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Friday
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Selected Subjects

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Questions and requests for specific information may be directed to the telephone numbers listed under INFORMATION AND ASSISTANCE in the READER AIDS section of this issue.

Editor's Note:

The list of subjects on the cover is designed to assist those users who review the **Federal Register** for broad subject areas. The list is compiled from subject terms supplied by agencies for certain of their rule and proposed rule documents as required by 1 CFR 18.20. Subject terms in the list may refer to more than one document. To locate the documents in the **Federal Register** covered by the subject terms in the list, users should consult the Table of Contents under the appropriate agency. We remind users that the list is a selective supplement to the Table of Contents and should not be construed as comprehensive.

This list is an experiment. We hope it will prove useful to those users inconvenienced by the discontinuation of the "Highlights" in February because of reduced personnel resources at the Office of the Federal Register. For this new list our editors simply select subject terms from those appearing in the edition's rule and proposed rule documents rather than perform the detailed analytical work which was needed to produce the "Highlights".

Comments on this list may be sent to Martha Girard, Director, Executive Agencies Division (NFE), Office of the Federal Register, NARS/GSA, Washington, D.C. 20408. Phone (202) 523–5240 (not a toll free number).

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A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

Rules and Regulations

Federal Register
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DEPARTMENT OF AGRICULTURE

Office of the Secretary

7 CFR Part 2

Assistant Secretary for Natural Resources and Environment and Chief of the Forest Service; Delegation of Authority

AGENCY: Department of Agriculture.

ACTION: Final rule.

SUMMARY: This document delegates and codifies the authority from the Secretary of Agriculture to the Assistant Secretary for Natural Resources and Environment, and from the Assistant Secretary to the Chief of the Forest Service to act for the Department in all matters related to the Federal Water Power Act of June 10, 1920, as amended (16 U.S.C. 791–823). This action will enable the Department to better carry out its responsibilities and serve the public.

EFFECTIVE DATE: May 28, 1982.

ADDRESS: R. Max Peterson, Chief (5400), USDA, Forest Service; P.O. Box 2417, Washington, DC 20013.

FOR FURTHER INFORMATION CONTACT: Robert B. Miller, USDA, Forest Service, Lands Staff, P.O. Box 2417, Washington, DC 20013, (202) 235–8107.

SUPPLEMENTARY INFORMATION: The delegation of authority to the Chief of the Forest Service to represent the Department in all matters relating to the Federal Water Power Act has not been published in the **Federal Register**. The Chief has exercised this authority since it was delegated by letter in 1970. By this amendment, the delegation is included in the specific delegations through the Assistant Secretary for Natural Resources and Environment to the Chief.

This rule relates to internal agency management. Therefore, pursuant to 5 U.S.C. 553, it is found upon good cause that notice and other public participation procedures with respect to the rule are impractical and contrary to the public interest, and good cause is found for making this rule effective less than 30 days after publication in the **Federal Register**. Further, since this rule relates to internal agency management, it is exempt from the provisions of Executive Order 12291. This action is not a rule as defined by Pub. L. 96–354, the Regulatory Flexibility Act, and thus is exempt from the provisions of that Act.

For the reasons set out in the preamble, Part 2, Subtitle A, Title 7, Code of Federal Regulations is amended as set forth below:

PART 2—DELEGATIONS OF AUTHORITY BY THE SECRETARY OF AGRICULTURE AND GENERAL OFFICERS OF THE DEPARTMENT

1. The authority citation for Part 2 reads as follows:

Authority: 5 U.S.C. 301 and Reorganization Plan No. 2 of 1953.

Subpart C—Delegations of Authority to the Deputy Secretary, the Under Secretary for International Affairs and Commodity Programs, the Under Secretary for Small Community and Rural Development, and Assistant Secretaries

2. Section 2.19 is amended by adding paragraph (d)(21) as follows:

§ 2.19 Delegations of authority to the Assistant Secretary for Natural Resources and Environment.

* * * * *

(d) * * *

(21) Represent the Department in all matters relating to responsibilities and authorities under the Federal Water Power Act, approved June 10, 1920, as amended (16 U.S.C. 791–823).

* * * * *

Subpart G—Delegations of Authority by the Assistant Secretary for Natural Resources and Environment

3. Section 2.60 is amended by adding a new paragraph (a)(22) to read as follows:

§ 2.60 Chief, Forest Service.

(a) * * *

(22) Represent the Department in all matters relating to responsibilities and authorities under the Federal Water Power Act, approved, June 10, 1920, as amended (16 U.S.C 791–823).

* * * * *

For Subpart C:

Dated: May 25, 1982.

John R. Block,

Secretary of Agriculture.

For Subpart G:

Dated: March 4, 1982.

John B. Crowell,

Assistant Secretary for Natural Resources and Environment.

[FR Doc. 82-14676 Filed 5-27-82; 8:45 am]
BILLING CODE 3410-11-M

Agricultural Marketing Service

7 CFR Part 910

[Lemon Reg. 361]

Lemons Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of fresh California-Arizona lemons that may be shipped to market during the period May 30–June 5, 1982. Such action is needed to provide for orderly marketing of fresh lemons for this period due to the marketing situation confronting the lemon industry.

EFFECTIVE DATE: May 30, 1982.

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

SUPPLEMENTARY INFORMATION: This rule has been reviewed under Secretary's Memorandum 1512–1 and Executive Order 12291 and has been designated a "non-major" rule. This regulation is issued under the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The action is based upon the recommendations and information submitted by the Lemon Administrative Committee and upon other available information. It is hereby

found that this action will tend to effectuate the declared policy of the act.

This action is consistent with the marketing policy for 1981–82. The marketing policy was recommended by the committee following discussion at a public meeting on July 7, 1981. The committee met again publicly on May 25, 1982, at Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of lemons deemed advisable to be handled during the specified week. The committee reports the demand for lemons is 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 is based and the effective date necessary to effectuate the declared purposes of the act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting. It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

List of Subjects in 7 CFR Part 910

Marketing agreements and orders, California, Arizona, Lemons.

Section 910.661 is added as follows:

§ 910.661 Lemon Regulation 361.

The quantity of lemons grown in California and Arizona which may be handled during the period May 30, 1982, through June 5, 1982, is established at 275,000 cartons.

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

Dated: May 26, 1982.

D. S. Kuryloski,

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

[FR Doc 82-14836 Filed 5-27-82; 12:29 pm]

BILLING CODE 3410-02-M

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7 CFR Part 987

Domestic Dates Produced or Packed in Riverside County, California; Amendment of Container Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This rule adds provisions to the current date administrative committee (DAC) container requirements established under the California date marketing order to permit the California Date Administrative Committee to designate additional types and sizes of containers for testing in connection with market research projects. This authority would allow the Committee to conduct market research projects on new container types and sizes and to evaluate the market effects of these containers in more timely fashion than can be done now. This action is based upon a unanimous recommendation of the Committee. The Committee works with USDA in administering the date marketing order program.

EFFECTIVE DATE: May 28, 1982.

FOR FURTHER INFORMATION CONTACT: J. S. Miller, Chief, Specialty Crops Branch, Fruit and Vegetable Division, AMS, USDA, Washington, D.C. 20250, (202) 447–5697.

SUPPLEMENTARY INFORMATION: This final action has been reviewed under USDA guidelines implementing Executive Order No. 12291 and Secretary's Memorandum 1512–1 and has been classified a "non-major" rule under criteria contained therein.

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 result in only minimal costs being incurred by the 17 regulated handlers.

It is found that it is impracticable and contrary to the public interest to give preliminary notice and engage in public rulemaking and that good cause exists for not postponing the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553), because: (1) The industry wants to test market 7-ounce plastic containers to determine consumer acceptance this crop year, which ends September 30, 1982; (2) the initiation of this market research project should begin as soon as possible so packers can begin packing and making sales of the 7-ounce containers; (3) no useful purpose would be served by delaying the effective date of this action, and valuable time would be lost; (4) this action relieves restrictions on handlers and must be effective promptly to achieve its purpose; and (5) handlers have been aware of this action and have had ample time to prepare for operation thereunder.

This action would amend § 987.112a of Subpart—Administrative Rules (7 CFR 987.101–987.172; 47 FR 4489) by adding a new subparagraph (4) to paragraph (b) to facilitate container size and type market testing. This action is issued under § 987.33 of the marketing agreement and Order No. 987 (7 CFR Part 987), both as amended, regulating the handling of domestic dates produced or packed in Riverside County, California. The marketing agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

The purpose of this action is to allow the Committee to implement market research projects on new container types and sizes when it believes they have potential for improving and promoting date sales in the United States in more timely fashion than can be done now. Currently, the USDA has to initiate informal rulemaking procedures each time the Committee wants to test new container types and sizes. These procedures are quite time consuming. Under this action, USDA approval of such projects would be required. However, the approval could be accomplished by a letter to the Committee. This would give the Committee increased flexibility and facilitate container size and type testing.

In making recommendations for this type of market research, the Committee would designate specific container types and sizes for testing, the time period for testing, and the quantity that could be test marketed during this period. The Committee would evaluate the results and make appropriate recommendations for changes in container requirements to the USDA.

After consideration of all relevant matter presented, the information and recommendation submitted by the Committee, and other available information, it is further found that the amendment of § 987.112a of Subpart—Administrative Rules (7 CFR 987.101–987.172; 47 FR 4489) will tend to effectuate the declared policy of the act.

List of Subjects in 7 CFR Part 987

Marketing agreements and orders, Dates, California.

PART 987—DOMESTIC DATES PRODUCED OR PACKED IN RIVERSIDE COUNTY, CALIFORNIA

Therefore, § 987.112a is amended by adding new subparagraph (4) to paragraph (b) to read as follows:

Subpart—Administrative Rules

Identification and Outlet Specifications

§ 987.112a Grade, size, and container requirements for each outlet category.

* * * * *

(b) * * *

(4) The California Date Administrative Committee may designate with the approval of the Secretary such other types and sizes of containers for testing in connection with a research project conducted by or in cooperation with the Committee. The time period and the quantity of dates which may be marketed by handlers during that period shall be designated by the Committee for each market research project. The handling of each lot of dates in such test containers shall be subject to the prior approval, and under the supervision, of the Committee.

* * * * *

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

Dated: May 25, 1982.

D. S. Kuryloski,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 82-14678 Filed 5-27-82; 8:45 am]

BILLING CODE 3410-02-M

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7 CFR Parts 1007, 1011, 1030, 1032, 1046, 1049, 1050, 1062, 1064, 1065, 1068, 1071, 1073, 1076, 1079, 1094, 1096, 1097, 1098, 1099, 1102, 1106, 1108, 1120, 1126, 1131, 1132, and 1138

Milk in the St. Louis-Ozarks Marketing Area, et al.; Determination of a Change in the Data Used for computing the Basic Class II Formula Prices

7 CFR Part and Marketing Area

1062 St. Louis-Ozarks
1007 Georgia
1011 Tennessee Valley
1030 Chicago Regional
1032 Southern Illinois
1046 Louisville-Lexington-Evansville
1049 Indiana
1050 Central Illinois
1064 Greater Kansas city
1065 Nebraska-Western Iowa
1068 Upper Midwest
1071 Neosho Valley
1073 Wichita, Kansas
1076 Eastern South Dakota
1079 Iowa
1094 New Orleans-Mississippi
1096 Greater Louisiana
1097 Memphis, Tennessee
1098 Nashville, Tennessee
1099 Paducah, Kentucky
1102 Forth Smith, Arkansas
1106 Oklahoma Metropolitan
1108 Central Arkansas
1120 Lubbock-Plainview, Texas
1126 Texas
1131 Central Arizona
1132 Texas Panhandle
1138 Rio Grande Valley

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action substitutes selected quarterly data for certain monthly data now used in computing the basic Class II formula prices of the milk orders listed above. The change is necessary because the USDA Statistical Reporting Service has altered selected portions of its crop and livestock estimating programs, which will make certain monthly data on dairy products unavailable.

DATE: The change set forth herein become effective May 28, 1982.

FOR FURTHER INFORMATION CONTACT: Martin J. Dunn, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202–447–7311.

SUPPLEMENTARY INFORMATION: Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable provisions of the respective orders, as amended, regulating the handling of milk in the aforesaid marketing areas, it is hereby found and determined with respect to these orders that:

(1) On March 10, 1982, the USDA Statistical Reporting Service (SRS) announced to the public that it was cutting back or otherwise altering selected portions of its crop and livestock estimating programs. One of the reports affected is the *Dairy Products* report which has been issued monthly and which in the future will be issued quarterly.

(2) The above-listed orders provide that the total American cheese production and nonfat dry milk production for the States of Minnesota and Wisconsin for the third preceding month, as reported by SRS in the *Dairy Products* report, shall be used in computing the basic Class II formula price for a particular month. For example, the basic Class II formula price for June would utilize the reported production data for March.

(3) Under the altered publication schedule for the SRS *Dairy Products* report, the first quarterly report of cheese and nonfat dry milk production will be published in the *Dairy Products* report on or about August 2, 1982. The reported data will reflect the total quantity of American cheese production and nonfat dry milk production in Minnesota and Wisconsin during the months of April, May and June 1982 combined. The production data will be available for the mid-August announcement of the basic Class II formula price for September 1982. The last production data to be reported on a monthly basis will be the data for March 1982. Such data will be available for computing the June 1982 basic Class II formula price. Similar monthly data will not be available for computing such price for July and August 1982.

(4) Under the above circumstances, it is appropriate that the basic Class II formula prices for July and August 1982 under the above-listed orders be based on the production data for March 1982.

(5) It is also appropriate that upon the issuance of the *Dairy Products* report on a quarterly basis the monthly basic Class II formula prices under the above-listed orders be based on the American cheese and nonfat dry milk production data from the last quarterly report available for this purpose. For example, the same production data for April, May and June 1982 combined would be used in computing the basic Class II formula prices for September, October and November 1982. Similarly, the same production data for July, August and September 1982 combined would be used in computing the basic Class II formula prices for December 1982 and January and February 1983.

(6) The use of quarterly production data rather than monthly data should have a minimal impact on the basic Class II formula prices computed each month under the above-listed orders. Shown below are the results of computing the monthly basic Class II formula prices for the 28 months of January 1980 through April 1982 using weighting factors based on monthly production data as compared to using quarterly production data:

22 months—Both methods resulted in the same price.
4 months—Quarterly data resulted in a 1-cent higher price.
1 month—Quarterly data resulted in a 1-cent lower price.
1 month—Quarterly data resulted in a 2-cent lower price.

(7) Notice of proposed rulemaking and public procedure thereon are impracticable, unnecessary, and contrary to the public interest in that:

(a) The forthcoming unavailability of American cheese and nonfat dry milk production data on a monthly basis for use in computing the basic Class II formula prices under the above-listed orders necessitates the prompt establishment of an alternative means of computing such prices;

(b) The substitution of quarterly production data for monthly data is an appropriate and practicable method of

utilizing such data in computing the basic class II formula prices; and

(c) This action does not require substantial or extensive preparation by any person.

Effective date: The procedure set forth herein becomes effective May 28, 1982.

List of Subjects

Milk marketing orders, Milk, Dairy products.

Signed at Washington, D.C., on May 24, 1982.

C. W. McMillan,

Assistant Secretary, Marketing and Inspection.

Add the following note to each of the paragraphs listed below:

Note.—The computation of the basic class II formula price is affected by a determination document published on May 28, 1982 at 47 FR 23417

7 CFR Section and Marketing Area

1062.51a(c) (1) and (2)—St. Louis-Ozarks
1007.51a(c) (1) and (2)—Georgia
1011.51a(c) (1) and (2)—Tennessee Valley
1030.51a(c) (1) and (2)—Chicago Regional
1032.51a(c) (1) and (2)—Southern Illinois
1046.51a(c) (1) and (2)—Louisville-Lexington-Evansville
1049.51a(c) (1) and (2)—Indiana
1050.51a(c) (1) and (2)—Central Illinois
1064.51a(c) (1) and (2)—Greater Kansas City
1065.51a(c) (1) and (2)—Nebraska-Western Iowa
1068.51a(c) (1) and (2)—Upper Midwest
1071.51a(c) (1) and (2)—Neosho Valley
1073.51a(c) (1) and (2)—Wichita, Kansas
1076.51a(c) (1) and (2)—Eastern South Dakota
1079.51a(c) (1) and (2)—Iowa
1094.51a(c) (1) and (2)—New Orleans-Mississippi
1096.51a(c) (1) and (2)—Greater Louisiana
1097.51a(c) (1) and (2)—Memphis, Tennessee
1098.51a(c) (1) and (2)—Nashville, Tennessee
1099.51a(c) (1) and (2)—Paducah, Kentucky
1102.51a(c) (1) and (2)—Fort Smith, Arkansas
1106.51a(c) (1) and (2)—Oklahoma Metropolitan
1108.51a(c) (1) and (2)—Central Arkansas
1120.51a(c) (1) and (2)—Lubbock-Plainview, Texas
1126.51a(c) (1) and (2)—Texas
1131.51a(c) (1) and (2)—Central Arizona
1132.51a(c) (1) and (2)—Texas Panhandle
1138.51a(c) (1) and (2)—Rio Grande Valley

[FR Doc 82-14591 Filed 5-27-82; 8:45 am]
BILLING CODE 3410-01-M

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7 CFR Part 1033

[Milk Order No. 33]

Milk in the Ohio Valley Marketing Area; Order Suspending Certain Provisions

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Suspension of rule.

SUMMARY: This action suspends certain order provisions affecting the regulatory status of milk plants under the Ohio Valley Federal milk order. The suspension makes inoperative for the months of May through August 1982 the requirement that a distributing plant dispose of not less than 45 percent of its receipts as route disposition in order to be a pool plant. The action was requested by a proprietary handler operating five distributing plants pooled under the order to assure the efficient disposition of milk not needed for fluid use and still maintain pool status for its distributing plants and producer status for dairy farmers who regularly have supplied the fluid milk needs of the market. No comments were received in opposition to a notice of proposed suspension.

EFFECTIVE DATE: May 28, 1982.

FOR FURTHER INFORMATION CONTACT: Clayton H. Plumb, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447-6273.

SUPPLEMENTARY INFORMATION: Prior document in this proceeding:

Notice of Proposed Suspension: Issued May 5, 1982; published May 11, 1982 (47 FR 20146).

This action has been reviewed under USDA procedures established to implement Executive Order 12291 and has been classified "not significant" and, therefore, not a major action.

It also has been determined that the need for suspending certain provisions of the order on an emergency basis precludes following certain review procedures set forth in Executive Order 12291. Such procedures would require that this document be submitted for review to the Office of Management and Budget at least 10 days prior to its publication in the **Federal Register.** However, this would not permit the completion of the suspension in time to include May 1982 in the suspension period. The initial request for the action was received April 30, 1982. A notice of proposed suspension was issued on May 5, 1982, inviting interested parties to comment on the proposed action by May 18, 1982.

William T. Manley, Deputy Administrator, Agricultural Marketing Service, has determined that this action would not have a significant economic impact on a substantial number of small entities. Such action lessens the regulatory impact of the order on certain milk handlers and tends to ensure that dairy farmers regularly supplying a portion of the market's fluid needs will continue to have their milk priced under the order and thereby receive the benefits that accrue from such pricing.

This order of suspension is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and of the order regulating the handling of milk in the Ohio Valley marketing area.

Notice of proposed rulemaking was published in the **Federal Register** on May 11, 1982 (47 FR 20146), concerning a proposed suspension of certain provisions of the order. Interested persons were afforded opportunity to file written data, views, and arguments thereon.

After considering all relevant material, including the proposal in the notice, the comments received from the proponent, and other available information, it is hereby found and determined that for the months of May through August 1982 the following provisions of the order do not tend to effectuate the declared policy of the Act:

In § 1033.12, paragraph (a)(2).

Statement of Consideration

This action makes inoperative for May 1982 through August 1982 the provision requiring a distributing plant to dispose of not less than 45 percent of its receipts as route disposition during the months of March through August in order to remain pooled. The suspension was requested by Beatrice Foods Co., a proprietary handler which operates five pool distributing plants under the order.

The suspension is necessary because of producer milk deliveries in the Ohio Valley market which are increasing both seasonally and over the levels of previous years. At the same time milk production is at its seasonal peak, Beatrice anticipates a decline in Class I disposition from its plants due to summer closure of schools and the resulting loss of fluid milk sales to schools.

For the first three months of 1982, producer milk pooled on the Ohio Valley order increased nearly 1 percent over

production during the same period in 1981 while producer milk allocated to Class I for the same period declined 1.4 percent from the level of the previous year. With these trends of increasing production and declining Class I use, Beatrice expects that less than 45 percent of the milk regularly associated with its distributing plants will be needed to meet its route disposition requirements in the months of May through August this year.

In the absence of suspension action, Beatrice indicated that it would be necessary to make costly and inefficient movements of milk solely for the purpose of pooling its distributing plants and the milk of dairy farmers who regularly have supplied the fluid milk needs of the market.

Interested parties were given the opportunity to submit written data, views or arguments concerning the suspension. No comments other than those of the proponent of the proposed suspension were received.

In view of the circumstances, the aforesaid provisions should be suspended to ensure the orderly marketing of milk supplies that are in excess of fluid milk requirements. This action will eliminate the possibility that Beatrice Foods Co., would find it necessary to make uneconomic movements of milk in order to assure the producer status of dairy farmers who are regular suppliers of milk for the fluid market.

It is hereby found and determined that thirty days' notice of the effective date hereof is impractical, unnecessary and contrary to the public interest in that:

(a) This suspension is necessary to reflect current marketing conditions and to maintain orderly marketing conditions in the marketing area in that substantial quantities of milk of producers who regularly supply the market otherwise could be excluded from the marketwide pool, thereby causing a disruption in the orderly marketing of milk;

(b) This suspension does not require of persons affected substantial or extensive preparation prior to the effective date; and

(c) Notice of proposed rulemaking was given interested parties and they were afforded opportunity to file written data, views or arguments concerning this suspension.

Therefore, good cause exists for making this order effective upon publication in the **Federal Register.**

It is therefore ordered, That the aforesaid provisions of the order are hereby suspended for the months of May through August 1982.

Effective date: May 28, 1982.

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

List of Subjects in 7 CFR Part 1033

Milk marketing orders, Milk, Dairy products.

Signed at Washington, D.C., on May 24, 1982.

C. W. McMillan,

Assistant Secretary Marketing and Inspection.

[FR Doc 82–14592 Filed 5–27–82; 8:45 am]

BILLING CODE 3410–02–M

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7 CFR Part 1040

Milk in the Southern Michigan Marketing Area; Order Suspending Certain Provisions

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Suspension of rules.

