROGRAMS STAFF AND LEADERSHIP PERSONNEL

Subpart A—General

Sec.

642.1 Training Program for Special Programs Staff and Leadership Personnel.
642.2 Eligible applicants.
642.3 Eligible project participants.
642.4 Regulations that apply to the Training Program.
642.5 Definitions that apply to the Training Program.

Subpart B—What Kinds of Projects Does the Secretary Assist Under This Program?

642.10 Activities the Secretary Assists Under the Training Program.

Subpart C [Reserved]

Subpart D—How Does the Secretary Make a Grant?

642.30 How the Secretary evaluates an application for a new award.
642.31 Selection criteria the Secretary uses.
642.32 Past performance.
642.33 Geographic distribution.
642.34 Priorities for funding.

Subpart E—What Conditions Must Be Met by a Grantee?

642.40 Allowable costs.
642.41 Nonallowable costs.

Authority: Secs. 417A and 417F of Title IV of the Higher Education Act of 1965, as amended by sec. 405, Pub. L. 96-374, 94 Stat. 1407-1411, (20 U.S.C. 1070d, 1070d-1d) unless otherwise noted.

Subpart A—General

§ 642.1 Training Program for Special Programs Staff and Leadership Personnel.

The Training Program for Special Programs Staff and Leadership Personnel—referred to in these regulations as the Training Program—provides Federal financial assistance for the training of staff and leadership personnel employed in, or preparing for employment in, projects under the Special Programs for Students from Disadvantaged Backgrounds—referred to in these regulations as Special Programs.

(20 U.S.C. 1070d, 1070d-1d)

§ 642.2 Eligible applicants.

The following are eligible to apply for a grant to carry out a Training Program project:

(a) Institutions of higher education.

(b) Public and nonprofit private agencies and organizations.

(20 U.S.C. 1070d, 1070d-1d)

§ 642.3 Eligible participants.

The following are eligible for training under this program:

(a) Leadership personnel and full and part-time staff members of projects under the Special Programs.

(b) Individuals preparing for employment as staff or leadership personnel in projects under the Special Programs.

(20 U.S.C. 1070d, 1070d-1d)

§ 642.4 Regulations that apply to the Training Program.

The following regulations apply to the Training Program:

(a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR Part 75 (Direct Grant Programs) and in 34 CFR Part 77 (Definitions).

(b) The regulations in this Part 642.

(20 U.S.C. 1221e-3(a)(1))

§ 642.5 Definitions that apply to the Training Program.

(a) *Definitions in EDGAR.* The following terms used in this part are defined in 34 CFR Part 77:

Applicant
Application
Award
Budget
EDGAR
Equipment
Facilities
Fiscal year
Grant
Grantee
Nonprofit
Private
Project
Project period
Public
Secretary
State
Supplies

(b) *Definitions that apply to this part.* The following definitions apply to this part:

"Act" means the Higher Education Act of 1965, as amended.

(20 U.S.C. 1001 et seq.)

"Institution of higher education" means an educational institution as defined in Sections 1201(a) and 481 of the Higher Education Act of 1965, as amended.

(20 U.S.C. 1141(a); 1088)

"Leadership personnel" means project directors, coordinators, and other individuals involved with the supervision and direction of projects under the Special Programs.

(20 U.S.C. 1070d; 1070d-1d)

"Special Programs" means the Upward Bound, Talent Search, Special Services for Disadvantaged Students, and Educational Opportunity Centers Programs.

(20 U.S.C. 1070d et seq.)

Subpart B—What Kinds of Projects Does the Secretary Assist Under This Program?

§ 642.10 Activities the Secretary assists under the Training Program.

(a) The Secretary awards assistance to train the staff and leadership personnel of a Special Programs project to enable them to more effectively operate Special Programs projects.

(b) The grants may provide support for conferences, seminars, internships, and workshops.

(20 U.S.C. 1070d, 1070d-1d)

Subpart C [Reserved]

Subpart D—How Does the Secretary Make a Grant?

§ 642.30 How the Secretary evaluates an application for a new award.

(a) The Secretary evaluates an application on the basis of the criteria in § 642.31.

(1) The Secretary awards up to 100 points for these criteria.

(2) The maximum possible score for each complete criterion is indicated in the parentheses next to the heading of that criterion.

(b) In addition, for applicants that have conducted a Training Program project within the three fiscal years prior to the fiscal year for which the applicant is applying, the Secretary considers the experience of the applicant on the basis of § 642.32.

(20 U.S.C. 1070d, 1070d-1d)

§ 642.31 Selection criteria the Secretary uses.

The Secretary uses the criteria in paragraphs (a) through (f) of this section to evaluate applications:

(a) *Plan of operation.* (20 points)

(1) The Secretary reviews each application for information that shows the quality of the plan of operation for the project.