SUMMARY: This action suspends for the month of May 1982 the requirement in the Southern Michigan milk order that a cooperative association deliver to pool distributing plants at least 50 percent of its member producer milk in order to qualify its supply plants as pool plants under the order. The suspension was requested by a cooperative association that represents producers supplying milk to the fluid market. The action is needed to ensure that dairy farmers who have been historically associated with the Southern Michigan market will continue to share in the market's Class I milk sales.

EFFECTIVE DATE: May 28, 1982.

FOR FURTHER INFORMATION CONTACT: Martin J. Dunn, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202–447–7311).

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established to implement Executive Order 12291 and has been classified "not significant" and, therefore, not a major action.

It also has been determined that the need for suspending certain provisions of the order on an emergency basis precludes following certain review procedures set forth in Executive Order 12291. Such procedures would require that this document be submitted for review to the Office of Management and Budget at least 10 days prior to its publication in the **Federal Register.** However, this would not permit the issuance of the suspension on the timely basis that is necessary to make the suspension effective for the month of May 1982. The initial request for the action was received on May 17, 1982.

It has been determined that this action will not have a significant economic impact on a substantial number of small entities. This action lessens the regulatory impact of the order on certain milk handlers and tends to ensure that dairy farmers would continue to have their milk priced under the order and thereby receive the benefits that accrue from such pricing.

This order of suspension is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and of the order regulating the handling of milk in the Southern Michigan marketing area.

After consideration of all relevant information it is hereby found and determined that for the month of May 1982 the following provisions of the order do not tend to effectuate the declared policy of the Act.

1. In § 1040.7(b)(2) the words "if transfers from such supply plant to plants described in paragraph (b)(5) of this section and by direct delivery from the farm to plants qualified under paragraph (a) of this section are:"

2. In § 1040.7(b)(2), subdivisions (i) and (ii).

Statement of Consideration

This action makes inoperative for May 1982 the provisions requiring a cooperative association to deliver at least 50 percent of its member producer milk to pool distributing plants, either through its supply plants or directly from farms, in order to qualify the supply plants as pool plants. The suspension was requested by Michigan Milk Producers Association and was expressly supported by two other cooperative associations and by a proprietary handler. In total, the suspension was supported by a substantial proportion of the producers who supply milk to the market.

This action is needed because of increased deliveries of producer milk in the Southern Michigan market at a time when Class I use is declining. April 1982 was the 36th consecutive month of increased milk production in the market, and it also was the 18th consecutive month of declining Class I sales.

For the first four months of 1982, producer receipts for the market increased 2.3 percent from a year ago, while Class I sales decreased 5.2 percent and Class II sales decreased 2.1 percent. The increase in milk production has resulted from increased cow numbers and greater production per cow, and the declining sales are attributable to the depressed economy in Michigan.

The suspension is needed also to accommodate petitioner's recent loss of milk sales to a major distributor in the market.

If the provisions cited are not suspended for the month of May 1982, Michigan Milk Producers Association expects to encounter considerable difficulty in pooling certain supply plants and the milk producers who have had a long history of association with the Southern Michigan fluid market. This could be expected to disrupt the orderly marketing of milk in the Southern Michigan marketing area.

In view of the circumstances, the aforesaid provisions should be suspended to ensure the orderly marketing of milk supplies. This action will eliminate the possibility that producers who are regular suppliers of milk for the fluid market would lose their producer status because of the present pooling provisions and thus not have their milk priced under the order.

It is hereby found and determined that notice of proposed rulemaking, public procedure thereon, and thirty days' notice of the effective date hereof are impractical, unnecessary, and contrary to the public interest in that:

(a) This suspension is necessary to reflect current marketing conditions in the marketing area in that substantial quantities of milk of producers who regularly supply the market otherwise could be excluded from the marketwide pool, thereby causing a disruption in the orderly marketing of milk; and

(b) This suspension does not require of persons affected substantial or extensive preparation prior to the effective date.

Therefore good cause exists for making this order effective upon publication in the **Federal Register.**

It is therefore ordered, That the aforesaid provisions of the order are hereby suspended for the month of May 1982.

(Secs. 1–29, 48 Stat. 31 as amended; (7 U.S.C. 601–674))

List of Subjects in 7 CFR Part 1040

Milk marketing orders, Milk, Dairy products.

Signed at Washington, D.C., on: May 24, 1982.

C. W. McMillan,

Assistant Secretary, Marketing and Inspection Services.

[FR Doc. 82–14590 Filed 5–28–82; 8:45 am]

BILLING CODE 3410–02–M

Commodity Credit Corporation

7 CFR Part 1435

Price Support Purchase Program for 1982-Crop Sugar Beets and Sugarcane

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Final rule.

SUMMARY: This final rule amends the regulations which govern the Price Support Purchase Program for 1982-Crop Sugar Beets and Sugarcane. This program is mandated by the Agricultural Act of 1949, as amended by the Agriculture and Food Act of 1981. On February 24, 1982, an interim rule was published in the **Federal Register** at 47 FR 8000, which implemented the sugar purchase program. The public was afforded an opportunity to comment on the interim rule until March 25, 1982. Processors that have filed purchase agreements prior to the publication of this final rule will be given an opportunity to withdraw or amend their purchase agreements. The rule implements only a purchase program. Provisions for a price support loan program, to be effective October 1, 1982, will be announced later.

EFFECTIVE DATE: May 28, 1982.

FOR FURTHER INFORMATION CONTACT: Steve Gill, Cotton, Grain, and Rice Price Support Division, ASCS, U.S. Department of Agriculture, P.O. Box 2415, Washington, D.C. 20013. Phone (202) 382–9888.

SUPPLEMENTARY INFORMATION: This interim rule has been reviewed under USDA procedures established in accordance with provisions of Secretary's Memorandum 1512–1 and Executive Order 12291 and has been classified as a "major rule."

The title and number of the Federal Assistance Program to which this interim rule applies are: Commodity Loans and Purchases, Number 10.051, as filed in the Catalog of Federal Domestic Assistance. This action will not have a significant impact specifically on area and community development. Therefore, review as established by OMB Circular A–95 was not used to assure that units of local government are informed of this action.

It has been determined that the Regulatory Flexibility Act is not applicable to this rule since the Commodity Credit Corporation (CCC) is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this rule.

This action is not expected to have any significant impact on the quality of the human environment, health, and safety.

Statutory Requirements

Section 201 of the Agricultural Act of 1949, as amended by the Agriculture and Food Act of 1981 (hereinafter referred to as the "Act") requires that 1982-crop sugar processed from domestically grown sugar beets and sugarcane between December 22, 1981, and March 31, 1982, be eligible for purchase under a price support purchase program. The purpose of the program is to provide price support to producers of sugarcane and sugar beets.

Any 1982 crop sugar which is processed after March 31, 1982, as well as 1983 through 1985 crop sugar will be eligible for price support through a loan program that will be available begninning October 1, 1982. Regulations governing the loan program will be issued separately.

Interim Rule

An interim rule implementing the Price Support Purchase Program for 1982-Crop Sugar Beets and Sugarcane was published in the **Federal Register** on February 24, 1982, at 47 FR 8000. The rule required processors to file purchase agreements with CCC by April 30, 1982. The rule was later amended to give processors an opportunity to file purchase agreements until May 31, 1982. (April 30, 1982, at 47 FR 18573). The comment period was limited to 30 days because processors need to know the details of the sugar purchase program as soon as possible.

General Summary Of Comments

The public was afforded until March 25, 1982, to comment on the interm rule. However, the Department continued to accept comments after March 25, 1982. The Department considered and summarized all comments received.

The Department received a total of 21 comments with respect to the interim rule. A total of 5 comments were received from sugar beet processors, 4 from sugar beet growers, 4 from sugarcane processors, 1 from a sugarcane grower association, 1 from a sugarcane refiner association, 2 from sugarcane refiners, 1 from a corn sweetener company, 1 from an association of industrial users of sugar, 1 from an individual, and 1 from a State Agricultural Stabilization and Conservation (ASC) Committee. The majority of the comments related to the method used in establishing the refined beet sugar purchase rate. A significant number of comments related to the

conditions of eligibility for program participation.

All comments received are on file and available for public inspection in Room 3627, South Building, 14th and Independence Avenue, SW., Washington, D.C. 20013.

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

Comments on Major Program Provisions

I. Refined Beet Sugar Purchase Rate

A. *Provisions of the Interim Rule:* The Act requires the Secretary to support the price of sugarcane at a level approximating a raw sugar price of 16.75 cents per pound, and to support the price of sugar beets at a level which is fair and reasonable in relation to the support level for sugarcane.

The rule proposed to purchase refined beet sugar at a rate of 19.16 cents per pound. This figure was calculated by multiplying the 16.75 cent raw cane sugar purchase rate by a factor of 1.10 and then adding 0.74 cent for fixed marketing costs (which are incurred whether the beet sugar is sold on the market or to CCC). The 1.10 factor was derived by comparing the net beet sugar milling price (after all marketing costs are paid) to the weighted average New York spot price (#12 contract) for raw cane sugar for the years 1965 through 1979. This methodology was used used for previous sugar price support programs.

B. *Comments:* A total of 15 comments were received with respect to the method of calculating the refined beet sugar purchase rate. One respondent, a cane refiner association, supported the method specified in the interim rule. The remaining respondents stated that the refined beet purchase rate was too low in relation to the raw cane sugar purchase rate. The recommendations of these respondents for the refined beet sugar purchase price ranged from 19.49 cents per pound to 24.86 cents per pound.

C. *Discussion of Comments:* Those respondents arguing for a higher refined beet purchase price made three basic arguments in favor of their recommendations. Two of these arguments related to the methodology which was used in the interim rule to determine a refined beet purchase rate. The third argument accepted the methodology used in the interim rule, but suggested that the base period over which the percentage relationship was calculated was incorrect.

First, some respondents stated that it was not appropriate to establish a refined beet purchase price on the basis of historical relationships between raw sugar prices and refined sugar prices. They suggest that a "cost-up" approach is correct, i.e., the refined beet purchase price should equal 16.75 (the purchase price for raw sugar) plus the costs of converting raw sugar into refined sugar. This would produce a purchase price for refined beet sugar in the range of 22.5 to 23.5 cents per pound, depending upon the calculation of refining costs. It is argued that this methodology would provide a greater price umbrella for refined cane sugar as opposed to refined beet sugar, thus allowing cane refiners: (1) To purchase raw sugar in the market at 16.75 cents per pound; (2) to refine that raw sugar and to sell the refined sugar at prices which are competitive with refined beet sugar prices; and (3) to recover substantially all their costs.

Second, some respondents argue that the methodology employed in the interim rule to determine a refined beet purchase rate is incorrect because it derives a percentage relationship based upon a delivered price (the New York spot price) and applies that relationship to an f.o.b. mill price (16.75 cents purchase price for raw sugar delivered at the processing facility). These respondents argue that the percentage relationship should be applied to the New York spot price which the Government is attempting to achieve in the domestic commercial market through the imposition of restrictions on imported sugar. Using the historical relationship of 1.10, this methodology would produce a refined beet purchase price of approximately 21.87 cents per pound.

Finally, a number of respondents suggested that the time period (1965–1979) over which the percentage relationship was derived is no longer appropriate. These respondents contend that market conditions have changed substantially during the past few years, and that a more recent time period would more accurately reflect present market relationships. Among the factors cited by these respondents are the expiration of the Sugar Act of 1948 in 1974, the decline in per capita consumption of sugar, and the influx of high fructose corn sweeteners into the sweetener market.

D. *Conclusion:* After careful consideration of the comments received, it has been determined that the methodology utilized in developing the interim rule should be retained, but that the base period for calculation of the percentage relationship should be changed to 1975–1980 in order to reflect more recent market relationships. This results in a percentage relationship of 1.13. After adjusting fixed marketing costs from 0.74 to 0.77 cent to reflect recently available 1980 data, the refined beet purchase price is calculated to be 19.70 cents per pound.

The suggestion that a "cost-up" methodology should be utilized was rejected because this approach would simply create a large price umbrella for refined cane sugar, rather than reflecting true market relationships. The Department's cost estimates for sugar production show that refined beet sugar costs only slightly more to produce than it costs to produce raw cane sugar. Therefore, it costs substantially less to produce a pound of refined beet sugar than a pound of refined cane sugar. It is not appropriate to distort the purchase price for refined beet sugar to compensate for this factor, since this would probably lead to disproportionate deliverties of refined beet sugar to the Commodity Credit Corporation. Past experience with the chosen methodology, though limited, would indicate that that methodology does reflect appropriate market relationships.

The suggestion that the percentage relationship should be applied to the New York spot price which the Government is attempting to achieve through the imposition of import restrictions was also rejected. First, this approach, like the "cost-up" approach, would appear to create a refined beet purchase rate which is too high in relation to the purchase rate for raw cane sugar. Second, the purpose of the program is to support prices paid to growers of sugar beets and sugarcane. Therefore, the relevant relationship is the relationship between the prices upon which processors use to settle with their growers. For beet growers, the price is the net selling price (regardless of whether the sugar is sold to the CCC or in the market). For cane growers, the settlement price would approximate the New York spot price if sold in the market, or the purchase program price if sold to the CCC. Therefore, in calculating refined beet purchase prices, it is appropriate to apply the percentage relationship to the purchase price for raw cane sugar (16.75 cents), rather than the New York spot price.

II. Processor Eligibility Requirements

A. *Provisions of the Interim Rule:* The interim rule required that processors, as a condition for obtaining a CCC purchase agreement, agree to pay to all eligible producers who have delivered or will deliver to them for processing sugar beets and sugarcane of average quality the minimum price support level applicable for their region.

B. *Comments:* A total of 7 comments were received with regard to the

processor eligibility requirement. All respondents opposed this aspect of the interim rule. Respondents interpreted the rule to require processors to pay the minimum support price to all eligible producers regardless of when the sugar beets and sugarcane were harvested and delivered to the processor. The respondents pointed out that since only a portion of the crop was eligible for the purchase program, it would be impossible for processors to pay the minimum support level to all growers for all sugar beets and sugarcane delivered to the processor.

C. *Discussion of Comments:* After careful analysis of these comments, it has been concluded that the basic point raised by the comments is valid. It would be unrealistic and unfair to require processors to pay the minimum support level for all sugar beets and sugarcane delivered to them, when: (1) Only a portion of their production is eligible for the purchase program; and (2) market prices during the first four months of 1982 have not been sufficient to provide adequate returns to processors to enable them to pay the support level.

The problem at hand, i.e., how to establish minimum support levels, appears to be inherent in the statute mandating a purchase program for sugar processed between December 22, 1981 and March 31, 1982. This period of time does not encompass traditional processing periods for any segment of the domestic sugar industry. Louisiana, Florida, Texas, and all the sugar beet areas begin processing well before the end of December. For Hawaii and Puerto Rico, the eligibility period straddles two different crop years. Finally the delivery date for the sugar, November 1, 1982, may fall into a different marketing year for accounting purposes for most of the sugar beet industry.

D. *Conclusion:* The unique statutory requirements for the purchase program and the diversity of the domestic sugar industry would appear to make it extremely difficult, if not impossible, to develop an allocation system whereby processors would be required to pay pro rata amounts of the minimum support levels to individual growers. Thus, it has been determined, in accordance with Section 401(e) of the Act, that it is not practicable to obtain from processors agreement to pay all their producers support prices not less than those specified by CCC.

The minimum support prices specified in the interim rule were primarily based upon the amounts which growers would receive under traditional contracts between growers and processors if processors received the prices which CCC will pay under purchase agreements. The final rule, therefore, requires processors to settle with growers in accordance with their traditional contractural arrangements (or other arrangements such as the Puerto Rican Sugar Law.) It is believed that this approach will, in effect, achieve a pro rata sharing of the benefits of the price support program among growers while minimizing the administrative burden on processors participating in the program.

III. Definition of 1982 Crop Year

A. *Provisions of the Interim Rule:* The rule defined the 1982 crop year sugar as sugar processed from domestically-produced sugar beets or sugarcane during the period from December 22, 1981, through June 30, 1983.

B. *Comments:* A total of 5 comments were received on the crop year definition. One respondent supported the definition as specified in the interim rule. The remaining respondents criticized the definition because the crop year overlapped the settlement crop year specified in the growers' contract with processors.

C. *Discussion of Comments:* Respondents commenting against the definition as set forth in the interim rule stated that such a definition encompassed contracts entered into by processors and growers covering the 1981, 1982, and, in some instances, the 1983 marketing year. These respondents pointed out that some processors settle with growers on the basis of an average net selling price achieved over a contractually designated crop year and that eligible sugar (that sugar processed between December 22, 1981, and March 31, 1982) is harvested and stored with ineligible sugar. The respondents argued it would be difficult to determine which grower supplied the eligible sugar and to assure that such grower received the minimum price support level as specified by the rule.

Because of the overlap of marketing years utilized in purchase contracts between producer and growers, it was recommended by the respondents that the traditional marketing year on which settlement is made by processors with growers be utilized for defining crop year, as was done in previous support programs.

D. *Conclusion:* The Act requires that sugar processed between December 22, 1981, and March 31, 1982, be supported through a purchase program and that, effective October 1, 1982, domestically-grown sugarcane and sugar beets of the 1982 through 1985 crops be supported through a loan program. The Act also provides that price support loans must mature within the same fiscal year that they were disbursed. Therefore, the use of the traditional crop year definitions is not compatible with a fair and reasonable implementation of the price support program as mandated by the Act. In order to treat all producers equitably, it has been determined to provide for a definition of crop year based upon the period of time when sugar beets and sugarcane are processed into refined beet sugar and raw cane sugar. This results in the phrase "crop year" being defined as sugar processed during a period from July 1 through June 30. Use of a crop year based on processing requires a crop year in excess of 12 months for 1982 because the Act mandates both a purchase program and a loan program for 1982 crop sugar. Therefore, the 1982 crop year is applicable to sugar processed from December 22, 1981, to June 30, 1983.

As stated earlier, the minimum support requirements set forth in the interim rule have been deleted. It is believed this approach will resolve the concerns stated by the respondents with respect to the purchase program. Likewise, it is anticipated that the loan program regulations, which will be published separately, will adequately address the concerns of the respondents with respect to the loan program.

IV. Storage Payment Rate

A. *Provisions of the Interim Rule:* The interim rule required CCC to make monthly storage payments to the processor for the period of time the processor stores the sugar for CCC after delivery by the processor in accordance with the purchase agreement. The storage payment rate shall be agreed upon by CCC and the processor, but in no event shall exceed $.00083 per pound per month.

B. *Comments:* A total of 5 comments were received with respect to the storage payment rate limitation of $.00083 per pound per month. One respondent noted that the storage payment rate as set forth in the interim rule applied to both refined beet sugar storage and raw cane sugar storage. The remaining respondents commented that the limitation of $.00083 per pound per month was too low.

C. *Discussion of Comments:* Respondents argued that the storage rate of $.00083 is no higher than the maximum storage rate provided for under previous sugar programs. Respondents commented that in view of the economy's general rate of inflation, the storage payment rate should be

established at a higher rate. In addition, one respondent suggested that the purchase program differentiate between raw cane sugar storage and refined beet sugar storage because the cost to store refined sugar is substantially higher than costs associated with the storage of raw cane sugar.

D. *Conclusion:* A review of rates previously offered to CCC for the storage of sugar shows that the February 1980 storage rate averaged $.00067 per pound for bulk sugar and $.00074 per pound for bagged sugar. The current rate for storing CCC-owned nonfat dry milk is $.00078 per pound. Since milk is a much more valuable commodity and is also much more difficult to store, it appears reasonable to expect that sugar could be stored within the payment rate limitation provided.

Therefore, based on previous CCC experience in storing sugar and the rates charged to CCC for storing nonfat dry milk, it has been determined that a storage payment rate limitation of $.00083 per pound per month is appropriate.

V. Providing Storage for Sugar Delivered to CCC

A. *Provisions of the Interim Rule:* The rule required processors to store sugar delivered to CCC in eligible storage where delivered for as long as deemed necessary by CCC after delivery of the sugar to CCC.

B. *Comments:* A total of 3 comments were received with respect to storing sugar delivered to CCC. All respondents commented that they had no objection to storing sugar delivered to CCC. However, one respondent recommended the storage period not exceed one year and two respondents stated that they would provide storage until the storage was needed for a subsequent crop of sugar. All respondents requested that the storage of sugar should be treated in the same manner as the policies and practices imposed by CCC with respect to other commodities by CCC.

C. *Discussion of Comments and Conclusion:* In considering the respondent's comments, it was noted that the number of acceptable structures available for the storage of large quantities of sugar is limited. It is possible that CCC might not find acceptable storage for sugar which it purchases until some time after the sugar purchase program has been completed. Because of this problem, CCC must maintain the right to leave the sugar in the processor's storage facility until acceptable storage space is found. Therefore, it was determined that the provisions requiring a processor to store purchased sugar for as long as deemed necessary by CCC will not be changed.

It should be emphasized, however, that CCC will make every reasonable effort to move purchased sugar when requested to do so by the processor.

VI. Supporting Refined Cane Sugar at the Refined Beet Sugar Rate

A. *Provisions of the Interim Rule:* The rule did not provide for the purchase of refined cane sugar at the refined beet sugar purchase rate. In the event refined or specialty sugar made from raw cane sugar is delivered to CCC in accordance with a purchase agreement, the quantity of refined cane or specialty sugar will be converted to an equivalent quantity of raw cane sugar for purposes of settlement.

B. *Comments:* A total of 4 comments were received with respect to the issue of whether refined cane sugar should be purchased by CCC at the refined beet purchase rate. One respondent criticized the provisions of the interim rule and suggested that the Department should establish a purchase price for refined cane sugar at a level which will provide the degree of support to sugarcane producers equivalent to 16.75 cents per pound of raw sugar, f.o.b. raw mill. The remaining respondents supported the provisions of the interim rule.

C. *Discussion of Comments:* The respondent opposing the provisions of the interim rule argued that if refined cane sugar is to be purchased under the program, it should be purchased at a rate which achieves the purposes of the program. The respondent stated the provisions, as set forth in the interim rule, give no recognition to the refiner's cost of refining, nor to the value added by the refining process. The other respondents supported the provisions of the interim rule for the reasons discussed in the preamble to the interim rule, which are also set forth below.

D. *Conclusion:* After careful consideration of the comments received it has been concluded that the provisions of the interim rule should be retained. As set forth in the preamble to the interim rule, the purpose of the price support program is to provide price support to growers of sugar beets and sugarcane in their capacities as growers. However, because sugar beets and sugarcane cannot be stored, this objective can only be accomplished by entering into purchase agreements with processors. Therefore, storable commodities which are at the nearest point to harvest, i.e., raw sugar for sugarcane and refined beet sugar for sugar beets, are purchased under the price support purchase program.

Furthermore, permitting processors who are also refiners to deliver refined cane sugar under the price support program at the refined beet purchase rate might unfairly disadvantage independent refiners of raw sugar who will not be eligible to deliver refined cane sugar to CCC under the price support program. Thus, the approach adopted in this final rule would place the refining operations of processors who are also refiners in substantially the same position as independent refiners of raw sugar.

Other Modifications of Program Provisions

I. Quantity Limitation on Sugar Delivered to CCC

A. *Provisions of the Interim Rule:* The quantity of sugar which a processor may deliver to CCC, as set forth in the interim rule, may be less than, but shall not exceed, the quantity of sugar which is indicated on a purchase agreement which is approved by CCC. This quantity may not exceed the amount of sugar processed by the processor between the period December 22, 1981, and March 31, 1982.

B. *Discussion:* During consideration of the comments on the interim rule, it became apparent that the terms of the interim rule might be interpreted as permitting a processor to deliver new crop sugar (i.e., sugar beet and sugarcane harvested in the fall of 1982) on November 1, 1982, in fulfullment of the delivery requirements of the purchase agreement. This situation arises because the terms of the interim rule do not provide that sugar processed during the eligibility period of December 22, 1981, to March 31, 1982, be stored identity preserved. Also, new crop sugar is available in most producing areas of the country after October 1.

While it is not the desire of the Department to require processors to store sugar identity preserved or to maintain inventory accounting systems, nevertheless substantially the same sugar as was processed during the eligibility period must be delivered to CCC under the purchase program. In such case, the processor will have had an adequate amount of time to market such sugar commerically rather than to deliver it to CCC. It is our view that it would not be appropriate to permit processors to sell sugar processed during the eligibility period commercially, and then to permit delivery of new crop sugar under the purchase program.

To remedy this problem, the final rule provides that the quantity of sugar

eligible to be delivered to CCC may not exceed the minimum quantity of eligible sugar which the processor had in eligible storage during the period between April 1, 1982, and October 30, 1982, inclusive.

II. Amendment or Withdrawal of Purchase Agreement

A. *Provisions of the Interim Rule:* The interim rule did not provide for the withdrawal or amendment of a purchase agreement.

B. *Discussion:* This final rule includes several major program changes reflecting determinations of the Department and public comments received with respect to the interim rule. Some processors have or will have filed a purchase agreement prior to publication of this final rule. The Department believes it is important that processors have an opportunity to review this final rule prior to the final availability date and that processors filing a purchase agreement prior to the publication of this rule be given the opportunity to withdraw or amend their purchase agreement. The final rule provides that: (1) The final availability date shall be the 15th day following the date of the publication of this rule; and (2) processors may amend or withdraw any purchase agreement up until that time.

III. Information on Transportation and Handling Costs

A. *Provisions of the Interim Rule:* The interim rule as published did not require processors to furnish information to CCC on transportation and handling costs.

B. *Discussion:* The interim rule provided for differentials in purchase rates depending upon the location of the sugar. Such location differentials are common to most of the price support programs conducted by CCC. Location differentials are generally based upon transportation costs and are essential in order to prevent distortions of ordinary market relationships as the result of the price support program. Location differentials which are not calculated accurately could easily lead to the acquisition of large amounts of a commodity under a support program in isolated areas of the country, despite the fact that overall market prices would be considered adequate to induce commercial sales of the commodity rather than deliveries to CCC.

The location differentials adopted in the final rule are the same as those contained in the interim rule and are based on the best data available. However, the comments received from respondents and other information received by the Department indicate that the data base upon which these location differentials have been calculated may be inaccurate and outdated. After reviewing this matter, the Department has concluded that the proper location differentials can be developed only by using actual cost data for the shipment of sugar from the processor to the initial purchaser. This final rule requires sugar processors to provide to CCC information concerning freight and related shipping costs if a purchase agreement is entered into by the processor.

CCC will request specific information from processors which will be used to calculate location differentials for sugar price support programs. CCC does not intend to request information which will place an onerous burden on the processor. The information requested will be that information which is usually retained by the processor in the normal course of business. Information provided CCC will be considered confidential. Compliance with the request is made a condition for participation in the 1982 crop price support purchase program.

The reporting and recordkeeping requirements on this rule have been approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act (Pub. L. 96–511) and the Federal Reports Act of 1942.

IV. Technical and Typographical Changes

Technical and typographical changes have been made throughout the final rule where appropriate.

List of Subjects in 7 CFR Part 1435

Sugar, Price support program, Loan programs.

Final Rule

Accordingly, the regulations at 7 CFR Part 1435 are amended by adopting as a final rule and revising "Subpart—Price Support Purchase Agreement Program for 1982—Crop Sugar Beets and Sugarcane" (7 CFR 1435.76–1435.86) to read as follows:

PART 1435—SUGAR

* * * * *

Subpart—Price Support Purchase Agreement Program for 1982—Crop Sugar Beets and Sugarcane

Sec.

Authority: Secs. 201, 401 *et seq.* of the Agricultural Act of 1949, as amended (7 U.S.C. 1447 *et seq.*, 1421 *et seq.*).

Subpart—Price Support Purchase Agreement Program for 1982-Crop Sugar Beets and Sugarcane

§ 1435.76 General statement.

This subpart sets forth the terms and conditions of the price support purchase program for the 1982 crop of sugar beets and sugarcane.

The Commodity Credit Corporation (CCC) will offer purchase agreements to processors under which processors may elect to sell sugar to CCC upon maturity of the agreements. Only eligible sugar which is in eligible storage shall be accepted for delivery.

§ 1435.77 Administration.

(a) The Cotton, Grain, and Rice Price Support Division, Agricultural Stabilization and Conservation Service (referred to as "ASCS"), will administer this subpart under the general direction and supervision of the Deputy Administrator, State and County Operations.

(b) In the field, this subpart will be administered by the Kansas City Commodity Office and the Management Field Office (referred to as "KCCO" and "MFO" respectively) and designated State and county ASC committees (referred to as "State and county committees").

§ 1435.78 Definitions.

(a) "1982 crop" means sugar processed from domestically produced sugar beets or sugarcane during the period from December 22, 1981, through June 30, 1983.

(b) "Producer" means the owner of a portion or all of the sugar beets or sugarcane, including share rent landowners, both at the time of harvest and delivery to the processor.

(c) "Sugar" means refined beet sugar, refined cane sugar, raw cane sugar, sugarcane syrup, or edible molasses which is processed by a processor from domestically-produced sugar beets or sugarcane.

(d) "Processor" means a person or legal entity that: (1) Commercially processes sugar beets into refined sugar

or sugarcane into raw sugar, cane syrup, or edible molasses; (2) is a cooperatively owned refiner of raw cane sugar which markets refined cane and raw cane sugar on behalf of its members and nonmember patrons; or (3) is a processor of sugarcane into raw cane sugar who is also a refiner.

(e) "Raw value" of any quantity of sugar means its equivalent in terms of ordinary commerical raw sugar testing 96 degrees by the polariscope.

(f) "Secretary" means the Secretary of Agriculture or an official who has been designated to act on his behalf.

(g) "Eligible storage" means a storage facility meeting the requirements set forth in § 1435.83(c).

§ 1435.79 Method of support and purchase agreement rates.

(a) *Method of support.* Price support is available to domestic producers of 1982-crop sugar beets and sugarcane processed beginning December 22, 1981, through March 31, 1982, by means of purchase agreements entered into between processors and CCC.

(b) *Purchase agreement rates.* The basic (weighted average) rates at which CCC will purchase 1982-crop sugar from processors shall be 19.70 cents per pound for refined beet sugar and 16.75 cents per pound for cane sugar, raw value, including the cane sugar, raw value equivalent, contained in refined cane sugar, sugarcane syrup, and edible molasses. In the case of refined or specialty sugar made from raw cane sugar, the rate shall be the appropriate regional rate applied to the raw cane sugar equivalent of the refined or specialty sugar.

(c) *Locational differentials.* (1) The purchase agreement rate applicable to sugar shall be the rate specified in paragraphs (c) (2) and (3) of this section for the region in which such sugar was processed.

(2) The processing regions and applicable purchase agreement rates for refined beet sugar shall be as listed below:

Region number and description	Cents per pound
1—Michigan and Ohio	20.54
2—Minnesota and the Eastern half of North Dakota	19.59
3—Northeastern quarter of Colorado; Northwestern quarter of Kansas; Nebraska; and the Southeastern quarter of Wyoming	19.37
4—Southeastern quarter of Colorado; and Texas	19.64
5—Montana and the Northwestern quarter of Wyoming	19.45
6—That part of Idaho east of the Eastern boundary of Owyhee County and of such boundary extended northward; and Utah	19.03
7—That part of Idaho west of the eastern boundary of Owyhee County and of such boundary extended northward; Oregon and Washington	19.03
8—Arizona and California	20.24

(3) The processing regions and applicable purchase agreement rates for cane sugar, raw value, shall be as listed below, except that for such sugar processed in Hawaii or Puerto Rico but delivered to CCC on the mainland of the U.S., the applicable rate shall be 16.75 cents per pound:

Region	Cents per pound
Florida	16.73
Louisiana	17.16
Texas	16.85
Hawaii	16.66
Puerto Rico	16.23

§ 1435.80 Eligibility requirements.

(a) The maximum quantity of sugar which is eligible to be delivered to CCC by a processor under the 1982 Price Support Purchase Agreement Program is that quantity of domestically-produced sugar which is equivalent to the quantity of sugar processed by the processor during the period beginning December 22, 1981 through March 31, 1982 from domestically produced sugar beets and sugarcane grown by producers as defined herein. Such sugar must be processed and owned by the processor (or jointly owned by the processor and producer) offering the sugar.

(b) By entering into a purchase agreement with CCC, the processor agrees that proceeds derived from the delivery of sugar to CCC under the purchase agreement program will be accounted for and settled with producers in accordance with the traditional contractual or other arrangements between the processor and the producer for the sharing of proceeds received from the sale of sugar by the processor.

§ 1435.81 Availability, disbursement, and maturity of purchase agreements.

(a) *Obtaining Purchase Agreements.* To obtain purchase agreements on eligible sugar, a processor: (1) Must file a request for a purchase agreement with the State committee of the State where such processor is headquartered or a county committee designated by the State committee; and (2) must execute a purchase agreement as prescribed by CCC. The request for a purchase agreement must be filed no later than June 14, 1982 and must state the quantity of sugar to be covered by the purchase agreement.

(b) *Amendment or Withdrawal.* Purchase agreements entered into by a processor may be withdrawn or amended by the processor prior to the final date for filing a purchase agreement as provided in subsection 1435.81(a).

(c) *Maturity of purchase agreements.* Purchase agreements will nature on November 1, 1982.

§ 1435.82 Quantity of sugar covered by a purchase agreement.

A purchase agreement shall not be approved for more than the quantity of sugar which a processor certifies is eligible and available to be placed under a purchase agreement. The total quantity of sugar which a processor may place under a purchase agreement may not exceed the smaller of: (a) The processor's total eligible storage capacity less ineligible sugar in storage; or (b) the quantity of eligible sugar processed from December 22, 1981, through March 31, 1982.

§ 1435.83 Delivery to CCC, quality and storage facility requirements, and settlement.

(a) The quantity of sugar which is eligible to be delivered by a processor to CCC may be less than, but shall not exceed, the smaller of: (1) The quantity of sugar which is shown on a purchase agreement which is approved by CCC; or (2) the minimum quantity of eligible sugar the processor had in eligible storage during the period April 1, 1982, through October 30, 1982, inclusive.

(b) In order to be eligible to be delivered to CCC, sugar must meet the following minimum requirements:

(1) Refined beet or cane sugar must be: (i) Dry and free flowing; (ii) free of excessive sediment; and (iii) free of any objectionable color, flavor, odor, or other characteristic which would impair the merchantability of such sugar or which would impair or prevent the use of such sugar for normal commercial purposes.

(2) Raw cane sugar must be: (i) Of reasonable grain size; (ii) free from excessive color or moisture; and (iii) free from any objectionable color, flavor, odor, or other characteristic which would impair the merchantability of such sugar or which would impair or prevent the use of such sugar for normal commercial purposes.

(3) Sugarcane syrup or edible molasses must be free from any objectionable color, flavor, odor, or other characteristic which would impair the merchantability of such sugar or which would impair or prevent the use

of such sugar for normal commercial purposes.

(4) All sugar which is delivered to CCC must be free of any contamination by either natural or man-made substances, and must not contain chemicals or other substances which are poisonous or harmful to humans or animals.

(5) All sugar which is delivered to CCC must be free and clear of any liens, mortgages, or other such encumbrances.

(c) Sugar may only be delivered to CCC in eligible storage. Eligible storage is any storage facility which; (1) Is owned or controlled by the processor; (2) is suitable for the storage and loading out of the sugar being delivered to CCC by the processor; (3) meets CCC Standards for Approval of Dry and Cold Storage Warehouses for Processed Agricultural Commodities, Extracted Honey, and Bulk Oils (7 CFR Part 1423); and (4) is placed under a storage contract with CCC. If the sugar is either delivered in an ineligible storage facility or to an ineligible storage facility by the processor, the processor shall be responsible for all costs incurred in moving such sugar to an eligible storage facility.

(d) A processor who intends to sell sugar to CCC shall give a written notice of intent to sell such sugar to CCC not later than October 1, 1982. At that time, the processor shall furnish to CCC complete information as to the storage locations where the processor proposes to deliver the sugar to CCC and, for each location, the quantity of sugar which the processor proposes to deliver to CCC. CCC shall have the right to inspect such sugar and storage facilities. The processor shall also furnish to CCC, at CCC's request and at any time before or after delivery, such production and storage records as CCC considers necessary to verify compliance with the quantitative limitations set forth in §§ 1435.80(a), 1435.82, 1435.83(a). Failure of the processor to produce such records, or the failure of such records to establish the eligibility of the sugar in question, shall render such sugar ineligible for delivery to CCC under the purchase agreement program, regardless of whether such sugar was actually delivered to CCC.

(e) If a processor has given CCC a notice of intent to sell sugar, delivery of the sugar to CCC shall occur in-store in the amounts and at the storage facilities previously designated by the processor in accordance with paragraph (d) of this section. Delivery of such sugar shall occur automatically on November 1, 1982, without further notification or action by either the processor or CCC. At that time, title and all interest in the sugar shall vest in CCC. Notwithstanding the foregoing, delivery shall not occur and title shall not pass if: (1) After the date on which the notice of intent to sell is given to CCC and before November 1, 1982, the processor gives written notice to CCC that it does not intend to sell such sugar (or portion thereof) to CCC; or (2) CCC gives notice to the processor prior to November 1, 1982, that delivery of such sugar (or portion thereof) shall not be accepted by CCC due to the ineligibility of the sugar or the ineligibility of the storage facility.

(f) The processor shall be liable to CCC for any damages suffered by CCC if: (1) The processor delivers ineligible sugar to CCC; or (2) the processor delivers sugar to CCC which is in ineligible storage. The processor shall be liable for such damages regardless of whether CCC inspected the sugar and storage facility prior to delivery, and regardless of whether CCC failed to give notice to the processor of nonacceptance of delivery as provided in paragraph (e) of this section.

(g) Payment for the sugar shall be made by CCC to the processor promptly after delivery of the sugar to CCC.

§ 1435.84 Processor storage agreement.

(a) By executing a purchase agreement and delivering sugar to CCC, the processor agrees to store such sugar on behalf of CCC under the terms and conditions specified in this subpart and any storage agreement entered into between CCC and the processor. Should the terms of the storage agreement and the terms of these regulations conflict, the terms set forth in these regulations shall be applicable.

(b) The processor shall at all times be responsible for maintaining the quality and condition of the sugar in storage. The processor shall be liable to CCC for any damages suffered by CCC due to the failure of the processor to load out sugar meeting the eligibility criteria set forth in § 1435.83(b) of this subpart. Notwithstanding the foregoing, the processor shall not be liable for any damage, and CCC will bear its pro rata share of any loss in the case of sugar stored on a commingled basis, less any insurance proceeds and salvage value of the sugar to which CCC may be entitled, if the processor establishes to the satisfaction of CCC that each of the following conditions occurred: (1) The loss or damage occurred without fault or negligence on the part of the processor; (2) the loss resulted solely from an external cause (other than insect infestation, vermin, or animals) such as theft, fire, lightning, explosion, windstorm, cyclone, tornado, flood, or other act of God; (3) the processor gave the State ASC committee immediate notice of such loss or damage; and (4) the processor made no fraudulent representation in the purchase agreement or in obtaining approval of the purchase agreement.

(c) After the processor delivers sugar to CCC in eligible storage, the processor shall store such sugar in the eligible storage for such period of time as deemed necessary by CCC after delivery of the sugar to CCC. However, if a sugar beet processor requires the storage space for other sugar during the period of time when the processor is required by CCC to maintain the refined beet sugar delivered under a purchase agreement in the storage facility where delivered, CCC will accept bagged sugar from the current crop in substitution for the delivered bulk sugar if the settlement rate for the area where the bagged sugar is stored is equal to or exceeds the settlement rate for the delivered bulk sugar.

(d) The processor shall remove and physically deliver the purchased sugar in accordance with written instructions from CCC. All load out expenses shall be for the account of the processor.

(e) CCC shall make monthly storage payments to the processor for the period of time the processor stores the sugar for the account of CCC after delivery of the sugar by the processor in accordance with the purchase agreement. The storage payment rate shall be as agreed upon by CCC and the processor, but in no event shall exceed $.00083 per pound per month.

§ 1435.85 Miscellaneous provisions.

(a) *Scheme or device.* The processor shall not reduce returns to the producer through any scheme or device whatsoever.

(b) *Processor indebtedness.* The regulations issued by the Secretary governing setoffs and withholding, 7 CFR Part 13, shall be applicable to this program.

(c) *Appeals.* A producer or processor may obtain reconsideration and review of determinations made under this subpart in accordance with the regulations in 7 CFR Part 780.

(d) *Records and Information.*—(1) *Maintenance and Inspection of Records.* ASCS, the Office of the Inspector General, USDA, and the Comptroller General shall have the right to have access to the premises of the processor, in order to inspect, examine, and make copies of the books, records, accounts, and other written data as are deemed necessary by the examining agency to verify compliance with the requirements of this subpart. Such books, records,

accounts, and other written data shall be retained by the processor for not less than three years.

(2) *Information on Freight Costs and Related Shipping Expenses.* Any processor that files a purchase agreement must, upon the request of CCC, provide to CCC such information as CCC deems appropriate concerning freight and related shipping costs for the processor's most recent complete marketing year. By filing the purchase agreement, processors are deemed to have agreed to provide such information when requested by CCC. A processor is required to comply with the request for information by CCC in order to be eligible to deliver sugar to CCC under the provisions of the 1982-crop sugar purchase agreement program.

(e) *False certifications.* Any false certification, which is made for the purpose of enabling a processor to obtain a purchase agreement to which it is not entitled, will subject the person making such certification to liability under applicable Federal civil and criminal statutes.

(f) *Handling payments and collections not exceeding three dollars.* In order to avoid unreasonable administrative costs of making small payments and handling small accounts, amounts of $3 or less which are due the processor will be paid only upon the processor's request. Deficiencies of $3 or less, including interest, may be disregarded unless demand for payment is made by CCC.

(g) *Death, incompetency, or disappearance.* In case of the death, incompetency, or disappearance of any processor who is entitled to the payment of any sum in settlement of a purchase agreement, such payment shall, upon proper application to the State ASC committee, be made to the persons who would be entitled to such processor's payment under the regulations contained in 7 CFR Part 707—Payment Due Persons Who Have Died, Disappeared, or Have been Declared Incompetent.

§ 1435.86 Applicable forms.

The CCC forms for use in connection with this program will be available from the appropriate State committee or designated county committee. CCC forms have been developed for program participation by farmers and producers. When such forms are used for participation in the sugar purchase program, the term "producer" shall mean "processor."

Signed at Washington, D.C., on May 26, 1982.

Richard E. Lyng,

Acting Secretary.

[FR Doc. 82-14107 Filed 5-27-82; 8:45 am]

BILLING CODE 3410-05-M

Rural Electrification Administration

7 CFR Part 1702

Organization and Functions

AGENCY: Rural Electrification Administration, USDA.

ACTION: Final rule.

SUMMARY: A new Part 1702 is hereby established to describe the organization and functions of the Rural Electrification Administration (REA).

DATE: May 24, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Blaine D. Stockton, Director, Management Services Division, Rural Electrification Administration, Room 4024, South Building, U.S. Department of Agriculture, Washington, D.C. 20250, telephone number 202-382-8940.

SUPPLEMENTARY INFORMATION: Inasmuch as this part deals with the Agency's organization and functions, good cause exists for finding that the notice and comment procedures of the Administrative procedure Act (5 U.S.C. 553) are unnecessary and for making the new part effective upon publication.

Accordingly, pursuant to the authority contained in 7 U.S.C. 901-950b, Part 1702, §§ 1702.1-1702.5, is added as follows:

PART 1702—ORGANIZATION AND FUNCTIONS

Sec.

Authority: 7 U.S.C. 901-950b

§ 1702.1 General.

The Rural Electrification Administration was established by Executive Order No. 7037, signed by the President on May 11, 1935. Statutory authority was provided by the Rural Electrification Act of 1936 (49 Stat. 1363; 7 U.S.C. 901). The Act established REA as a lending agency with responsibility for developing a program for rural electrification. An October 28, 1949, amendment to the Rural Electrification Act authorized REA to make loans to improve and extend telephone service in rural areas. The Rural Telephone Bank, an Agency of the United States, was established by another amendment to the Rural Electrification Act, approved May 7, 1971. The Administrator of REA serves as the Bank's chief executive with the title of Governor. On May 11, 1973, the Act was further amended to establish a revolving fund and to provide authority for REA to guarantee loans made by other lenders. The offices of the Rural Electrification Administration are located in the South Building of the United States Department of Agriculture at 14th and Independence Avenue, SW., Washington, D.C.

§ 1702.2 Office of the Administrator.

(a) *The Administrator* (who also serves as Governor of the Rural Telephone Bank) is appointed by the President, with the advice and consent of the Senate, for a term of 10 years. He functions as the chief administrative official of the Agency under the general supervision and direction of the Under Secretary for Small Community and Rural Development. The Administrator is aided directly by a Deputy Administrator, and Assistant Administrators for the Electric Program, for the Telephone Program, and for Administration. The work is carried on through the offices and divisions described in succeeding paragraphs.

(b) *Legislative Affairs Staff* counsels and advises the Administrator as to policy, program and procedural implications of Federal and State legislative and regulatory matters relating to the REA program. It maintains liaison with other Government agencies concerning such matters. The director of this office reports to the Deputy Administrator.