(2) The Secretary looks for information that shows—

(i) High quality in the design of the project;

(ii) An effective plan of managment that insures proper and efficient administration of the project;

(iii) A clear description of how the objectives of the project relate to the purpose of the program;

(iv) The way the applicant plans to use its resources and personnel to achieve each objective; and

(v) A clear description of how the applicant will provide equal access and treatment for eligible project participants who are members of groups that have been traditionally underrepresented, such as—

(A) Members of racial or ethnic minority groups;

(B) Women;

(C) Handicapped persons; and

(D) The elderly.

(b) *Quality of key personnel.* (20 points)

(1) The Secretary reviews each application for information that shows the qualifications of the key personnel the applicant plans to use on the project.

(2) The Secretary looks for information that shows—

(i) The qualifications of the project director;

(ii) The qualifications of each of the other key personnel to be used in the project;

(iii) The time that each person referred to in paragraphs (b)(2)(i) and (ii) of this section plans to commit to the project; and

(iv) The extent to which the applicant, as part of its nondiscriminatory employment practices, encourages applications for employment from persons who are members of groups that have been traditionally underrepresented, such as—

(A) Members of racial or ethnic minority groups;

(B) Women;

(C) Handicapped persons; and

(D) The elderly.

(3) To determine the qualifications of a person, the Secretary considers evidence of past experience and training, in fields related to the objectives of the project, as well as other information that the applicant provides.

(c) *Budget and cost effectiveness.* (10 points)

(1) The Secretary reviews each application for information that shows that the project has an adequate budget and is cost effective.

(2) The Secretary looks for information that shows—

(i) The budget for the project is adequate to support the project activities; and

(ii) Costs are reasonable in relation to the objectives of the project.

(d) *Evaluation plan.* (10 points)

(1) The Secretary reviews each application for information that shows the quality of the evaluation plan for the project.

(2) The Secretary looks for information that shows methods of evaluation that are appropriate for the project and, to the extent possible, are objective and produce data that are quantifiable.

(e) *Adequacy of resources.* (15 points)

(1) The Secretary reviews each application for information that shows that the applicant plans to devote adequate resources to the project.

(2) The Secretary looks for information that shows—

(i) The facilities that the applicant plans to use are adequate; and

(ii) The equipment and supplies that the applicant plans to use are adequate.

(f) *Need.* (25 points)

(1) The Secretary reviews each application for information that shows a need for a Training Program project.

(2) The Secretary looks for information that shows—

(i) The extent to which the proposed training addresses a specific need not addressed by other training projects available to Special Programs personnel;

(ii) The extent to which the proposed training addresses a significant training need in the region(s) to be served; and

(iii) The extent to which the proposed training addresses needs that are consistent with the priorities established by the Secretary as authorized under § 642.34.

(20 U.S.C. 1221e-3(a)(1); 1070d, 1070d-1d)

§ 642.32 Past performance. [Reserved]

§ 642.33 Geographic distribution.

The Secretary, to the greatest extent possible, awards grants for Training Program projects that will be carried out in all of the regions of the Nation in order to assure accessibility to prospective training participants.

(20 U.S.C. 1070d, 1070d-1d)

§ 642.34 Priorities for funding.

(a) The Secretary, after consultation with regional and State professional associations of persons having special knowledge with respect to the training needs of Special Programs personnel, will establish annual funding priorities.

(b) The Secretary announces these priorities in the application notice published in the **Federal Register.**

(c) The Secretary considers an application for a Training Program project that does not address one of the priorities established for the year if the applicant addresses another significant training need in the local area being served by the Special Programs.

(20 U.S.C. 1070d, 1070d-1d)

Subpart E—What Conditions Must Be Met by a Grantee?

§ 642.40 Allowable costs.

Allowable project costs may include the following costs reasonably related to carrying out a Training Program project:

(a) Rental of space, if space is not available at a sponsoring institution and if the space is not owned by a sponsoring institution.

(b) Printing.

(c) Postage.

(d) Purchase or rental of equipment if approved in writing by the Secretary.

(e) Consumable supplies.

(f) Transportation costs for participants and training staff.

(g) Lodging and subsistence costs for participants and training staff.

(h) Transportation costs, lodging and subsistence costs and fees for consultants, if any.

(i) Honorariums for speakers who are not members of the staff or consultants to the project.

(j) Other costs that are specifically approved in advance and in writing by the Secretary.

(20 U.S.C. 1070d, 1070d-1d)

§ 642.41 Nonallowable costs.

Costs that may not be charged against a grant under this program include the following:

(a) Research not directly related to the evaluation or improvement of the project.

(b) Construction, renovation, or remodeling of any facilities.