(c) *Office of Civil Rights Coordinator* formulates and coordinates the Agency's plans, policies, and procedures for a nationwide program of nondiscrimination on the part of the REA borrowers in carrying out borrower programs which comply with provisions of Title VI of the Civil Rights Act of 1964 and Executive Order 11246, as amended by Executive Order 11375. The director of this office reports to the Deputy Administrator.

(d) *Public Information Office* administers the information services program of the Agency to provide borrowers and the public with information concering the operations, status, progress and accomplishments of the rural electrification and rural telephone programs. It provides specialized staff assistance on information and communications techniques to the Agency and to

borrowers as requested by line officials and administers the Freedom of Information Act activities of the Agency. The director of this office reports to the Deputy Administrator.

§ 1702.3 Administrative and Joint Program Activities.

(a) *Assistant Administrator Administration*—directs and coordinates the general administrative activities of the Agency. He participates with the Administrator and Deputy Administrator, and other officials in planning and formulating the policies of the Agency.

(b) *Office of Budget* administers the administrative and loan budgets program of the Agency and participates in program planning and evaluation. Maintains liaison on budgetary matters with congressional committees, the staff of the Department of Agriculture, the Office of Management and Budget, and other Government agencies.

(c) *Personnel Management Division* administers personnel activities of the Agency including classification and wage administration, employment and placement functions, employee relations and services, and employee development and training. It maintains working relations and liaison on personnel management matters with staff and other agencies of the Department, and other Government agencies.

(d) *Management Services Division* administers Agency activities concerned with centralized statistical and data processing activities, management analysis, cost reduction and operations improvement, and the general administrative service functions of the Agency, including procurement, space, records management, mail, and communications.

(e) *Office of Program Development and Analysis* administers certain specialized staff activities applicable to both the rural electric and rural telephone programs. The services include program analysis, member and community development, labor relations, and borrowers' insurance.

(f) *Accounting and Auditing Division* administers REA activities concerned with electric and telephone borrowers' accounting systems, the auditing of borrowers' records, and with the loan and administrative accounting of the Agency.

§ 1702.4 Rural Electric Program Activities.

(a) *Assistant Administrator—Electric* directs and coordinates the rural electrification program of the Agency. He participates with the Administrator and Deputy Administrator, and other officials in planning and formulating the policies of the Agency.

(b) *Distribution Systems Division* administers rural electrification program responsibilities that relate to distribution-type borrowers nationwide, involving engineering, management, loans and operations analysis, construction, community development, rates, and effective and efficient use of electric energy. It develops and maintains a comprehensive appraisal of the current and long-term financing needs of distribution borrowers, and provides them with loan development guidance. It advises and assists borrowers on the planning, design, construction, and technical operation and maintenance of their systems, and assures their compliance with acceptable engineering practices. This division serves as the primary point of contact between REA and all distribution borrowers' officials and boards of directors, and coordinates distribution-type borrower activities with those of other Agency offices. The line activities are carried out through five area offices within the division which employ field specialists supervised from Washington who have their homes as headquarters centrally located in areas they serve. The five area offices have been assigned geographic areas as follows: Northeast Area (Maine, New Hampshire, Vermont, New York, New Jersey, Pennsylvania, Ohio, Rhode Island, Connecticut, Massachusetts, Michigan, Indiana, West Virginia, Maryland, Delaware, Virginia, and North Carolina); Southeast Area (Kentucky, Tennessee, Mississippi, Alabama, Georgia, South Carolina, Florida, Puerto Rico and the Virgin Islands); North Central Area (North Dakota, South Dakota, Minnesota, Wisconsin, Iowa, and Illinois); Southwest Area (Missouri, Arkansas, Oklahoma, Louisiana, Texas, New Mexico, and Arizona); and Western Area (Kansas, Nebraska, Colorado, Wyoming, Montana, Utah, Idaho, Oregon, Washington, Nevada, California, Hawaii and Alaska).

(c) *Power Supply Division* administers rural electrification program responsibilities that relate to power supply borrowers nationwide involving engineering, management, loans and operations analysis, construction, power supply planning and procurement, rates, and effective and efficient use of electric energy. It develops and maintains a comprehensive appraisal of the current and long-term financing needs of power supply borrowers, and conducts detailed review and analysis of borrowers' loan requests. It develops and administers engineering and construction functions related to the planning, design, construction, operation and maintenance of power supply borrowers' generation and transmission systems and serves as the primary point of contact between REA and all power supply borrowers' officials and boards of directors, and coordinates power supply borrower activities with those of other Agency offices.

(d) *Environmental and Energy Requirements Division* develops policies and procedures relating to environmental and energy requirements in connection with the Agency's loan and loan guarantee programs. The division coordinates REA activities on environmental and energy matters with the Office of the Secretary, Department of Energy, Environmental Protection Agency, Council on Environmental Quality, and other agencies. The office provides advice and assistance in the preparation and processing of environmental impact statements and gives advice and assistance to Agency offices and borrowers concerning the environmental aspects of the design, construction, and technical operation and maintenance of power plants and transmission systems. The division conducts required power supply surveys and evaluates alternative methods of supplying borrowers' forecasted power loads.

(e) *Engineering Standards Division* develops practices, standards, specifications and technical data relating to the design, construction, and technical operation and maintenance and other basic engineering factors affecting rural electric distribution and transmission systems. It conducts engineering studies of the operating performance of electric systems' materials and equipment and is responsible for review and approval, through a formal committee structure, of materials and equipment for use on distribution and transmission facilities. The division provides advice and assistance to Agency offices and, as requested, to borrowers concerning its functions.

(f) *Electric Loans and Management Division* is responsible for developing techniques and criteria for evaluating the financial and operating performance of rural electric borrowers. It develops operating practices and procedures for the administration of the rural electric program with respect to retail and wholesale rates. The division develops standards, policies and procedures in connection with loan requirements and processing, and, on referral from the Distribution Systems Division, prepares distribution systems loan applications in

final form. It disseminates information in connection with the usage of automatic data processing systems and techniques in the efficient operation of borrowers' systems.

(g) *Energy Management and Utilization Division* develops and administers REA program responsibilities relating to all aspects of the development, financing, construction and use of wind power, solar power, low head hydro, fuel cell, biomass, coal bed gasification, etc., installation; the development of engineering practices, standards, and specifications relating to the use of borrowers' communications and control systems, load management and control systems, and special metering systems; promoting and encouraging borrower development of supplemental resource plant demonstration projects; and the development and dissemination of information on supplemental energy sources and load management and special metering systems.

§ 1702.5 Rural Telephone Program Activities.

(a) *Assistant Administrator—Telephone* directs and coordinates the rural telephone program of the Agency. He participates with the Administrator, and Deputy Administrator and other officials in planning and formulating the policies of the Agency.

(b) *Telephone Area Offices* carry out the line activities of REA's telephone programs. Five area offices, with headquarters in Washington, employ and supervise field specialists who use their homes as headquarters centrally located in areas they serve. Each area office appraises applications for loans and loan guarantees in its assigned geographical area; prepares loan and loan quarantee recommendations; reviews the financial and operating performance of borrowers; analyzes engineering plans, specifications, and construction contracts; reviews and approves completed construction; authorizes advances of funds to borrowers; provides advice and assistance to borrowers concerning loans and the design, construction, management, operation, and maintenance of their telephone systems; and community development. The area office serves as the primary point of contact with the borrowers. The five area offices are assigned geographic areas as follows: Northeast Area (Maine, New Hampshire, Vermont, New York, Delaware, New Jersey, Pennsylvania, Ohio, Rhode Island, Connecticut, Massachusetts, Michigan, Indiana, West Virginia, Maryland, Virginia, and North Carolina); Southeast Area (Kentucky, Tennessee, Mississippi, Alabama, Georgia, South Carolina, Florida, Virgin Islands, and Puerto Rico); North Central Area (North Dakota, South Dakota, Minnesota, Wisconsin, Iowa, and Illinois); Southwest Area (Missouri, Arkansas, Oklahoma, Louisiana, Texas, New Mexico, and Arizona); and Western Area (Kansas, Nebraska, Colorado, Wyoming, Montana, Utah, Idaho, Washington, Oregon, Nevada, California, Alaska, Hawaii and Guam).

(c) *Telecommunications Engineering and Standards Division* develops policies, standards, specifications, and technical data relating to the design, construction, and technical operation and maintenance of rural telecommunication systems. This includes engineering studies and analyses of the operating performance of central office, outside plant, transmission, and other general telephone systems material and equipment. The division evaluates new communications network technology and is responsible for the development of criteria, standards and specifications for use in rural communications systems applications. It provides advice and assistance within its subject matter responsibility to Agency officials and to borrowers as requested.

(d) *Telecommunications Management Division* is responsible for the development of proposed management, organization and operating practices for the use of telephone borrowers. It develops techniques and criteria for evaluating the financial and operating performance of rural telephone borrowers. The division develops operating practices and procedures with respect to rates, and the evaluation of telephone systems and facilities. It also develops practices and procedures to analyze customer demand for telecommunication services and products, conducts research and develops training programs in regard to the marketing and sales of new telecommunication services by telephone borrowers. The division provides advice and assistance within its subject matter, responsibility to Agency officials and to borrowers as requested.

This notice supersedes the notice on REA Organization publshed in 35 FR 18211–18212.

Issued the 24th day of May 1982.

Harold V. Hunter,

Administrator.

[FR Doc. 82–14677 Filed 5–27–82; 8:45 am]

BILLING CODE 3410–15–M

Animal and Plant Health Inspection Service

9 CFR Part 97

[Docket 82–049]

Overtime Services Relating to Imports and Exports; Commuted Traveltime Allowances

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: This document amends administrative instructions prescribing commuted traveltime. This amendment establishes commuted traveltime periods as nearly as may be practicable to cover the time necessarily spent in reporting to and returning from the place at which an employee of Veterinary Services performs overtime or holiday duty when such travel is performed solely on account of overtime or holiday duty. Such establishment depends upon facts within the knowledge of the Animal and Plant Health Inspection Service.

EFFECTIVE DATE: May 24, 1982.

FOR FURTHER INFORMATION CONTACT: Dr. A. E. Hall, VS, APHIS, USDA, Room 870, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301–436–8695.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

This final action has been reviewed under Executive Order 12291, and has been determined to be exempt from those requirements. Nicholes E. Bedessem, Special Assistant to the Administrator, made this determination because commuted traveltime allowances are strictly a function of where the APHIS employee lives in relation to the place overtime or holiday duty is performed. As employees are transferred or change their residence or as the place of inspection changes, the number of hours of commuted traveltime allowed may change. This amendment merely reflects such changes and serves to notify the public of the new allowed hours.

It is to the benefit of the public that these instructions be made effective at the earliest practicable date. It does not appear that public participation in this rulemaking proceeding would make additional relevant information available to the Department.

List of Subjects in 9 CFR Part 97

Exports, Government Employees, Imports, Livestock and livestock

products, Poultry and poultry products, Transportation.

PART 97—OVERTIME SERVICES RELATING TO IMPORTS AND EXPORTS

Therefore, pursuant to the authority conferred upon the Deputy Administrator, Veterinary Services, Animal and Plant Health Inspection Service by § 97.1 of the regulations concerning overtime services relating to imports and exports (9 CFR 97.1), administrative instructions 9 CFR 97.2 (1981 ed.), prescribing the commuted traveltime that shall be included in each period of overtime or holiday duty, are herby amended, and the format is revised to read in alphabetical order as shown below:

§ 97.2 Administrative instructions prescribing commuted traveltime.

* * * * *

COMMUTED TRAVELTIME ALLOWANCES

[In hours]

Location covered	Served from	Metropolitan Area	
		Within	Outside
Alaska:			
Anchorage		1	
Do	Palmer		3
Arizona:			
Douglas		1	
Do	Nogales		6
Naco	Douglas		2
Nogales		1	
Do	Douglas		6
Do	Tucson		3
San Luis	Yuma		2
Sasabe	Nogales		4
Do	Tuscon		3
California:			
Calexico		1	
Do	Campo or Manzanita.		3
Edwards Air Force Base.	Lawndale		4
Los Angeles and Los Angeles International Airport.	Lawndale	1	
Do	San Bernardino		5
Do	Los Angeles	2	
Los Angeles Harbor, San Pedro, including Long Beach, Wilmington, and Terminal Island.	Lawndale		2
March Field	do		5
Newport Beach	do		4
Ontario	do		3
Ramona	San Ysidro		2
Sacramento		1	
Do	San Francisco		5
San Diego		1	
Do	San Ysidro		2
San Francisco, including, Alameda, Richmond, Pittsburg, and other ports in San Francisco and San Pablo Bay areas.		2	
San Louis Obispo.	San Pedro		6
San Ysidro		1	
Stockton	San Francisco		4
Tarzana	Lawndale		3
Torrance	do		3
Vernon	do		2
Colorado:			
Stapleton International Airport, Denver.	Arvada	1	
Do	Aurora		2
Connecticut:			
Bradley International Airport, Windsor Locks.	Ashford		1
Do	East Providence, RI.		4
Do	Harwinton		2
Do	Stockbridge and East Brookfield, MA.		3
Do	Hartford	2	
Do	Storrs		3
Delaware:			
Wilmington	Dover		3
Florida:			
Jacksonville		2	
Miami		2	
Port Everglades	Miami		2
St. Petersburg	Tampa		2
Do	Miami		6
Tampa		2	
Do	Miami		6
Georgia:			
Port of Brunswick.	Savannah		4
Port of Savannah.	do	2	
Port of St. Mary's.	do		6
Hawaii:			
Kawaihae	Waimea		1
Hilo	do		3
Honolulu, including Aiea, Barber's Point Naval Air Station, Honolulu International Airport, West Loch, Middle Loch, East Loch, Pearl City and Waipahu.		2	
Idaho:			
Boise	Caldwell or Middleton.		2
Eastport	Bonners Ferry		2
Do	Spokane, WA		6
Illinois:			
Chicago		3	
Indiana:			
Indianapolis		2	
Iowa:			
Ames		1	
Kentucky:			
Standiford Field	Frankfort		3
Do	Louisville	1	
Louisiana:			
Acadian Regional Airport, New Iberia.	Abbeville		2
Any point below Chalmette and on the East Bank, Belle Chasse, LA, and points to and including Port Sulphur on the west bank.	Baton Rouge		4
Any point on the Mississippi River above the St. Charles-Jefferson Parish boundary to and including Gramercy.	do		2
Morgan City	do		5
New Orleans including Orleans Parish and all points on the east bank of the Mississippi River from the St. Charles-Jefferson Parish boundary to and including Chalmette, LA, and all points on the west bank from the St. Charles-Jefferson Parish boundary to but excluding Belle Chasse, LA.	do		4
Undesignated Ports.	do		4
Maine:			
Bangor	Augusta		3
Do	Carmel		1
Jackman	Bangor		5
Houlton		1	
Port of Portland	Augusta		3
Do	Bangor		6
Do	Concord, NH		4
Maryland:			
Baltimore:		3	
Massachusetts:			
Boston		3	
Michigan:			
Detroit		3	
Port Huron		1	
Do			1
Minnesota:			
Minneapolis/St. Paul International Airport.		2	
Do	Rochester		3
Do	Princeton		3
Noyes	Pembina		1
Missouri:			
Kansas City International Airport.	Jefferson		6
St. Louis Airport	Beaufort		3
St. Louis Zoological Park.	do		3
Montana:			
Great Falls Airport.	Great Falls		1

COMMUNTED TRAVELTIME ALLOWANCES—Continued

[In hours]

Location covered	Served from	Metropolitan Area	
		Within	Outside
Port of Morgan	Wolf Point		6
Port of Raymond	do		5
Port of Sweetgrass	Great Falls		5
Sweetgrass		1	
Nebraska:			
Lincoln Airport		1	
New Mexico:			
Antelope Wells		1	
Do	Deming		5
Do	Hachita		3
Do	Las Cruces		6
Do	Roswell and Socorro.		6
Columbus		1	
Do	El Paso, TX		5
Do	Hachita		3
Do	Las Cruces		4
Do	Roswell and Socorro.		6
Port of Columbus	Deming		2
New York:			
Alexandria Bay		1	
Buffalo		2	
Do	Akron		2
Champlain		1	
Malone	Champlain		3
Newburgh		1	
Do	New York, NY		4
New York		3	
Niagara Falls	Akron		2
Odgensburg		1	
Port of Albany		1	
Rochester	Buffalo		4
Rooseveltown	Odgensburg		2
Rouses Point	Champlain		1
Stewart Airport, Newburgh	Albany		4
North Dakota:			
Dunseith	Minot		4
Do	Pembina		6
Pembina		1	
Do	Fargo		6
Portal		1	
Do	Dickinson		6
Do	Minot		4
Oregon:			
Portland			3
Pennsylvania:			
Harrisburg	Camp Hill	1	
Do	Morgantown		3
Do	Northumberland		2
Do	Shippensburg		3
Philadelphia		3	
Puerto Rico:			
Aquadilla	Aquadilla		2
Salinas	San Juan		4
San Juan		2	
Texas:			
Brownsville		1	
Do	Laredo or San Antonio.		6
Brownsville and Brownsville International Airport.	Harlingen and San Benito.		1
Do	McAllen or Edinburg.		3
Do	Weslaco		2
Dallas-Ft. Worth International Airport.	Ft. Worth or Dallas.		2
Del Rio		1	
Do	Eagle Pass		3
Do	Edinburg, McAllen or Mission.		6
Do	Laredo or San Antonio.		5
Eagle Pass		1	
Do	Del Rio		3
Do	Edinburgh, McAllen or Mission.		6

COMMUNTED TRAVELTIME ALLOWANCES—Continued

[In hours]

Location covered	Served from	Metropolitan Area	
		Within	Outside
Do	Laredo or San Antonio.		5
El Paso		1	
Do	Hatchita or Deming, NM.		6
Do	Las Cruces, NM		3
Harlingen	Edinburg, McAllen or Mission.		2
Do	Weslaco		1
Hidalgo	Brownsville		3
Do	Edinburg, Mission and McAllen.		1
Do	Rio Grande City		2
Houston (except Houston Intercontinental Airport).		2	
Houston Intercontinental Airport.		3	
Laredo		1	
Do	Brownsville or San Antonio.		6
Do	Eagle Pass		5
Do	McAllen, Edinburg or Mission.		6
Presidio		1	
Do	El Paso		6
Utah:			
Salt Lake City	Murray and Ogden.	2	
Vermont:			
Burlington International Airport.	Burlington	1	
Do	Highgate Springs		2
Do	Montpelier		2
Derby Line	St. Albans		4
Highgate Springs	do		1
Virginia:			
Dulles International Airport.	Hyattsville, MD	3	
Do	Richmond		5
Do	Warrenton		3
Port of Richmond.		2	
Washington:			
Blaine		1	
Do	Seattle		6
Lynden	Blaine		2
Do	Seattle		6
Moses Lake	Oroville, WA		6
Do	Spokane		5
Do	Wenatchee		3
Do	Yakima		4
Oroville		1	
Sea-Tac Airport	Olympia		3
Seattle		2	
Sumas	Blaine		2
Do	Seattle		6
Tacoma		3	
Wisconsin:			
Barron	Ripon		6
Madison		1	
Monroe	Madison		3

(64 Stat. 561 [7 U.S.C. 2260])

Therefore, pursuant to the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to this final rule are impracticable and contrary to the public interest and good cause is found for making this final rule effective less than 30 days after publication of this document in the **Federal Register.**

Done at Washington, D.C., this 24th day of May 1982.

John W. Walker,

Acting Deputy Administrator, Veterinary Services.

[FR Doc. 82-14588 Filed 5-27-82; 8:45 am]

BILLING CODE 3410-34-M

9 CFR Part 145

[Docket 82-021]

National Poultry Improvement Plan and Auxiliary Provisions on National Poultry Improvement Plan

Correction

In FR Doc. 82-13470 appearing at page 21990 in the issue of Thursday, May 20, 1982, on page 21993, first column, in § 145.43, paragraph (d)(2), last line, "§ 174.6(b)" should be changed to read "§ 147.6(b)".

BILLING CODE 1505-01-M

Food Safety and Inspection Service

9 CFR Part 381

[Docket No. 81-017]

Young Chicken Slaughter Inspection Rate Maximums; Modified Traditional Poultry Inspection

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: On April 13, 1979, the Food Safety and Quality Service (subsequently reorganized and renamed the Food Safety and Inspection Service) published immediately effective emergency rules establishing maximum inspection rates for young chickens and an alternate method of post-mortem inspection of young chickens known as "modified traditional inspection." The Agency's action was prompted by an order of the United States District Court for the Eastern District of Arkansas directing the Department to establish immediately uniform inspection rate standards for young chickens and to apply and enforce the rates uniformly in all federally inspected poultry slaughtering establishments in the United States. On March 18, 1981, the U.S. Court of Appeals for the District of Columbia Circuit upheld the aforementioned rules as interim rules, but ordered the Department to institute rulemaking procedures for the promulgation of permanent rules. The Agency solicited comments on the interim rules and has considered all comments received. The Agency has

determined that the interim rules will be made permanent regulations.

EFFECTIVE DATE: May 28, 1982.

FOR FURTHER INFORMATION CONTACT: Dr. John C. Prucha, Director, Slaughter Inspection Standards and Procedures Division, Meat and Poultry Inspection Technical Services, U.S. Department of Agriculture, Washington, DC 20250, (202) 447-3219.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

This action is issued in conformance with Executive Order 12291, and has been determined to be not a "major rule." It will not result in an annual effect on the economy of $100 million or more; a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Background

On April 13, 1979, to comply with a court order, the Food Safety and Quality Service (which was subsequently reorganized and renamed the Food Safety and Inspection Service, hereinafter referred to as FSIS) published in the **Federal Register** a final rule, effective immediately, establishing national uniform maximum inspection rates for young chickens under the traditional inspection procedure (44 FR 22047-22049). At the same time, the Agency published accompanying final rules, also effective immediately, establishing an alternate method of post-mortem inspection of young chickens known as "modified traditional inspection" (44 FR 22049-22051).

Although the Federal poultry products inspection regulations were amended by the emergency final rules without waiting for public comment, comments concerning the amendments were requested at the time of their publication. The comment period closed July 12, 1979. On February 15, 1980, and April 25, 1980, the Agency published in the **Federal Register** notices responding to the comments received on the final rules (Young Chicken Slaughter Inspection Rate Maximums, 45 FR 10319-10321; Modified Traditional Poultry Inspection, 45 FR 27917-27919).

The Agency received a total of seven comments in response to the emergency final rules. Five were from industry and industry organizations commending the Department for providing an alternative method for inspecting young chickens. One comment was from a USDA employee requesting interpretation of the lighting requirements at the inspection stations. Another comment was from the American Federation of Government Employees, AFL-CIO, an employee organization representing Federal meat and poultry inspectors. The organization considered the emergency action illegal and viewed the procedural change and rate as deleterious to the health of poultry inspectors and to the health of the poultry-consuming public.

On March 18, 1981, the United States Court of Appeals for the District of Columbia Circuit ruled, in the case of *American Federation of Government Employees, AFL-CIO, et al. v. John R. Block, Secretary of Agriculture, et al.*, C.A. No. 79-1724 (D.C. Cir., March 18, 1981), that although the Department possessed good cause to publish the aforementioned regulations, justification did not exist for their promulgation as "permanent" regulations without the public procedures required under the Administrative Procedures Act. The Court further determined these final regulations were effective as interim regulations, but directed the Department to institute rulemaking proceedings forthwith to establish permanent regulations.

Comments on Interim Rule

On May 12, 1981, the Agency published a notice in the **Federal Register** soliciting comments on the interim rules (46 FR 26350-26352). The comment period closed on July 13, 1981. The Agency received 35 comments regarding these rules—4 from poultry processors, 3 from poultry industry associations, 24 from USDA meat and poultry inspectors, 3 from consumers, and 1 from a State department of agriculture.

The following is a discussion of the comments received within the comment period and the Agency's response to each issue raised.

A. Poultry Processors

Comment: Comments were favorable to modified traditional inspection (MTI) with respect to the productivity increases it permits for both the industry and the Agency. Most industry comments also urged the Agency to continue testing MTI at line speeds above 70 birds per minute and to test other new poultry inspection methods. They pointed out that the regulations should not be inflexible to the extent improved technology and procedures cannot be readily utilized.

Response: FSIS is making every effort to design additional new and improved inspection techniques consistent with the requirements of the Poultry Products Inspection Act. The Agency has tested one new procedure which will permit line speeds above 70 birds per minute, and is preparing to test another. It intends, as priorities permit, to conduct studies of MTI to determine the feasibility of revising the current 70 bird per minute maximum inspection rate.

B. Poultry Industry Trade Associations

The poultry trade associations covered several specific points for improving MTI. These are:

1. *Comment:* Discontinue use of FSIS inspectors at the outside station and permit plant employees to perform the external inspection of birds.

Response: Since a post-mortem inspection of the carcass of each bird processed in an official establishment is, by law, the responsibility of authorized Federal or State inspectors (21 U.S.C. 453(k), 455(b)), the Agency is rejecting the idea of permitting the establishment to conduct any part of the inspection process, such as the examination of the outside surfaces of the carcass. Chickens suffer from two neoplastic conditions, Marek's disease and dermal squamous cell carcinoma, in which the only readily discernible manifestations of the disease may be in the skin. In addition, there are several other disease conditions in which the appearance of the skin may be essential to a diagnosis and a determination of whether or not the carcass or its parts are fit for human food. The Agency cannot delegate to the establishment responsibility for the detection of these diseases.

The Agency does, however, recognize that the scope and intensity of its post-mortem inspections can be geared to disease conditions found in the animal population it is inspecting. If a particular disease condition can be shown to not be present in a particular flock of poultry, then it would be unnecessary for the Agency to inspect for it. In recognition of this, and cognizant of its responsibility to minimize inspections, the Agency has commissioned a study by Tuskegee Institute, Tuskegee, Alabama, to determine whether, through the study of certain indicators, it is possible to predict the presence or absence of certain diseases in a flock prior to slaughter. If it is possible, the Agency may then be able to adjust the intensity of its post-mortem inspections accordingly. This might result in a savings to both the Agency and the poultry industry.

2. *Comment:* Incorporate into the regulations the provisions of MPI Bulletin 81–6 which eliminates the requirement for continuous flow handwashing facilities at the outside inspection station.

Response: The Federal meat inspection regulations require only that on-line handwashing facilities be provided for the inspector and the inspector's helper, and that both hot and cold running water be available at each inspection station on the eviscerating line (9 CFR 381.36(c) and 381.51(f)). Continuous flow handwashing facilities are not required. However, most establishments have voluntarily installed continuous flow handwashing facilities for the inspector's use at most inspection stations because they allow inspectors to wash their hands when required without unnecessarily interrupting or delaying inspection or processing operations. Due to this common practice, FSIS issued MPI Bulletin 81–6 to alert all concerned parties that when use of the hands is not routinely required for inspection, as is the case under MTI at the outside inspection station, necessary handwashing can be accomplished without the need for continuously running water. Since the existing regulations do not require continuous flow handwashing facilities, further regulatory action is unnecessary.

3. *Comment:* Eliminate the requirement that 4 feet of horizontal space be provided for each inspector and for each helper. Exceptions have already been made because of inadequate space on the eviscerating line.

Response: FSIS concludes that this requirement should be retained for two reasons. First, the inspector's helpers work with sharp knives and scissors. If they work too closely together, and too closely to the inspector, the danger of injuries is likely to be increased. Second, the workload of inspectors' helpers varies with the amount of trimming required on carcasses. The carcasses on the line are continuously moving and when the amount of trimming increases, helpers move down the line with the carcass to complete their trimming. If the horizontal line space within which they work is restricted, they may not have sufficient time to trim away defective parts of carcasses.

4. *Comment:* Eliminate the requirement for an adjustable platform for inspectors because, in many plants, it was impossible to devise such inspection stations and exceptions were made using adjustable chairs, stools, and other types of raised platforms which have been satisfactory over the past 2 years.

Response: Adjustable platforms are required to minimize inspector's physical strain (bending or reaching) as they do their work. Excessive bending or reaching could have adverse health consequences for inspectors and also increase inspector errors due to the added fatigue. If one inspector could work at the same inspection station at all times, a fixed height platform could be provided to accommodate her or his physical stature. However, this is not possible due to normal leave and relief requirements. In addition, rotation at intervals throughout the day between inspection stations is encouraged as another means of minimizing job stress. The Agency believes that, for the stated reasons, the platforms must be adjustable.

5. *Comment:* Plants should provide common retain racks for inspection stations that are located back to back because it would be easier and more efficient.

Response: The purpose of the retain rack is to provide a respository, off the moving eviscerating line, which may be used to recover wholesome product. Birds are also retained in this rack for veterinary disposition and for other reasons, such as missing viscera. Therefore, there is often much activity involving the use of retain racks. To require only one retain rack for back-to-back inspection stations would inhibit free passage between the two inspection stations by those making disposition of retained poultry and others and would therefore interfere with proper disposition of retained birds.

6. *Comment:* Plants should have the option to install mirrors consistent with inspector's and trimmer's needs.

Response: The interim rule contains minimal requirements which the Agency's industrial engineers have determined necessary to assure effective inspection using MTI procedures. Any mirrors that exceed these requirements are, of course, acceptable.

C. *Poultry Inspectors.*

Twenty-four poultry inspectors commented in response to a questionnaire by an employees' union. A summary of their comments is as follows:

1. *Comment:* MTI constitutes a health hazard to consumers. Inspectors working under MTI have to work at such a fast rate of speed (maximum 70 birds per minute) that they are not able to adequately check for disease conditions, fecal contamination, and dressing defects. Further, MTI has not been determined to be adequate to ensure safe inspections.

Response: FSIS tested MTI against the traditional inspection procedure in 1978. The tests showed that MTI was as effective as the traditional inspection method in protecting the consumer against diseased and otherwise unwholesome birds which might adversely affect human health. Furthermore, the operations conducted under MTI have resulted in efficient and uniform inspection procedures.

2. *Comment:* The increased line speeds cause inspectors increased mental and physical fatigue.

Response: In the summer of 1978, in response to employees' union concerns that traditional poultry inspection, as well as new procedures under consideration and testing at that time, were or might cause mental and physical fatigue (stress) to poultry inspectors, the union and the Agency cooperatively worked out an agreement for a third party to conduct a major stress study of poultry inspectors at USDA expense. The third party, the National Institute of Occupational Safety and Health (NIOSH), commenced its study during the winter of 1979. A final report has not been submitted.

The Agency's original tests of MTI and reports of poultry inspector's supervisors did not indicate that MTI caused inspectors undue stress. However, undue job stress is difficult to measure, and FSIS is committed to a full examination of the question through the NIOSH study and will carefully consider their final report when issued.

3. *Comment:* Inspectors are more likely to suffer from "line hypnosis" under MTI. Inspectors alleged that a condition known as "line hypnosis" occurs with MTI and results in inspectors passing unwholesome chickens.

Response: "Line hypnosis" is a phenomenon known to occur in a production line situation and is manifested by inspectors failing to react to obvious defects. To guard against this condition, inspectors should rotate jobs and be given regular work breaks during the course of the workday. With respect to regular work breaks, poultry inspectors receive the same breaks as plant employees, plus additional breaks provided by supervisors or other inspectors. Except where union agreements prohibit it, poultry inspectors also rotate from position to position daily or even several times a day.

D. Consumers and State Department of Agriculture

Comment: Three consumers and the Illinois Department of Agriculture commented regarding the declining quality and wholesomeness of poultry in commerce. The Illinois Department of Agriculture further commented that it appears that MTI lacks the effectiveness necessary to produce a truly wholesome product.

Response: The procedures in this regulation have been tested and compared with traditional inspection procedures. The results indicate no difference in the wholesomeness or quality of poultry when either procedure is used.

Options: In reviewing the issue of young chicken slaughter rate maximums, the Agency considered the following alternatives:

1. Maintain Status Quo—Rejected because it would maintain different treatment of establishments between regions, and within areas and circuits and, of course, not comply with the order of the United States District Court for the Eastern District of Arkansas.

2. Enforce 1974 Poultry Slaughter Inspection Time Standards—The 1974 standards were prepared from earlier efforts to establish national standards. The option was rejected because implementation would required a 12 percent increase in all young chicken processing plant operating hours to maintain output at current levels.

3. Implement 1977 Draft Bulletin on Staffing Standards—This draft bulletin was an effort to utilize available time of inspectors in "off-the-line" jobs and inspectors-in-charge to increase productivity. By using floormen and inspectors-in-charge to relieve line inspectors, faster inspection rates could be established in direct relationship to the amount of time a line inspector was thereby able to rest. This option was rejected because it would require a significant increase in inspection personnel and would require a 2 percent increase in all processing plant operating hours to maintain output at current levels.

4. Establish New Standards Deduced from the 1974 Standards—This option was rejected because it would require a 1.8 percent increase in all processing plant operating hours to maintain output at current levels.

5. Establish Inspection Rates Based on Those Enforced in the Southwest Region Plus 5 Percent—This option was adopted because the inspection rates in effect in the Southwest Region properly ensured adequate inspection. These rates were increased by 5 percent to reflect the elimination of tibia palpation, which was found to be no longer necessary. This alternative has the potential for increasing young chicken processing plant efficiency by reducing total plant operating hours by nearly 2 percent to maintain the current output level.

The Agency also investigated alternate inspection methods and procedures to obtain greater inspection efficiency in terms of birds inspected per minute with no loss in product safety and wholesomeness. Using the traditional inspection procedure, the only way to obtain greater speed in production lines is to hire more inspectors. Since the Government, by law, pays for all inspection except overtime and holiday work, the traditional method becomes increasingly expensive for the taxpayer. In this regard, the Agency considered the following alternatives:

1. Traditional Inspection—This option was rejected because it is slower and more expensive to operate than the Modified Traditional Inspection (see Alternative 2).

2. Modified Traditional Inspection—This option was adopted because this method of inspection reduces the number of motions required of an inspector by dividing the inspection of each young chicken between different inspectors. The first inspects only the outside of a prepositioned carcass, with a mirror being used to see surfaces not directly visible. Plant personnel then reposition the carcass and its attached viscera for the second inspector or inspectors who examine the inside of the carcass and the viscera. This process results in considerable inspection time savings and provides for the operation of a processing line at 70 birds per minute with three inspectors.

3. Other Methods (Sequential Inspection, Cooperative and Flock Testing)—These options were rejected either because four inspectors per line would be required offering no real increase in productivity, or because the methods are in various stages of development and not available for adoption at this time.

After careful consideration of the comments received on the May 12, 1981, notice, as well as those received in response to the rules published on April 13, 1979, and other relevant information available to the Department, the Administrator has determined that the interim rules should be published as permanent regulations as set forth below.

List of Subjects in 9 CFR Part 38

Facilities, Official establishment, Post-mortem, Poultry products inspection.

Done at Washington, D.C., on: May 14, 1982.

Donald L. Houston,

Administrator, Food Safety and Inspection Service.

PART 381—POULTRY PRODUCTS INSPECTION REGULATIONS

1. A new paragraph (c) is added to §381.36 (9 CFR 381.36) to read as follows:

§ 381.36 Facilities required.

* * * * *

(c) Facilities for modified traditional inspection. The following requirements for lines operating under the modified traditional inspection procedures are in addition to the normal requirements to obtain a grant of inspection. The requirements for modified traditional inspection in § 381.76(b) also apply.

(1) The following provisions shall apply to every inspection station:

(i) It shall consist of 4 feet of horizontal line space for each inspector and 4 feet for each inspector's helper.

(ii) The conveyor shall be level for the entire length of the inspection station.

(iii) A minimum of 150 footcandles of shadow-free lighting shall be available at the inspection surfaces of the bird to facilitate inspection, notwithstanding the requirement of § 381.52(b).

(iv) A trough complying with §381.53(g)(4) of this Part shall extend beneath the conveyor at all places where processing operations are conducted from the point where the carcass is opened to the point where the viscera have been completely removed, provided, however, that is those cases in which outside inspection is conducted before the opening cut is performed, such a trough shall also be placed at the outside carcass inspection station.

(v) On-line handwashing facilities shall be provided for the inspector and for the inspector's helper.

(vi) Hangback racks shall be provided for the inspector's helpers.

(vii) Each inspection station shall be provided with receptacles for condemned carcasses and parts. Such receptacles shall conform to the requirements of § 381.53(m).

(viii) Each inspector's station shall have a platform which covers the entire floor area of the station and is adjustable so that it can be raised to the proper inspection position.

(2) The following provisions, in addition to the requirements in

§ 381.36(c)(1) above, also apply to the outside carcass inspection station:

(i) A glass, distortion-free mirror, at least 3 feet wide and 2 feet high shall be mounted so that it can be adjusted between 5 and 15 inches behind the shackles, tilt up and down, tilt from side to side, and be raised and lowered. The mirror shall be positioned in relation to the inspection platform so that the inspector can position himself opposite it from 8 to 12 inches from the downstream edge.

(ii) To steady the birds for inspection, a horizontal shackle guide bar shall be located 7 inches above the bottom of the shackle and approximately 1 inch toward the inspector from the vertical plane of the moving line, extending the full length of the inspection station.

(iii) The bottom of the shackle shall be at least 52 inches higher than the inspector's adjustable platform in its lowest position.

(3) The following provisions, in addition to the requirements in § 381.36(c)(1) above, also apply to the inside carcass/viscera inspection station:

(i) A guide bar to steady the shackle shall be provided. It shall run the entire length of the inside carcass/viscera inspection station and shall maintain the lower edge of the shackle above the trough or water rail and approximately 8 inches from the edge.

(ii) The line shall be equipped with selection devices so that each inspector has the birds he is to inspect presented to him for inspection 12 inches apart and physically isolated from other birds.

(iii) The bottom of the shackle shall be at least 48 inches higher than the inspector's adjustable platform in its lowest position.

2. The Table of Contents is changed accordingly, and the title and text of § 381.76 is revised to read as follows:

§ 381.76 Post-mortem Inspection, when required; extent; traditional and modified traditional post-mortem inspection; rate of inspection.

(a) A post-mortem inspection shall be made on a bird-by-bird basis on all poultry eviscerated in an official establishment. No viscera or any part thereof shall be removed from any poultry processed in any official establishment, except at the time of post-mortem inspection, unless their identify with the rest of the carcass is maintained in a manner satisfactory to the inspector until such inspection is made. Each carcass to be eviscerated shall be opened so as to expose the organs and the body cavity for proper examination by the inspector and shall be prepared immediately after inspection as ready-to-cook poultry. If a carcass is frozen, it shall be thoroughly thawed before being opened for examination by the inspector. Each carcass, or all parts comprising such carcass, shall be examined by the inspector, except for parts that are not needed for inspection purposes and are not intended for human food and are condemned.

(b)(1) There are two systems of post-mortem inspection: traditional inspection and modified traditional inspection. Modified traditional inspection shall be used only for young chickens [1] and in the following circumstances:

(i) if the operator requests it and the Administrator determines that the system will result in no loss of inspection efficiency; or

(ii) if the Administrator determines that modified traditional inspection will increase inspector efficiency.

(2) The requirements of paragraph (a) of this section are applicable to both traditional and modified traditional inspection.

(3) The following requirements are also applicable to modified traditional inspection:

(i) The facility must meet the requirements for modified traditional inspection in § 381.36(c).

(ii) The inspection stations shall consist of one outside carcass inspection station, at which one inspector inspects the outside of all birds and two inside carcass/viscera inspection stations at which each of two inspectors inspects the inside and viscera of half the birds processed. The outside carcass inspector shall be presented each bird with the breast side toward the inspector. The inside carcass/viscera inspector shall be presented each bird he is to inspect with the back side toward the inspector.

(iii) The maximum inspection rate for modified traditional inspection shall be 70 birds per minute per 3 inspector team.

(Sec. 14.71 Stat. 447, as amended 21 U.S.C. 463; 42 FR 35625, 35626, 35631)

3. The Table of Contents is amended to reflect the following change, and the heading and text of a new § 381.67 are added to Subpart I to read as follows:

§ 381.67 Young chicken slaughter inspection rate maximums under traditional inspection procedure.

The maximum birds to be inspected by each inspector per minute under the traditional inspection procedure for the different young chicken slaughter line configurations are specified in the following table. These maximum rates shall not be exceeded. The inspector in charge shall be responsible for reducing production line rates where in the inspector's judgment the prescribed inspection procedure cannot be adequately performed within the time available, either because the birds are not presented by the official establishment in such a manner that the carcasses, including both internal and external surfaces and all organs, are readily accessible for inspection, or because the health conditions of a particular flock dictate a need for a more extended inspection procedure. The standards in § 381.170(a) of this Part specify which classes of birds constitute young chickens. Section 381.76(b) specifies when either the traditional inspection procedure or the modified traditional inspection procedure can or must be used.

Maximum Production Line Rates—Young Chickens—Traditional Inspection Procedures

Line configuration [1]	Number of inspection stations	Birds per inspector per minute
6-1	1	25
12-1	2	23
12-2	2	21
18-1	3	19
18-2	3	19
18-3	3	18
24-1	4	16½
24-2	4	16
24-4	4	15½

[1] Birds are suspended on the slaughter line at 6-inch intervals. The first number indicates the interval in inches between the birds that each inspector examines. The second number indicates how many of the birds presented, the inspector is to inspect, i.e., "1" means inspect every bird. "4" means inspect every fourth bird, etc.

(Sec. 14.71 Stat. 447, as amended, 21 U.S.C. 463; 42 FR 35625, 35626, 35631)

[FR Doc. 82-14587 Filed 5-27-82; 8:45 am]

BILLING CODE 3410-DM-M

[1] The standards in § 381.170(a) of the regulations (9 CFR 381.170(a)) specify which classes of chickens constitute young chickens.

DEPARTMENT OF ENERGY

Economic Regulatory Administration

10 CFR Part 504

[Docket No. ERA-R-81-14]

Powerplant and Industrial Fuel Use Act of 1978; Prohibitions by Order

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Extension of public comment period on interim final rule.

SUMMARY: On November 27, 1981, the Economic Regulatory Administration (ERA) of the U.S. Department of Energy (DOE) proposed to revise Parts 500, 501

and 504 of its final rules implementing the Powerplant and Industrial Fuel Use Act of 1978 ("FUA") so as to implement amendments to FUA contained in the Omnibus Budget Reconciliation Act of 1981 ("OBRA") (46 FR 58051) ("NOPR")). The proposals were adopted by ERA in final form on April 21, 1982 (47 FR 17037). On the same date, ERA amended the provisions of 10 CFR 504.6 relating to the financial feasibility and technical capability findings that it must make in order to issue a prohibition order under sections 301 and 302 of FUA. This amendment was adopted in response to public comment, but was not specifically proposed in the NOPR. Accordingly, ERA issued the amendment to 10 CFR 504.6 in interim final form, providing a 30-day period for additional public comment thereon. That period expires on May 21, 1982.

ERA has received a request to extend the foregoing public comment period until June 21, 1982. The request is based upon DOE's current proposed rulemaking relating to portions of its final rules governing existing facilities. Provision of an additional 30-day period for comment on the interim final rule, according to the requestor, would enable it to take these related proposed rules, which were recently issued, into account in preparing its comments.

ERA agrees that grant of the foregoing request for extension is in the public interest, and would not unreasonably impede finalization of the subject interim final rule. Therefore, for good cause shown, ERA hereby grants the request to extend the public comment period on the amendments to 10 CFR 504.6 for an additional 30 days, or until June 21, 1982.

DATE: Written comments must be filed with DOE on or before June 21, 1982.

ADDRESS: All written comments should be addressed to Public Hearing Management, Docket No. ERA-R-81-14, Department of Energy, Room 7146, 12th Street and Pennsylvania Avenue, NW., Washington, D.C. 20461.

FOR FURTHER INFORMATION CONTACT:

Henry K. Garson, Office of General Counsel, Department of Energy, Room 6B-178, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585 (202) 252-2967;

Constance Buckley, Fuels Conversion Division, Fuels Programs, Economic Regulatory Administration, Department of Energy, Room GA-093, RG-62, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585 (202) 252-1774;

Jack Vandenberg, Office of Public Information, Economic Regulatory Administration, Room 7120, 12th Street & Pennsylvania Avenue, NW., Washington, D.C. 20461; (202) 633-9451.

SUPPLEMENTARY INFORMATION: Any information considered to be confidential must be submitted in compliance with the DOE Freedom of Information regulations (10 CFR Part 1004). DOE reserves the right to determine the confidential status of the information and to treat it according to its determination.

James W. Workman,

Director, Office of Fuels Programs, Economic Regulatory Administration.

May 10, 1982.