(c) Stipends, tuition fees, and other direct financial assistance to trainees other than those participating in internships.

(20 U.S.C. 1070d, 1070d–1d)

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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR NOTICE 41 FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY	USDA/ASCS		DOT/SECRETARY	USDA/ASCS
DOT/COAST GUARD	USDA/FNS		DOT/COAST GUARD	USDA/FNS
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DOT/FRA	MSPB/OPM		DOT/FRA	MSPB/OPM
DOT/MA	LABOR		DOT/MA	LABOR
DOT/NHTSA	HHS/FDA		DOT/NHTSA	HHS/FDA
DOT/RSPA			DOT/RSPA	
DOT/SLSDC			DOT/SLSDC	
DOT/UMTA			DOT/UMTA	

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday. Comments on this program are still invited.

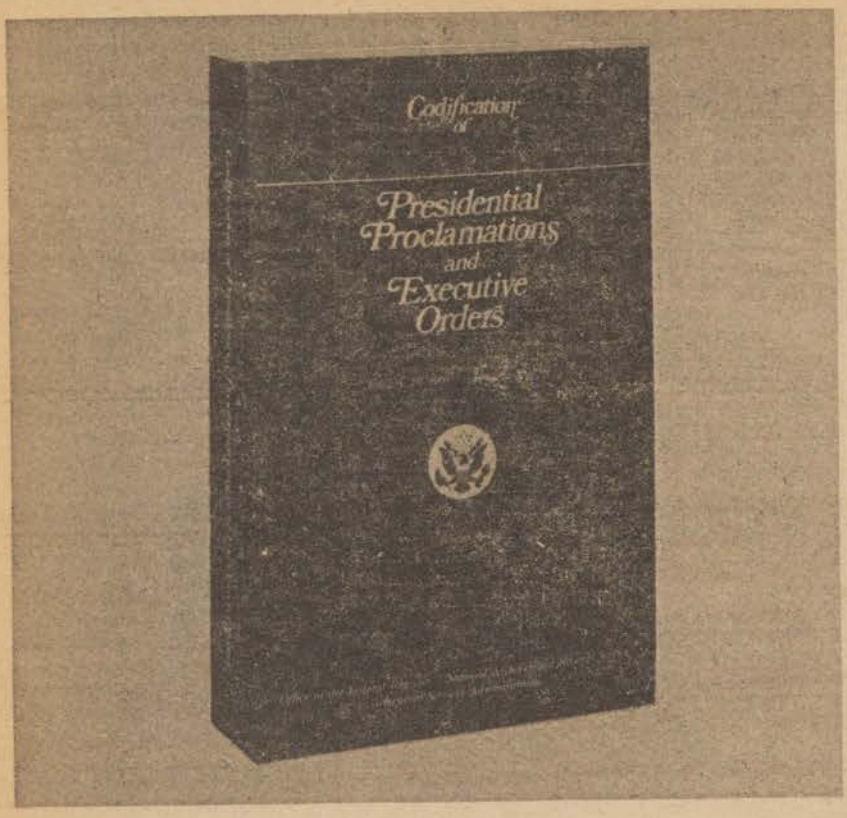
Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

List of Public Laws

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws.**

Last Listing April 15, 1982

UPDATED EDITION NOW AVAILABLE



For those of you who must keep informed about Presidential proclamations and Executive orders, there is a convenient reference source that will make researching these documents much easier.

Arranged by subject matter, this edition of the *Codification* contains proclamations and Executive orders that were issued or amended during the period January 20, 1961, through January 20, 1981, and which have a continuing effect on the public. For those documents that have been affected by other proclamations or Executive orders, the codified text presents the amended version. Therefore, a reader can use the *Codification* to determine the latest text of a document without having to "reconstruct" it through extensive research.

Special features include a comprehensive index and a table listing each proclamation and Executive order issued during the 1961–1981 period, along with any amendments, an indication of its current status, and, where applicable, its location in this volume.

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Credit Card No. ☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐

Expiration Date Month/Year ☐☐☐☐

Master Charge Interbank No. ☐☐☐☐

FOR OFFICE USE ONLY	
Quantity	Charges
..... Enclosed	.....
..... To be mailed	.....
..... Subscriptions	.....
Postage	.....
Foreign handling	.....
MMOB	.....
OPNR	.....
..... UPNS	
..... Discount	
..... Refund	

Please send me _____ *copies of the* ***Codification of Presidential Proclamations and Executive Orders*** *at $10.00 per copy. Stock No. 022-002-00097-0.*

NAME—FIRST, LAST

COMPANY NAME OR ADDITIONAL ADDRESS LINE

STREET ADDRESS

CITY STATE ZIP CODE

(or) COUNTRY

PLEASE PRINT OR TYPE