[FR Doc. 82-14557 Filed 5-27-82; 8:45 am]

BILLING CODE 6450-01-M

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10 CFR Part 516

[Docket No. ERA-R-79-6-A]

Sale and Direct Industrial Use of Natural Gas for Outdoor Lighting; Amendments to Final Rule

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Final rule.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives notice of the issuance of the Final Rule on the Sale and Direct Industrial Use of Natural Gas for Outdoor Lighting, reflecting the amendments proposed by ERA on November 2, 1981 (46 FR 54378) and finalized, in interim form, on February 1, 1982 (47 FR 4493). The Final Rules are being promulgated without substantial change from the Interim Final Regulations issued on February 1, 1982. The regulatory amendments are required by the amendments to section 402 of the Powerplant and Industrial Fuel Use Act of 1978, 42 U.S.C. 8301 *et seq.*, (FUA or the Act), made by section 1024 of the Omnibus Budget Reconciliation Act of 1981, Pub. L. 97-35, August 13, 1981 (OBRA or the FUA amendments).

EFFECTIVE DATE: January 30, 1982.

FOR FURTHER INFORMATION CONTACT:

Robert L. Davies, Director, Fuels Conversion Division—Fuels Programs, Economic Regulatory Administration, Department of Energy, Room GA-093, 1000 Independence Avenue, SW., Washington, D.C. 20585 (202) 252-5000;

Cliff Tomaszewski, Fuels Conversion Division—Fuels Programs, Economic Regulatory Administration, Department of Energy, Room GA-073, 1000 Independence Avenue, SW., Washington, D.C. 20585; (202) 252-1251;

Marya Rowan, Office of the General Counsel, Department of Energy, Room 6B-178, 1000 Independence Avenue, SW., Washington, D.C. 20585; (202) 252-2967.

SUPPLEMENTARY INFORMATION: OMB Control Number: 1903-0072.

I. Background

A Final Rule on the Sale and Direct Industrial Use of Natural Gas for Outdoor Lighting (10 CFR Part 516, 44 FR 27606, May 10, 1979) (Final Rule) was issued by the Economic Regulatory Administration of the Department of Energy on May 3, 1979, to implement section 402 of the Powerplant and Industrial Fuel Use Act of 1978, 42 U.S.C. 8301 *et seq.* The Final Rule, as then required by section 402, prohibited local natural gas distribution companies from supplying natural gas for outdoor lighting by residential, municipal, or commercial customers and prohibited direct industrial users from using natural gas for outdoor lighting. Also, as required by FUA, local distribution companies and direct industrial users were prohibited from installing new natural gas outdoor lighting fixtures after November 9, 1978 (10 CFR 516.20).

On August 13, 1981, the Omnibus Budget Reconciliation Act of 1981 was enacted. Section 1024 of that act made certain amendments to section 402 of FUA. Specifically, those amendments (1) lift the prohibition on the supplying of natural gas for use in outdoor residential lights installed prior to and in service on November 9, 1978; (2) require local distribution companies to select and develop a method to periodically inform their customers of the amount of natural gas used for outdoor lighting and the annual cost thereof; (3) require local distribution companies to report the method selected to the Secretary of Energy; and (4) require the Secretary of Energy to propose and promulgate rules relating to customer notification and reports to the Secretary of Energy. Under the prior law, residential outdoor lights could not be supplied with natural gas after January 1, 1982.

Although the FUA amendments permit those residential fixtures in service on November 9, 1978 to continue to be supplied with fuel by their local distribution companies, they require those companies to inform their customers of the annual cost of outdoor lighting "for the purpose of discouraging the use of outdoor lighting * * *."

ERA, as required by the amended section 402(f)(2) of FUA, proposed by notice of November 2, 1981 (46 FR 54378) to amend the Final Rule (Part 516) to (1) reflect the statutory rescission of the prohibition on local distribution companies supplying natural gas for residential outdoor lighting that was being supplied when FUA was first enacted; and (2) as required by the FUA amendments, implement the statutory provisions relating to customer notification of the amount and annual cost of natural gas used in outdoor lights and local distribution companies' reports on their customer notification methods. ERA finalized these proposed amendments in interim form, effective on January 30, 1982 (47 FR 4493, February 2, 1982), and also announced the extension of the public comment period to March 18, 1982. This action was found by ERA to be justified as it (1) enabled ERA to comply with section 1024 of OBRA which required that the amendments take effect not later than the ninetieth day after proposal, while affording the public an opportunity for the submission of comment that may have earlier been discouraged by the brief initial comment period made necessary by the OBRA schedule; and (2) facilitated, in a timely manner, the removal of a restriction, consistent with the Administration's policy of relieving the private sector of unnecessary regulatory burdens.

ERA is, by this notice, announcing the issuance of the final rule, implementing section 1024 of OBRA, without substantial change from the interim final regulation. The notification and reporting regulations included in the final rule are intended to provide local distribution companies and the appropriate state regulatory authorities maximum flexibility in complying with the new statutory requirements with the least possible burden.

II. Discussion of Comments and ERA Response

During the extended comment period, ERA received additional comments which underscored earlier statements of concern on the part of the liquefied petroleum gas distribution industry, filed during the initial comment period and responded to by ERA at 47 FR 4495 (February 1, 1982).

One commentor raised specific questions regarding the scope of ERA's authority to issue section 402 regulations in view of the 10 CFR Part 516 delegation of authority and, concomitantly, the scope of the States' authority under the delegation. ERA will respond to the questions as presented:

(1) *Where does ERA get the authority to promulgate these regulations after having delegated its entire authority under the Fuel Use Act to the States?*

Paragraph (f)(1) (A) and (B), added to section 402 by section 1042(b) of OBRA, (1) directs local natural gas distribution companies subject to section 402 (a) and (b) to comply with certain new requirements for periodic fuel-use and cost notification to their customers and (2) requires the affected companies to report to the Secretary of Energy concerning the notification method chosen by each company. Each action required by subparagraph (f)(1) is to be taken in accordance with rules promulgated by the Secretary. In addition, section 402(f)(2), also added to FUA by OBRA, directs the Secretary to promulgate the necessary regulations to implement section 402(f)(1) in accordance with an established schedule, and, "to the greatest extent feasible, consult with the appropriate regulatory authority of the States and the local distribution companies who will be subject to the rules" in doing so.

The discussion of the FUA amendments contained in the Conference Report on OBRA, 127 Cong. Rec. H. 5674 (daily ed. July 29, 1981), offers no comment on this language specifically, or on the changes to section 402 generally. Accordingly, ERA believes that section 402(f)(2) expresses the intent of the Congress that the regulations implementing the amendments be issued by DOE, rather than by the various State authorities, and provides the authority to do so. Pursuant to this interpretation, ERA has moved expeditiously to comply with section 402(f)(2) by issuing appropriate regulations after affording reasonable amounts of time for all interested parties, including state authorities and local distribution companies, to comment thereon. It is ERA's opinion, however, that State regulatory authorities could, under § 516.30(a) of the delegation of authority (10 CFR Part 516, Subpart C) issue regulations to implement section 1024 of OBRA, if the State-issued regulations require the affected distribution companies to fully comply with the statutory requirements. However, ERA believes, from the presence of the rulemaking schedule in section 402(b)(2), that Congress intended that the OBRA customer notification requirements be implemented within a reasonable period of time following the removal of the ban on supplying natural gas for residential light use (August 13, 1981).

In connection with these questions, ERA emphasizes that, where directed to do so by statute, it has the responsibility of issuing implementing regulations, without regard to the fact that the States may issue similar regulations under a non-mandatory delegation of authority.

(2) *If authority to promulgate regulations still resides in ERA, must the States now "accept" the additional delegation made by 10 CFR 516.30(h)?*

ERA cannot require the States to accept any authority under the Part 516 delegation. However, ERA does expect that the States which accepted the original delegation will want to accept the § 516.30(h) authority in order that they may maintain an overview of compliance with the customer notification requirements by local distribution companies within their jurisdictions.

(3) *If all authority has not been delegated to the States, what authority has been retained by ERA?*

The following authorities with respect to section 402 of FUA are retained by ERA:

(a) The authority to administer all aspects of the natural gas outdoor lighting program where the appropriate State regulatory authorities have not accepted the delegation or where the delegation has been rescinded pursuant to 10 CFR 516.32;

(b) The authority to administer any aspect of the program where the appropriate State regulatory authority operating under the delegation indicates to ERA it is unable or incapable of administering; and,

(c) Any authority affecting natural gas outdoor lighting granted by future amendments or successor statutes to FUA, in which the Secretary of Energy is directed to perform specified activities, without there also being present an indication that Congress intended the delegation of the responsibility for such activity to the States or the reasonable latitude in the wording of the statute that would permit such an interpretation.

III. Procedural Matters

A. *NEPA Compliance.* DOE has determined that this final rule does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of section 102(2)(C) of NEPA. Therefore, the preparation of an Environmental Impact Statement is not required.

B. *Executive Order No. 12291.* In accordance with section 3(b) of Executive Order No. 12291, DOE has determined that the final rule is a non-major rule that 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. This rule was submitted to the Office of Management and Budget (OMB) for its review pursuant to E.O. 12291.

C. *Regulatory Flexibility Act.* The Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, requires that an agency prepare a final regulatory flexibility analysis with regard to a final rule that will have a significant economic impact on a substantial number of small entities.

DOE has considered the potential economic impact of its final rule and has concluded that compliance will be relatively insignificant for small concerns and that a regulatory flexibility analysis is not required. DOE certifies that the final rule amending Part 516 will not have a significant economic impact on a substantial number of small entities.

D. *Paperwork Reduction Act.* Information collection requirements contained in this final rule have been approved by the Office of Management and Budget under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96–511) and have been assigned OMB control number 1903–0072.

List of Subjects in 10 CFR Part 516

Energy conservation, Natural gas, Reporting requirements.

(Department of Energy Organization Act, Pub. L. 95–91, 91 Stat. 585 (42 U.S.C. 7101 *et seq.*); Powerplant and Industrial Fuel Use Act of 1978, Pub. L. 95–620, 92 Stat. 3289 (42 U.S.C. 8372); E.O. 12008, 42 FR 46267, September 15, 1977; Omnibus Budget Reconciliation Act of 1981, Pub. L. 97–35, August 13, 1981)

Issued in Washington, D.C. on May 20, 1982.

Rayburn Hanzlik,

Administrator, Economic Regulatory Administration.

PART 516—PROHIBITION ON SALE AND DIRECT INDUSTRIAL USE OF NATURAL GAS FOR OUTDOOR LIGHTING

For the reasons stated in the preamble, Chapter II, Title 10 of the Code of Federal Regulations, Part 516, is amended as follows:

1. The table of contents is amended by adding Subpart E (§§ 516.51 and 516.52) to read as follows:

* * * * *

Subpart E—Outdoor Natural Gas Lights—Customer Notification; Reporting Procedures

Sec.

516.51 Notification of amount and annual cost of natural gas used in outdoor lights.

516.52 Customer notification reports.

2. Section 516.10 is amended by revising paragraphs (a), (b), and (c) and adding paragraph (f) to read as follows:

Subpart A—General Purpose and Scope; Definitions

§ 516.10 General purpose and scope.

(a) The purpose of this rule is to implement section 402 of the Powerplant and Industrial Fuel Use Act of 1978, 42 U.S.C. 8301 *et seq.*, as amended (FUA or the Act).

(b) The rule consists of five subparts. Subpart A describes the general purpose and scope of Part 516 and contains the definitions.

(c) Subpart B contains the prohibitions on the installation of natural gas outdoor lighting fixtures and the sale and direct industrial use of natural gas for outdoor lighting.

* * * * *

(f) Subpart E provides (1) for periodic notification of customers of the amount and annual cost of natural gas used in outdoor lights; and (2) for the procedures to be followed by each affected local distribution company in reporting to the appropriate state regulatory authority the method it has selected for giving such customer notice.

3. Section 516.11 is amended by adding paragraph (i) to read as follows:

§ 516.11 Definitions.

* * * * *

(i) The term "residential outdoor lighting fixture" means a natural gas outdoor lighting fixture which was installed prior to, and was in service in connection with a residence on November 9, 1978.

4. Section 516.21 is revised to read as follows:

Subpart B—Prohibitions

§ 516.21 General prohibition on sale of natural gas for use in outdoor lighting.

(a) *Prohibition.* No local distribution company shall supply natural gas for use in any outdoor lighting fixture except for residential outdoor lighting fixtures, as that term is defined in § 516.11(i).

(b) *Effective dates.* The prohibition stated in paragraph (a) of this section shall be effective on the following dates:

(1) For any industrial or commercial fixture to which natural gas was supplied for outdoor lighting use on November 9, 1978, *November 5, 1979;* and

(2) For any municipal outdoor lighting fixture to which natural gas was supplied for outdoor lighting use on November 9, 1978, *January 1, 1982.*

5. Section 516.30 is amended by revising the introductory text and adding paragraph (h) to read as follows:

Subpart C—Delegation of Authority

§ 516.30 Scope.

Pursuant to section 402(e) of the Act, ERA delegates to the appropriate state regulatory authorities, effective on the date this rule is issued as a final rule, the full responsibility and authority of the Secretary of Energy with regard to natural gas outdoor lighting. The authorities and responsibilities delegated by this rule to the appropriate state regulatory authorities, acceptance of which is at the states' discretion, are those enumerated in paragraphs (a) through (h) of this section. The appropriate state regulatory authorities should normally consult with the state Historic Preservation Officers for their respective states (as recognized by the U.S. Department of Interior, National Park Service) when fulfilling their responsibilities and authorities as set forth in this section, particularly when decisions are made or options considered relating to historic preservation.

* * * * *

(h) *Authority to receive customer notification reports.* The authority to receive reports concerning the method selected by local distribution companies for periodic notification of their customers under § 516.52.

6. 10 CFR Part 516 is amended by adding Subpart E, §§ 516.51 and 516.52, to read as follows:

Subpart E—Outdoor Natural Gas Lights—Customer Notification; Reporting Procedures

§ 516.51 Notification of amount and annual cost of natural gas used in outdoor lights.

(a) Each local distribution company subject to the prohibitions of section 402 (a) and (b) of FUA which has natural gas outdoor lighting fixtures attached to its system shall:

(1) No later than May 31, 1982, select a method for periodically informing its customers of the amount of natural gas used by a typical natural gas outdoor lighting fixture in the company's system, as determined by the company, and the annual cost of the natural gas so used; and

(Approved by the Office of Management and Budget under OMB control number 1903–0072)

(2) Within one year from the date on which the notification method is reported to the appropriate state regulatory authorities in accordance with § 516.52, give the initial customer notification, using the method so selected. The notification shall thereafter be given annually.

(Approved by the Office of Management and Budget under OMB control number 1903–0072)

(3) Any local distribution company which experiences difficulty in selecting its customer notification method may obtain a reasonable extension of the May 31, 1982 deadline from the appropriate State regulatory authority upon the showing of good cause.

(b) The method to be used in the customer notification required by paragraph (a) of this section, shall be selected by each affected local distribution company, and shall be reasonable and simple, as viewed in the context of the company's routine operating procedures.

§ 516.52 Customer notification reports.

(a) No later than May 31, 1982, each local distribution company required to give customer notification under § 516.51(a), shall report the method selected to the state regulatory authority designated by the governor to administer the outdoor natural gas lighting program for the area in which the distributor is located, under the delegation of authority in Subpart C of this part.

(Approved by the Office of Management and Budget under OMB control number 1903–0072)

(b) No later than May 31, 1982, each local distribution company not required to give customer notification under § 516.51(a) by reason of the fact that it has no natural gas outdoor lighting fixtures attached to its system shall report this fact to the State regulatory authority designated by the governor to administer the outdoor natural gas lighting program for the area in which the distributor is located, under the delegation of authority in Subpart C of this part.

(Approved by the Office of Management and Budget under OMB control number 1903–0072)

(c) Local distributing companies given extensions in the May 31, 1982 deadline for selection of a customer notification method under § 516.51(a)(3), above, shall report the method selected to their State regulatory authority in accordance with the terms of such extension.

(Approved by the Office of Management and Budget under OMB control number 1903–0072)

[FR Doc. 82–14558 Filed 5–27–82; 8:45 am]
BILLING CODE 6450–01–M

DEPARTMENT OF COMMERCE

International Trade Administration

15 CFR Parts 377 and 385

Changes of Address

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

ACTION: Final rule.

SUMMARY: This document amends the Export Administration Regulations to reflect changes in the addresses for parts and components and for the International Trade Administration Freedom of Information Records Inspection Facility.

DATE: Effective May 28, 1982.

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

SUPPLEMENTARY INFORMATION:

Rulemaking Requirements

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

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

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

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

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

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

List of Subjects

15 CFR Part 377

Administrative practice and procedure, Export licenses, Exports, Marketing quotas, Short supply controls.

15 CFR Part 385

Communist countries,
Exports.

Accordingly, Parts 377 and 385 of the *Export Administration Regulations* (15 CFR Parts 368 *et seq.*) are amended as follows:

PART 377—SHORT SUPPLY CONTROLS AND MONITORING

§ 377.8 [Amended]

1. In the last sentence of § 377.8(j) the phrase "Room 3102" is revised to read "Room 4001–B."

PART 385—SPECIAL COUNTRY POLICIES AND PROVISIONS

§ 385.1 [Amended]

2. The last sentence of § 385.1(b)(2) is revised to read as follows:

* * * * *

(b) * * *

(2) * * * "Requests for authorization to utilize U.S.-origin materials, parts, or components in products manufactured in foreign countries and destined for Cuba should be addressed in letter form to—

Office of Export Administration, Attn: Parts and Components, P.O. Box 273, Washington, D.C. 20044,

and should set forth all pertinent details of the transaction including, as a minimum, descriptions of the foreign-made product and the U.S. materials, parts or components; the appropriate ECCN for each; the respective values of each; and the identity of the end-user in Cuba, if known."

(Sec. 13 and 15, Pub. L. 96–72, 93 Stat. 503, 50 U.S.C. app. § 2401 *et seq.*; Executive Order No. 12214 (45 FR 29783, May 6, 1980); Department Organization Order 10–3 (45 FR 6141, January 25, 1980); International Trade Organization and Function Orders 41–1 (45

FR 11862, February 22, 1980) and 41–4 (45 FR 65003, October 1, 1980))

Vincent F. DeCain,

Acting Director, Office of Export Administration.

[FR Doc. 82–14523 Filed 5–27–82; 8:45 am]

BILLING CODE 3510–25–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 388

[Docket No. RM 78–22–000; Order No. 225]

Erratum Notice to Revision of Rules of Practice and Procedure To Expedite Trial-Type Hearings

May 24, 1982.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule; correction.

SUMMARY: By order issued April 28, 1982 (47 FR 19014, May 3, 1982), the Commission adopted a final rule which reorganized, revised, and updated the Rules of Practice and Procedure for Commission proceedings. The correction set forth below adds § 388.109 to 18 CFR Part 388. The section heading was listed at the beginning of Part 388, but the text of the section was inadvertently omitted.

FOR FURTHER INFORMATION CONTACT: Kennth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426; (202) 357–8400.

Kennth F. Plumb,

Secretary.

PART 388—PUBLIC INFORMATION AND REQUESTS

Accordingly, the Federal Energy Regulatory Commission is correcting 18 CFR Part 388 by adding § 388.109 to read as follows:

§ 388.109 Procedures for requesting information.

Requests for information may be addressed to the Division of Public Information of the Commission, Room 1000, 825 North Capitol Street, NE., Washington, D.C. 20426. Public records are available for public inspection and copying at that office, in accordance with this part. Pleadings and other filings are filed in accordance with § 385.2001 (filings). A description of the facilities available for public reference and the procedures that may be employed to obtain information, copies of public records, or to secure informal advice and assistance from or consultation with members of the staff on problems relating to the statutes and regulations administered by the Commission is contained in § 3.8 of this chapter (information and requests).

[FR Doc. 82–14563 Filed 5–27–82; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 444, 448, and 455

[Docket No. 79N–0341; DESI Nos. 8615, 9152, 9188, and 50168]

Oligosaccharide, Peptide, and Certain Other Antibiotic Drugs

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the antibiotic drug regulations by (1) increasing the minimal level of polymyxin B in various marketed ophthalmic combination products and (2) adding two new monographs, and new paragraphs to several existing monographs, to provide for the certification of products that heretofore have been released.

DATES: The amendments to §§ 444.342a, 444.342d, and 444.542a, and the amendment to § 448.313b to the extent it affects bacitracin zinc-neomycin sulfate-polymyxin B sulfate-hydrocortisone ophthalmic ointment; and new §§ 444.342j and 444.343k will become effective July 7, 1982.

The amendments to §§ 444.342b, 444.342h, 444.342i, 448.310b, and the amendment to § 448.313b to the extent it affects bacitracin zinc-neomycin sulfate-polymyxin B sulfate ophthalmic ointment, and § 455.310d will become effective February 22, 1983.

Objections and requests for hearing by June 28, 1982.

Data, information, and analyses to justify a hearing July 27, 1982.

ADDRESS: Objections and requests for hearing, supporting data and information, and other comments should be identified with the docket number appearing in the heading of this order and sent to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

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 the **Federal Register** of August 29, 1980 (45 FR 57735), as part of an action (Docket No. 79N–0339) classifying various ophthalmic steroid/anti-infective combination drug products as effective and announcing conditions for their further marketing (see 45 FR 57776; 47 FR 21296), the Director of the Bureau of Drugs proposed to amend the antibiotic drug regulations to require a minimum of 10,000 units per milliliter or units per gram (units/mL or g) of polymyxin B in all ophthalmic combinations that contain this component.

The proposal was based upon the Bureau's conclusion that 10,000 units/mL or g, as a minimum, is required in such products to provide reliable adequate activity against gram-negative organisms, especially *Pseudomonas*. The minimum concentration of 10,000 units/mL or g was determined through an evaluation of the concentration of polymyxin B obtainable in the eye, the tendency of these concentrations to become rapidly diluted, and the concentrations required to kill *Pseudomonas*. The Bureau also proposed to amend the antibiotic regulations to provide for the certification of ophthalmic combination products that heretofore had been released pending a final determination of their effectiveness.

In response to the proposal, one comment was submitted but was later withdrawn. The comment has been filed in the docket of this proceeding.

In reviewing products certified under § 444.342d of the regulations (21 CFR 444.342d), the Bureau noted that no provisions had been made for the certification of Poly-Pred Liquifilm Sterile Ophthalmic Suspension containing neomycin sulfate, polymyxin B sulfate, and prednisolone acetate. This particular product has been released pending a final determination of its effectiveness. Since this type of ophthalmic combinaton was found effective in the August 29, 1980 notice, § 444.342d is hereby further amended to provide for its Certification. Because this additional amendment provides notice of accepted standards and permits earlier certification of a marketed product that is already in compliance with the certification standard, notice and comment procedure for the action is found to be unnecessary and not in the public interest.

Because the Bureau provided that manufacturers of ophthalmic steroid/anti-infective combination drug products

not in conformance with the proposed amendments could reformulate their products to conform to the proposal before its finalization (see 45 FR 57776), and because all manufacturers of such products have reformulated them, the amendments affecting these products will become effective July 7, 1982.

The Bureau also proposed to amend the antibiotic drug regulations to require a minimum of 10,000 units/mL or g of polymyxin B in ophthalmic combinations containing polymyxin B but not a steroid. However, the Bureau did not explicitly provide that manufacturers of such products not in conformance with the proposed amendments could reformulate their products to conform to the proposal before its finalization. Therefore, in order to allow manufacturers of such products sufficient time to reformulate, the amendments affecting them will become effective February 22, 1983.

List of Subjects

21 CFR Part 444

Antibiotics, Oligosaccharide.

21 CFR Part 448

Antibiotics, Peptide.

21 CFR Part 455

Antibiotics.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 507, 59 Stat. 463 as amended (21 U.S.C. 357)) 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 Director of the Bureau of Drugs (21 CFR 5.78), Chapter I of Title 21 of the Code of Federal Regulations, Parts 444, 448, and 455 are amended as follows:

PART 444—OLIGOSACCHARIDE ANTIBIOTIC DRUGS

1. Part 444 is amended:

a. In § 444.342a, by changing the period to a semicolon and adding the word "or" in paragraph (a)(1)(iv) and by adding new paragraph (a)(1)(v) to read as follows:

§ 444.342a Neomycin sulfate——ophthalmic suspension; neomycin sulfate——ophthalmic solution (the blanks being filled in with the established name(s) of the other active ingredient(s) present in accordance with paragraph (a)(1) of this section).

(a) * * *

(1) * * *

(v) 5 milligrams of prednisolone phosphate.

* * * * *

b. In § 444.342b, by revising the first sentence in paragraph (a)(1) to read as follows:

§ 444.342b Neomycin sulfate-polymyxin B sulfate-gramicidin ophthalmic solution.

(a) * * *

(1) * * * Neomycin sulfate-polymyxin B sulfate-gramicidin ophthalmic solution is a solution containing in each milliliter, 1.75 milligrams of neomycin, 10,000 units of polymyxin B and 0.025 milligram of gramicidin, and with one or more suitable and harmless buffers, dispersants, and preservatives in a suitable and harmless isotonic aqueous vehicle. * * *

* * * * *

c. In § 444.342d, by changing the period to a semicolon and adding the word "or" in paragraph (a)(1)(ii), and by adding new paragraph (a)(1) (iii) and (iv) to read as follows:

§ 444.342d Neomycin sulfate-polymyxin B sulfate——ophthalmic suspension (the blank being filled in with the established name(s) of the other active ingredient(s) present in accordance with paragraph (a)(1) of this section).

(a) * * *

(1) * * *

(iii) 3.5 milligrams of neomycin, 10,000 units of polymyxin B, and 10.0 milligrams of hydrocortisone; or

(iv) 3.5 milligrams of neomycin, 10,000 units of polymyxin B, and 5.0 milligrams of prednisolone acetate.

* * * * *

d. In § 444.342h, by revising the first sentence in paragraph (a)(1) to read as follows:

§ 444.342h Neomycin sulfate-polymyxin B sulfate ophthalmic ointment.

(a) * * *

(1) * * * Neomycin sulfate-polymyxin B sulfate ophthalmic ointment contains in each gram, neomycin sulfate equivalent to 3.5 milligrams of neomycin and polymyxin B sulfate equivalent to 10,000 units of polymyxin B with suitable preservatives in a suitable and harmless ointment base. * * *

* * * * *

e. In § 444.342i, by revising the second sentence in paragraph (a)(1) to read as follows:

§ 444.342i Neomycin sulfate-polymyxin B sulfate ophthalmic solution.

(a) * * *

(1) * * * Each milliliter contains: (i) Neomycin sulfate equivalent to 3.5 milligrams of neomycin and polymyxin B sulfate equivalent to 10,000 units of polymyxin B; or (ii) Neomycin sulfate equivalent to 3.5 milligrams of neomycin and polymyxin B sulfate equivalent to 16,250 units of polymyxin B. * * *

* * * * *

f. By adding new § 444.342j, to read as follows:

§ 444.342j Neomycin sulfate-polymyxin B sufate-dexamethasone ophthalmic suspension.

(a) *Requirements for certification*—(1) *Standards of identity, strength, quality, and purity.* Neomycin sulfate-polymyxin B sulfate-dexamethasone ophthalmic suspension is an aqueous suspension containing in each milliliter 3.5 milligrams of neomycin, 10,000 units of polymyxin B, and 1.0 milligram of dexamethasone. It may contain one or more suitable and harmless irrigants, dispersants, buffers, and preservatives. Its neomycin content is satisfactory if it is not less than 90 percent and not more than 125 percent of the number of milligrams of neomycin that it is represented to contain. Its polymyxin B content is satisfactory if it is not less than 90 percent and not more than 125 percent of the number of units of polymyxin B that it is represented to contain. It is sterile. Its pH is not less than 5.2 and not more than 5.8. The neomycin sulfate used conforms to the standards prescribed by § 444.42(a)(1). The polymyxin B sulfate used conforms to the standards prescribed by § 448.30(a)(1) of this chapter.

(2) *Labeling.* It shall be labeled in accordance with the requirements of § 432.5 of this chapter.

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 431.1 of this chapter, each such request shall contain:

(i) Results of tests and assays on:

(*a*) The neomycin sulfate used in making the batch for potency, safety, loss on drying, pH, and identity.

(*b*) The polymyxin B sulfate used in making the batch for potency, safety, loss on drying, pH, and identity.

(*c*) The batch for neomycin content, polymyxin B content, sterility, and pH.

(ii) Samples required:

(*a*) The neomycin sulfate used in making the batch: 10 packages, each containing approximately 300 milligrams.

(*b*) The polymyxin B sulfate used in making the batch: 10 packages each containing approximately 300 milligrams.

(*c*) The batch:

(*1*) For all tests except sterility: A minimum of 6 immediate containers.

(*2*) For sterility testing: 20 immediate containers, collected at regular intervals throughout each filling operation.

(b) *Tests and methods of assay*—(1) *Potency*—(i) *Neomycin content.* Proceed as directed in § 436.105 of this chapter, preparing the sample for assay as follows: Place an accurately measured representative portion of the sample into an appropriate-sized volumetric flask with sufficient 0.1 *M* potassium phosphate buffer, pH 8.0 (solution 3), to obtain a stock solution of convenient concentration. Remove an aliquot and further dilute with solution 3 to the reference concentration of 1.0 microgram of neomycin per milliliter (estimated).

(ii) *Polymyxin B content.* Proceed as directed in § 436.105 of this chapter, except add to each concentration of the polymyxin B standard response line a quantity of neomycin to yield the same concentration of neomycin as that present when the sample is diluted to contain 10 units of polymyxin B per milliliter. Prepare the sample for assay as follows: Place an accurately measured representative portion of the sample into an appropriate-sized volumetric flask with sufficient 10 percent potassium phosphate buffer, pH 6.0 (solution 6), to obtain a stock solution of convenient concentration. Remove an aliquot and further dilute with solution 6 to the reference concentration of 10 units of polymyxin B per milliliter (estimated).

(2) *Sterility.* Proceed as directed in § 436.20 of this chapter, using the method described in paragraph (e)(1) of that section, except use 0.25 milliliter in lieu of 1.0 milliliter.

(3) *pH.* Proceed as directed in § 436.202 of this chapter, using the undiluted sample.

g. By adding new § 444.342k, to read as follows:

§ 444.342k Neomycin sulfate-polymyxin B sulfate-dexamethasone ophthalmic ointment.

(a) *Requirements for certification*—(1) *Standards of identity, strength, quality, and purity.* Neomycin sulfate-polymyxin B sulfate-dexamethasone ophthalmic ointment contains in each gram neomycin sulfate equivalent to 3.5 milligrams of neomycin, polymyxin B sulfate equivalent to 10,000 units of polymyxin B and 1.0 milligram of dexamethasone with suitable preservatives in a suitable and harmless ointment base. Its neomycin content is satisfactory if it is not less than 90 percent and not more than 125 percent of the number of milligrams of neomycin that it is represented to contain. Its polymyxin B content is satisfactory if it is not less than 90 percent and not more than 125 percent of the number of units of polymyxin B that it is represented to contain. It is sterile. Its moisture content is not more than 0.5 percent. It passes the test for metal particles. The neomycin sulfate used conforms to the standards prescribed by § 444.42(a)(1). The polymyxin B sulfate used conforms to the standards prescribed by § 448.30(a)(1) of this chapter.

(2) *Labeling.* It shall be labeled in accordance with the requirements of § 432.5 of this chapter.

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 431.1 of this chapter, each such request shall contain:

(i) Results of tests and assays on:

(*a*) The neomycin sulfate used in making the batch for potency, safety, loss on drying, pH, and identity.

(*b*) The polymyxin B sulfate used in making the batch for potency, safety, loss on drying, pH, and identity.

(*c*) The batch for neomycin content, polymyxin B content, moisture, and metal particles.

(ii) Samples required:

(*a*) The neomycin sulfate used in making the batch: 10 packages, each containing approximately 300 milligrams.

(*b*) The polymyxin B sulfate used in making the batch: 10 packages, each containing approximately 300 milligrams.

(*c*) The batch:

(*1*) For all tests except sterility: A minimum of 16 immediate containers.

(*2*) For sterility testing: 20 immediate containers, collected at regular intervals throughout each filling operation.

(b) *Tests and methods of assay*—(1) *Potency*—(i) *Neomycin content.* Proceed as directed in § 436.105 of this chapter, preparing the sample for assay as follows: Place an accurately weighed representative portion of the sample into a separatory funnel containing approximately 50 milliliters of peroxide-free ether. Shake the sample and ether until homogeneous. Add 20 to 25 milliliters of 0.1 *M* potassium phosphate buffer, pH 8.0 (solution 3), and shake well. Allow the layers to separate. Remove the buffer layer and repeat the extraction procedure with each of three more 20- to 25-milliliter quantities of solution 3. Combine the buffer extractives in a suitable volumetric flask and dilute to volume with solution 3. Remove an aliquot and further dilute with solution 3 to the reference concentration of 1.0 microgram of neomycin per milliliter (estimated).

(ii) *Polymyxin B content.* Proceed as directed in § 436.105 of this chapter, except add to each concentration of the polymyxin B standard response line a quantity of neomycin to yield the same concentration of neomycin as that present when the sample is diluted to contain 10 units of polymyxin B per milliliter. Prepare the sample for assay as follows: Place an accurately weighed representative portion of the sample into a separatory funnel containing approximately 50 milliliters of peroxide-free ether. Shake the sample and ether until homogeneous. Add 20 to 25 milliliters of 10 percent potassium phosphate buffer, pH 6.0 (solution 6), and shake well. Allow the layers to separate. Remove the buffer layer and repeat the extraction procedure with each of three more 20- to 25-milliliter quantities of solution 6. Combine the buffer extractives in a suitable volumetric flask and dilute to volume with solution 6. Remove an aliquot and further dilute with solution 6 to the reference concentration of 10 units of poylmyxin B per milliliter (estimated).

(2) *Sterility.* Proceed as directed in § 436.20 of this chapter, using the method described in paragraph (e)(3) of that section.

(3) *Moisture.* Proceed as directed in § 436.201 of this chapter.

(4) *Metal particles.* Proceed as directed in § 436.206 of this chapter.

h. In § 444.542a, is revised by changing the period to a semicolon and adding the word "or" in paragraph (a)(1)(ii)(*f*), and by adding new paragraph (a)(1)(ii)(*g*) to read as follows:

§ 444.542a Nemoycin sulfate ointment; neomycin sulfate——ointment (the blank being filled in with the established name(s) of the other active ingredient(s) present in accordance with paragraph (a)(1) of this section).

(a) * * *

(1) * * *

(ii) * * *

(*g*) 15.0 milligrans of cortisone acetate.

* * * * *

PART 448—PEPTIDE ANTIBIOTIC DRUGS

2. Part 448 is amended:

a. In § 448.310b, by revising the second sentence in paragraph (a)(1) to read as follows:

§ 448.310b Bacitracin-neomycin sulfate-polymyxin B sulfate ophthalmic ointment.

(a) * * *

(1) * * * Each gram contains 500 units of bacitracin, 3.5 milligrams of neomycin, and 10,000 units of polymyxin B. * * *

* * * * *

b. In § 448.313b, by revising paragraph (a)(1)(i) to read as follows:

§ 448.313b Bacitracin zinc-neomycin sulfate-polymyxin B sulfate ophthalmic ointment; bacitracin zinc-neomycin sulfate-polymyxin B sulfate-hydrocortisone ophthalmic ointment.

(a) * * *

(1) * * *

(i) 400 units of bacitracin, 3.5 milligrams of neomycin, 10,000 units of polymyxin B with or without 10 milligrams of hydrocortisone acetate; or

* * * * *

PART 455—CERTAIN OTHER ANTIBIOTIC DRUGS

3. Part 455 is amended in § 455.310d, by revising the first sentence of paragraph (a)(1) to read as follows:

§ 455.310d Chloramphenicol-polymyxin ointment.

(a) * * *

(1) It contains not less than 10,000 units of polymyxin B per gram. * * * * * * * * * *

Any person who will be adversely affected by this regulation may file objections to it, request a hearing, and show reasonable grounds for the hearing. Any person who decides to seek a hearing must file (1) on or before June 28, 1982, a written notice of participation and request for hearing and (2) on or before July 27, 1982, the data, information, and analyses on which the person relies to justify a hearing, as specified in 21 CFR 430.20. A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that there is a genuine and substantial issue of fact that requires a hearing. If it conclusively appears from the face of the data, information, and factual analyses in the request for hearing that no genuine and substantial issue of fact precludes the action taken by this order, or if a request for hearing is not made in the required format or with the required analyses, the Commissioner of Food and Drugs will enter summary judgment against the person(s) who request(s) the hearing, making findings and conclusions and denying a hearing.

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

All submissions under this order, except comments from an individual, must be filed in four copies. An individual submitting only comments may submit one copy. All submissions must be identified with the docket number appearing in the heading of this order and filed with the Dockets Management Branch (address given above).

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

Effective Date

The amendments to §§ 444.342a, 444.342d, and 444.542a, and the amendment to § 448.313b to the extent it affects bacitracin zinc-neomycin sulfate-polymyxin B sulfate-hydrocortisone ophthalmic ointment; and new §§ 444.342j and 444.342k will become effective July 7, 1982.

The amendments to §§ 444.342b, 444.342h, 444.342i, and 448.310b, and the amendment to § 448.313b to the extent it affects bacitracin zinc-neomycin sulfate-polymyxin B sulfate ophthalmic ointment, and §455.310d will become effective February 22, 1983. If objections are filed, the effective date of this order or pertinent sections thereof may be postponed to rule on them.

(Sec. 507, 59 Stat. 463, as amended (21 U.S.C. 357))

Dated: May 20, 1982.

Harry M. Meyer, Jr.,

Director, Bureau of Drugs and Biologics.

[FR Doc. 82-14405 Filed 5-27-82; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Parts 556 and 558

Animal Drugs, Feeds, and Related Products; Chlormadinone Acetate; Revocation

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is revoking the regulations that pertain to chlormadinone acetate. The sponsors of the approved products for chlormadinone acetate have requested that their new animal drug applications (NADA's) be withdrawn.

EFFECTIVE DATE: June 7, 1982.

FOR FURTHER INFORMATION CONTACT: David N. Scarr, Bureau of Veterinary Medicine (HFV-214), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3183.

SUPPLEMENTARY INFORMATION: In a notice published elsewhere in this issue of the **Federal Register**, approval of Elanco Products Co.'s NADA 37-147 for Matrol Premix (chlormadinone acetate) and Syntex Agribusiness, Inc.'s, NADA 37-146 for Skedule Premix (chlormadinone acetate) are withdrawn. The firms had voluntarily requested the withdrawals. This document amends the animal drug regulations by revoking the sections that provided for the use of the drug.

The Bureau of Veterinary Medicine has determined pursuant to 21 CFR 25.24(d)(2) (proposed December 11, 1979; 44 FR 71742) that this action is of the 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

21 CFR Part 556

Animal drugs, Foods, Residues.

21 CFR Part 558

Animal drugs, Animal feeds.

PART 556—TOLERANCES FOR RESIDUES OF NEW ANIMAL DRUGS IN FOOD

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

§ 556.130 [Removed]

§ 558.126 [Removed]

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(e), 82 Stat. 345-347 (21 U.S.C. 360b(e))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10 (formerly 5.1; see 46 FR 26052; May 11, 1981)) and redelegated to the Director of the Bureau of Veterinary Medicine (21 CFR 5.84), Part 556 is amended by removing § 556.130 *Chlormadinone acetate,* and Part 558 is amended by removing § 558.126 *Chlormadinone acetate.*

Effective date. June 7, 1982.

(Sec. 512(e), 82 Stat. 345-347 (21 U.S.C. 360b(e)))

Dated: May 24, 1982.

Gerald B. Guest,

Acting Director, Bureau of Veterinary Medicine.

[FR Doc. 82-14594 Filed 5-27-82; 8:45 am]

BILLING CODE 4160-01-M

21 CFR Part 558

Animal Drugs, Feeds, and Related Products, Monensin, Bacitracin Zinc, Roxarsone

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 International Minerals and Chemical Corp. for the use of three currently approved premixes for the preparation of three complete broiler feeds containing combinations of monensin, bacitracin zinc, and roxarsone at different levels.

EFFECTIVE DATE: May 28, 1982.

FOR FURTHER INFORMATION CONTACT: Adriano R. Gabuten, Bureau of Veterinary Medicine (HFV–149), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4913.

SUPPLEMENTARY INFORMATION: International Minerals and Chemical Corp., P.O. Box 207, Terre Haute, IN 47808, is the sponsor of NADA 123–154 providing for the use of a combination of three individually approved premixes for the preparation of three complete broiler feeds containing monensin, bacitracin zinc, and roxarsone at different levels. The approved premixes used for the preparation of the complete broiler feeds are Coban (monensin sodium), 3-Nitro-10 (roxarsone), and Baciferm (bacitracin zinc).

Elanco Products Co., sponsor for the monensin premix and Salsbury Laboratories, sponsor for the roxarsone premix have authorized FDA to refer to the safety and efficacy data supporting their applications to support approval of this combination. International Minerals and Chemical Corp., sponsor for the bacitracin zinc premix, referenced their safety and efficacy data supporting that approval. Additionally, International Minerals submitted data substantiating the efficacy of these drugs when used in combination that comply with the requirements of the Bureau of Veterinary Medicine's combination drug guidelines. International Minerals also submitted analytical noninterference data that show there is no substantial assay interference for any one of the drugs in the presence of the other at the recommended feed levels. This approval provides for the combination of approved premixes in the manufacture of complete chicken feeds. It does not change the dosage levels, target species or indications for the individual drugs. Because the residue from each component in the combination has been shown to be below its corresponding tolerance at the withdrawal time being established for the combination, this approval poses no increased risk to people exposed to residues of the drugs.

Accordingly, under the Bureau of Veterinary Medicine's supplemental approval policy (42 FR 64367; December 23, 1977), approval of this NADA has been treated as a Category II supplement which does not require reevaluation of the underlying safety and effectiveness data.

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)(ii) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

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

List of Subjects in 21 CFR Part 558

Animal drugs, Animal feeds.

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEED

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10 (formerly 5.1; see 46 FR 26052; May 11, 1981)) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), Part 558 is amended in § 558.355 by adding new paragraphs (b)(9) and (f)(1)(xv), (xvi), and (xvii) to read as follows:

§ 558.355 Monensin.

* * * * *

(b) * * *

(9) To 012769: 45 grams per pound, as monensin sodium provided by No. 000986, paragraph (f)(1)(xv), (xvi), and (xvii) of this section.

* * * * *

(f) * * *

(1) * * *

(xv) *Amount per ton.* Monensin, 90 to 110 grams, plus bacitracin zinc, 10 grams, and roxarsone, 15 grams (0.0017 percent).

(*a*) *Indications for use.* For increase in rate of weight gain; for the prevention of coccidiosis caused by *Eimeria necatrix, E. tenella, E. acervulina, E. maxima, E. brunetti,* and *E. mivati.*

(*b*) *Limitations.* Do not feed to laying chickens; feed continuously as the sole ration; withdraw 5 days before slaughter; as sole source of organic arsenic; feed must be used within 4 weeks of manufacture; as monensin sodium; as bacitracin zinc provided by No. 012769 in § 510.600(c) of this chapter; as roxarsone provided by No. 017210 in § 510.600(c) of this chapter.

(xvi) *Amount per ton.* Monensin, 90 to 110 grams, plus bacitracin zinc, 30 to 50 grams, and roxarsone, 15 to 35 grams (0.0017 percent to .00385 percent).

(*a*) *Indications for use.* For improved feed efficiency; for improved pigmentation by enhancing carotenoid and xanthophyll utilization; for the prevention of coccidiosis caused by *Eimeria necatrix, E. tenella, E. acervulina, E. maxima, E. brunetti,* and *E. mivati.*

(*b*) *Limitations.* Do not feed to laying chickens; feed continuously as the sole ration; withdraw 5 days before slaughter; as sole source of organic arsenic; feed must be used within 4 weeks of manufacture; as monensin sodium; as bacitracin zinc provided by No. 012769 in § 510.600(c) of this chapter; as roxarsone provided by No. 017210 in § 510.600(c) of this chapter.

(xvii) *Amount per ton.* Monensin, 90 to 110 grams, plus bacitracin zinc, 30 to 50 grams, and roxarsone, 35 to 45 grams (.00385 percent to .005 percent).

(*a*) *Indications for use.* For improved feed efficiency; for the prevention of coccidiosis caused by *Eimeria necatrix, E. tenella, E. acervulina, E. maxima, E. brunetti,* and *E. mivati.*

(*b*) *Limitations* Do not feed to laying chickens; feed continuously as the sole ration; withdraw 5 days before slaughter; as sole source of organic arsenic; feed must be used within 4 weeks of manufacture; as monensin sodium; as bacitracin zinc provided by No. 012769 in § 510.600(c) of this chapter; as roxarsone provided by No. 017210 in § 510.600(c) of this chapter.

* * * * *

Effective date. May 28, 1982.

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

Dated: May 24, 1982.

Gerald B. Guest

Acting Director, Bureau of Veterinary Medicine.

[FR Doc. 82-14597 Filed 5-27-82; 8:45 am]

BILLING CODE 4160-01-M

21 CFR Part 558

New Animal Drugs for Use in Animal Feeds; Tylosin

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) filed for Feed Fortifiers, Inc., providing labeling revisions for a 10-gram-per-pound tylosin premix that expand its use to manufacture of cattle and poultry feeds in addition to manufacturing swine feeds.

EFFECTIVE DATE: May 28, 1982.

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

SUPPLEMENTARY INFORMATION: Feed Fortifiers, Inc., #1 Industrial Rd., Manson, IA 50563, is sponsor of NADA 93-518 providing for safe and effective use of a 10-gram-per-pound tylosin premix in manufacturing complete swine feeds. The feeds are used for increased rate of weight gain and improved feed efficiency. On behalf of Feed Fortifiers, Elanco Products Co. filed a supplement to the NADA that expands use of the premix to manufacture of complete cattle and poultry feeds. The cattle feeds are indicated for reduction of incidence of liver abscesses in beef cattle. The poultry feeds are indicated for increased rate of weight gain and improved feed efficiency in chickens, improved feed efficiency in laying chickens, and to aid in the control of chronic respiratory disease in broiler and replacement chickens. The supplement also provides for certain additional uses of swine feeds derived from the 10-gram-per-pound premix. The supplemental NADA, adding the additional claims and species for the 10-gram-per-pound premix, is approved and 21 CFR 558.625 is amended to reflect the approval.

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

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 558

Animal drugs, Animal feeds

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10 (formerly 5.1; see 46 FR 26052; May 11, 1981)) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), Part 558 is amended in § 558.625 by revising paragraph (b)(2) to read as follows:

§ 558.625 Tylosin.

* * * * *

(b)* * *

(2) To 017255: 10 grams per pound; paragraph (f)(1)(i) through (vi) of this section.

* * * * *

Effective date. This amendment is effective May 28, 1982.

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

Dated: May 19, 1982.

Robert A. Baldwin,

Associate Director for Scientific Evaluation.

[FR Doc. 82-14400 Filed 5-27-82; 8:45 am]

BILLING CODE 4160-01-M

21 CFR Part 558

New Animal Drugs for Use in Animal Feeds; Tylosin

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) filed for Custom Feed Services Corp. providing labeling revisions for a 10-gram-per-pound tylosin premix that expand its use to manufacture of cattle and poultry feeds in addition to manufacturing swine feeds.

EFFECTIVE DATE: May 28, 1982.

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

SUPPLEMENTARY INFORMATION: Custom Feed Service Corp., 2100 N. 13th St., Norfolk, NE 68701, is sponsor of NADA 121-200 providing for safe and effective use of a 10-gram-per-pound tylosin premix in manufacturing complete swine feeds. The feeds are used for increased rate of weight gain and improved feed efficiency. On behalf of Custom Feed Services, Elanco Products Co. filed a supplement to the NADA that expands use of the premix to manufacture of complete cattle and poultry feeds. The cattle feeds are indicated for reduction of incidence of liver abscesses in beef cattle. The poultry feeds are indicated for increased rate of weight gain and improved feed efficiency in chickens, improved feed efficiency in laying chickens, and to aid in the control of chronic respiratory disease in broiler and replacement chickens. The supplement also provides for certain additional uses of swine feeds derived from the 10-gram-per-pound premix.

The supplemental NADA, adding the additional claims and species for the 10-gram-per-pound premix, is approved and 21 CFR 558.625 is amended to reflect the approval.

Approval of this application is based on safety and effectiveness data contained in Elanco's approved NADA 12-491. Elanco has authorized use of the data in NADA 12-491 to support approval of this application. This

approval does not change the approved use of the drug. Consequently, approval of this NADA poses no increased human risk from exposure to residues of the animal drug, nor does it change the conditions of the drug's safe use in the target animal species. Accordingly, under the Bureau of Veterinary Medicine's supplemental approval policy (42 FR 64367; December 23, 1977) this is a Category II change. The approval of this supplemental NADA does not require reevaluation of the safety and effectiveness data in NADA 12-491.

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 558

Animal drugs, Animal feeds.

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10 (formerly 5.1 see 46 FR 26052; May 11, 1981)) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), Part 558 is amended in § 558.625 by revising paragraph (b)(68) to read as follows:

§ 558.625 Tylosin.

* * * * *

(b) * * *

(68) To 017473: 10 grams per pound; paragraph (f)(1)(i) through (vi) of this section.

* * * * *

Effective date. This amendment is effective May 28, 1982.

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

Dated: May 19, 1982.

Robert A. Baldwin,

Associate Director for Scientific Evaluation.

[FR Doc. 82-14401 Filed 5-27-82; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Part 558

New Animal Drugs for Use in Animal Feeds; Tylosin and Sulfamethazine

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the new animal drug regulation for tylosin and sulfamethazine to reflect approval of a supplemental new animal drug application (NADA) filed by Elanco Products Co. providing for administrative waiver of the ministerial requirements of section 512(m) of the Federal Food, Drug and Cosmetic Act (the act) with regard to the manufacture of finished swine feeds containing the drugs.

EFFECTIVE DATE: May 28, 1982.

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

SUPPLEMENTARY INFORMATION: Elanco Products Co., 740 S. Alabama St., Indianapolis, IN 46285, filed supplemental NADA 41-275 providing for waiver of the requirements of section 512(m) of the act (21 U.S.C. 360b(m)) for use of their tylosin/sulfamethazine premixes for the manufacture of complete swine feeds.

Premixes containing only tylosin and sulfamethazine meet the uniform criteria set forth in the 1971 Bureau of Veterinary Medicine memorandum for administrative waiver of the ministerial requirements of section 512(m) of the act. The pertinent provisions of the memorandum indicate that waiver is appropriate if:

1. The feeding of 1.5X to 2X level of the product in the finished feed does not have an impact on the tissue residue picture, i.e., an impact on an existing withdrawal period or tolerance.

2. The product is not a known carcinogen or is not classed with a family of known carcinogens.

3. Appropriate documentation covering animal safety is on file. This will not require additional data since this documentation is by definition a part of the NADA.

4. The margin of safety to the animal and the consumer is such that the product label does not have to contain a statement such as "Use as the sole source of * * *."

5. Data are on file to demonstrate that the product is efficacious over the approved range. This data should generally satisfy current standards for the demonstration of efficacy.

6. Except under special circumstances, the product has been used at least 3 years in the target species without significant complaints related to or associated with it. Applications of this criterion require a review of the available drug experience reports.

The 1971 memorandum explains that waiver of the ministerial requirements of section 512(m) of the act is permitted only for specific efficacy claims or at specific levels of the drugs, and that distinct products with corresponding labeling for those claims or levels should exist. This is necessary to cover those premixes that can be made into finished feeds with various concentrations of drugs.

The foregoing criteria established in the 1971 memorandum constitute an interim agency policy. In waiving the ministerial requirements of section 512(m) of the act, the agency has not waived the current good manufacturing practice regulations under Part 225 (21 CFR Part 225) for feed mills mixing such feeds.

In the **Federal Register** of January 9, 1981 (46 FR 2456), the agency published a proposal to revise the current procedures and requirements concerning conditions of approval for the manufacture of animal feeds containing new animal drugs. In that proposal (p. 2463), the agency served notice that it was no longer granting exemptions from the requirement of an approved medicated feed application on the basis of complying with certain uniform criteria set forth in a 1971 Bureau of Veterinary Medicine memorandum. Since publication of that proposal, however, the agency has reconsidered the effects of terminating section 512(m) waivers based on the 1971 memorandum. The agency concludes that it would be unfair to continue denying waivers to those drug sponsors whose products meet the criteria set forth in the 1971 memorandum on the basis that the program is to be restructured in the future. Accordingly, the agency is withdrawing its policy, announced in the January 9, 1981 **Federal Register**, terminating the granting of section 512(m) exemptions (based on the 1971 memorandum) and resumes the granting of exemptions on an interim basis.

The Bureau of Veterinary Medicine has determined pursuant to 21 CFR

25.24(b)(12) and (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.

Approval of this supplement is an administrative action that did not require the generation of new effectiveness or safety data in support of the waiver. Therefore, a freedom of information summary is not required for this action.

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

List of Subjects in 21 CFR Part 558

Animal drugs, Animal feeds.

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10 (formerly 5.1; see 46 FR 26052; May 11, 1981)) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), Part 558 is amended in § 558.630 by adding new paragraph (d) to read as follows:

§ 558.630 Tylosin and sulfamethazine.

* * * * *

(d) *Special considerations.* Finished feeds conforming to the requirements of this section are not required to comply with the provisions of section 512(m) of the Federal Food, Drug, and Cosmetic Act.

* * * * *

Effective date. May 28, 1982.

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

Dated: May 20, 1982.

Robert A. Baldwin,

Associate Director for Scientific Evaluation.

[FR Doc. 82-14596 Filed 5-27-82; 8:45 am]

BILLING CODE 4160-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-8-FRL-2111-7]

Approval and Promulgation of State Implementation Plans; Utah Nonattainment SIP

AGENCY: Environmental Protection Agency.

ACTION: Final rulemaking.

SUMMARY: The purpose of this notice is to approve revisions to the Utah State implementation Plan (SIP) which were submitted by the State on April 8, 1981. On January 28, 1982 (47 FR 4096), EPA proposed to approve the revisions and requested public comment. No comments were received. The revisions approved here include emission limits for Group II sources of volatile organic compounds, new limits on fugitive emissions of particulates, new or revised emission limits for several stationary sources, and a clarification to the compliance testing requirements.

DATES: This action will be effective May 28, 1982.

ADDRESSES: Copies of the revision are available for public inspection between 8:00 a.m. and 4:00 p.m. Monday through Friday at the following offices:

Environmental Protection Agency, Region VIII, Air Programs Branch, 1860 Lincoln Street, Denver, Colorado 80295

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

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

FOR FURTHER INFORMATION CONTACT: David S. Kircher, Air Programs Branch, Environmental Protection Agency, 1860 Lincoln Street, Denver, Colorado 80295, (303) 837-3711.

SUPPLEMENTARY INFORMATION: On April 8, 1981, the Governor of Utah submitted to EPA a revision to the State Implementation Plan (SIP). This revision was divided into three parts for review and approval. First, emission limits in Utah Regulation 3.2.1 were revised for a number of stationary sources of particulates. The revisions for all but three of those sources were given expedited review and were approved on December 21, 1981 (46 FR 61859). Second, the revision included an amended Inspection/Maintenance work schedule for Salt Lake County. This portion was proposed for approval on May 5, 1981 (46 FR 25110).

Finally, the remainder of the SIP revision has been reviewed for consistency with Clean Air Act requirements and EPA criteria for approval of SIP Revisions. *See* 44 FR 20372 (1979), 44 FR 38583 (1979), 44 FR 53761 (1979), and 44 FR 50371 (1979). These remaining portions of the SIP Revision were proposed for approval on January 28, 1982 (47 FR 4096). No comments were received. The issues included in that revision are briefly described below:

Stationary Source Limits

Minor changes were made to the emission limitations applicable to Pacific States Cast Iron and Pipe Company, Gibbons and Reed Asphalt Plant, and Interpace Corporation. The changes are minor and will result in improvements in air quality.

Fugitive Emission Limits

Section 4.5 of the Utah Regulations was revised to control sources of fugitive dust and fugitive emissions, including mining operations, construction, roadways, and tailings. This regulation will result in reduced emissions of particulates in both attainment areas and nonattainment areas.

Volatile Organic Compounds

Section 4.9 of the regulations was amended to provide new limits on volatile organic compounds including the new Group II requirements. Specifically, the following provisions were added or revised:

Regulations	Source Category
4.9.1.c	Petroleum Liquid Storage.
4.9.2	Petroleum Liquid Transfer.
4.9.3.f	Refinery Equipment Leaks.
4.9.6	Operations for paper coating, fabric coating, metal furniture coating, large appliance surface coating, magnet wire coating, flatwood coating, miscellaneous metal parts coating, and graphic arts.
4.9.7	Synthesized pharmaceutical manufacturing.
4.9.8	Perchloroethylene dry cleaning plants.

The State notified EPA that there are no plants in Utah that manufacture pneumatic rubber tires.

While the regulations are generally acceptable, regulations 4.9.1.c, 4.9.3.f, and 4.9.6.h (graphic arts) contain minor inconsistencies with EPA's control technique documents which the State clarified during the public comment period. Details concerning these minor inconsistencies are included in EPA's evaluation report and a February 4, 1982, memorandum from the State to EPA. These minor inconsistencies do not affect approvability of the SIP revision.

Compliance Testing

Section 3.2.3 was revised to clarify the use of the method 5 sampling train (40 CFR Part 60, Appendix A). The revision states that only the front half of the train will be used for determining compliance with gravimetric emission limitations.

Final Action

EPA's review of the April 8, 1981, submittal indicates that it meets all requirements of section 110 and Part D of the Clean Air Act. Therefore, EPA proposes to approve all aspects of that submittal.

EPA finds good cause exists for making the action taken in this notice immediately effective for the following reasons:

(1) Implementation plan revisions are already in effect under state law or regulation and EPA approval poses no additional regulatory burden;

(2) EPA has a responsibility under the Act to take final action on the portion of the SIP which addresses Part D requirements by July 1, 1979, or as soon thereafter as possible.

Under section 307(b)(1) of the Clean Air Act, petitions for 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 proceedings to enforce its requirements (See 307(b)(2)).

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

List of Subjects in 40 CFR Part 52

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

(Sec. 110 of the Clean Air Act (42 U.S.C. 7410))

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

Dated: April 30, 1982.

Anne M. Gorsuch,

Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

Subpart TT—Utah

(1) In § 52.2320, paragraph (c)(12) is added as follows:

§ 52.2320 Identification of Plan.

* * * * *

(c) * * *

(12) Provisions to meet the requirements of Part D of the Clean Air Act, as amended in 1977, for particulates and volatile organic compounds, were submitted on April 8, 1981.

[FR Doc. 82-14618 Filed 5-27-82; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Parts 405 and 440

Medicare and Medicaid Programs; Nurse-Midwife Services

Correction

In FR Doc. 82-13346 appearing at page 21046 in the issue for Monday, May 17, 1982 please make the following corrections:

(1) On page 21049, in the middle column, in § 405.2401(b)(10)(iv)(C), in the last two lines, the phrase "(the effective date of these regulations)" should have read "July 16, 1982."

(2) On page 21050, in the third column, in § 440.165(b)(4)(iii), in the last two lines, "(the effective date of these regulations)" should have read "July 16, 1982."

BILLING CODE 1505-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

[Docket No. FEMA-6012]

Final Flood Elevation Determination; Pennsylvania

AGENCY: Federal Emergency Management Agency.

ACTION: Deletion of final rule.

SUMMARY: The Federal Emergency Management Agency has erroneously published the final flood elevation determination for the Township of LeBoeuf, Erie County, Pennsylvania. This notice will serve to delete that publication. Following an engineering analysis and review, a revised notice of proposed flood elevation determination will be issued.

EFFECTIVE DATE: May 28, 1982.

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: As a result of a recent engineering analysis, the Federal Emergency Management Agency has determined that the notice of final flood elevation determination for the Township of LeBoeuf, Erie County, Pennsylvania, published at 45 FR 60585, on December 11, 1981, should be deleted. After a technical evaluation, a revised notice of proposed flood elevations will be issued, with a ninety-day period specified for comments and appeals.

List of Subjects in 44 CFR Part 67

Flood insurance, Flood plains.

(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 30, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-14601 Filed 5-27-82; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 68

[Docket No. FEMA-68A]

Base Flood Elevation Determinations; Administrative Hearing Procedures

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: The Federal Emergency Management Agency (FEMA) revises its procedures for holding administrative hearings for resolution of appeals of its base flood elevation determinations. The purpose of this revision is to provide a more efficient hearing process. This revision establishes a three member board which includes two members qualified in the field of technical base flood elevation determinations to replace the current requirement of a single administrative law judge or hearing officer as presiding official. The board's decision will be a recommendation to the Agency Director who will make the final base flood elevation determination. Other minor changes consistent with these revisions have been made to improve the administrative hearing procedures.

DATE: This rule is effective June 28, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Gregg Chappell, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472; (202) 287-0230.

SUPPLEMENTARY INFORMATION: Section 1363 of the National Flood Insurance Act of 1968, *as amended,* provides that a community may appeal flood elevation determination proposed by FEMA. Section 1363(e) provides in part: "The

(Director) shall resolve such appeal by consultation with officials of the local government involved, by administrative hearing, or by submission of the conflicting data to an independent scientific body or appropriate Federal agency for advice." The administrative hearing procedures for base flood elevation appeals are set forth in 44 CFR Part 68 of the National Flood Insurance Program regulations.

These procedures currently provide for an administrative law judge to preside over such hearings (§ 68.4). With the complexity of technical involvement in determining flood elevations, FEMA finds that a better way to secure informed technical review at these hearings is to have them conducted by a hearing board with members who are technically qualified to review flood elevation data. Specifically, this proposed revision (§ 68.4) establishes a three member hearing board to replace the current requirement of a single administrative law judge or hearing officer.

In addition, these procedures (specifically §§ 68.2, 68.3 and 68.4) are being revised to ensure a fair and impartial procedure and to reflect the internal reorganization of FEMA and recent delegations of authority made pursuant to the reorganization. The Associate Director for State and Local Programs and Support will have responsibility for determining whether an administrative hearing will be held. The Agency Director will appoint a hearing officer based upon a recommendation by the Office of Personnel Management. The hearing officer will chair the board. The two remaining members, who must be qualified in the technical field of flood elevation determinations, will be selected by the appointed hearing officer. The hearing officer shall consult with anyone he deems appropriate to determine the technical qualifications of individuals being considered for appointment to the board. The board members shall not be FEMA employees.

Section 68.3 is being revised to reflect clearly the statutory discretion allowed the Associate Director in determining whether to hold a hearing. The Associate Director shall hold an administrative hearing after determining that the appeal cannot be resolved by community consultation or by the advice of an independent scientific body or an appropriate Federal agency. The purpose of this section is to conserve administrative resources.

Section 68.8 has been made more specific to limit the scope of review of the administrative hearing to only that information which would be pertinent to scientific or technically correct base flood elevations for the community in question. Section 68.9 has also been made more specific and limited for the same reason by deleting § 68.9 (b) and (e).

Section 68.11 has been revised to reflect the change from an administrative law judge/hearing officer as the presiding official to the three member hearing board as provided in the new § 68.4. The board shall have 45 days after the conclusion of the hearing to render a written decision and the entire record will be sent to the Director for review and final determination.

Under the current § 68.13, any modification to the base flood elevations granted by the administrative law judge was binding on the Director. Under this rule change (§ 68.11), the hearing board's determination will be in the form of a recommendation to the Director. The Director will be the final decision-maker and shall approve or disapprove, in whole or in part, the recommendation of the board. Any appellant aggrieved by the Director's decision will have the right of appeal to the United States district court for the district within which the community is located as provided by Section 1363(f) of the National Flood Insurance Act of 1968, *as amended.*

An environmental assessment is not necessary because this rule change is procedural and has no effect on the quality of the human environment. This rule change is not a "major rule" within the context of Executive Order 12291. This rule does not have a significant economic impact on a substantial number of small entities because it calls for improving the appeals process for base flood elevation determinations.

FEMA published a proposed rule on December 22, 1981 (46 FR 61299–61301). One comment was received. Lee County, Florida, expressed concern with that aspect of the rule change which gives the Director discretion to approve or disapprove, in whole or in part, the decision of the hearing board. While we understand the County's apprehension, we believe it is misplaced. First, the procedures of the Federal Emergency Management Agency (FEMA) which bound it to a finding of a hearing officer were highly atypical. It is not common practice for Federal agencies to so bind themselves. Second, though the Director will have the discretion to review the board's decision, such decision would not be rejected without good reason. Third, if a community believes that the board's decision has been overturned without good cause, the community has recourse to the courts. FEMA believes that since it has the responsibility for establishing accurate flood elevations, it must allow itself the leeway to review the board's findings.

Only one change was made in the proposed rule. A new subsection was added to § 68.9 *Admissible Evidence* to clarify the fact that a previous determination regarding the flood elevations of another community is not binding on the board and is only admissible if relevant. Each flood insurance study applies to one community. It would be inconsistent with the statutory appeals structure to have the determination of one community's flood elevations affect the elevations in a different community. The principles of *res judicata* and collateral estoppel are not applicable to this type of situation.

Accordingly, 44 CFR Part 68 is revised to read as follows:

PART 68—ADMINISTRATIVE HEARING PROCEDURES

Sec.

Authority: Sec. 1304(a), 1363 of the National Flood Insurance Act of 1968, as amended, 82 Stat. 574 (42 U.S.C. 4011–4104); Reorganization Plan No. 3 of 1978 (43 FR 41943) and Executive Order 12127, dated March 31, 1979 (44 FR 19367) and delegation of authority to Associate Director, State and Local Programs and Support.

§ 68.1 Purpose of part.

The purpose of this part is to establish procedures for appeals of the Associate Director's base flood elevation determinations, whether proposed pursuant to section 1363(e) of the Act (42 U.S.C. 4104) or modified because of changed conditions or newly acquired scientific and technical information.

§ 68.2 Definitions.

The definitions set forth in Part 59 of this subchapter are applicable to this part. For the purposes of this part, "Director" shall mean the Director of the Federal Emergency Management Agency and "Associate Director" shall mean Associate Director for State and Local Programs and Support.

§ 68.3 Right to administrative hearings.

If a community appeals the Associate Director's flood elevation determination

established pursuant to § 67.8 of this subchapter, and the Associate Director has determined that such appeal cannot be resolved by consultation with officials of the community or by submitting the conflicting data to an independent scientific body or appropriate Federal agency for advice, the Associate Director shall hold an adminsitrative hearing to resolve the appeal.

§ 68.4 Hearing board.

(a) Each hearing shall be conducted by a three member hearing board (hereinafter "board"). The board shall consist of a hearing officer (hereinafter "Judge") appointed by the Director based upon a recommendation by the Office of Personnel Management and two members selected by the Judge who are qualified in the technical field of flood elevation determinations. The Judge shall consult with anyone he deems appropriate to determine the technical qualifications of individuals being considered for appointment to the board. The board members shall not be FEMA employees.

(b) The Judge shall be responsible for conducting the hearing, and shall make all procedural rulings during the course of the hearing. Any formal orders and the final decision on the merits of the hearing shall be made by a majority of the board. A dissenting member may submit a separate opinion for the record.

(c) A technically qualified alternate will be appointed by the Judge as a member of the board when a technically qualified appointed member becomes unavailable. The Director will appoint an alternate Judge if the appointed Judge becomes unavailable.

§ 68.5 Establishment of docket.

The General Counsel shall establish a docket for appeals referred to him/her by the Associate Director for administrative hearings. This docket shall include, for each appeal, copies of all materials contained in the flood elevation determination docket (FEDD) file on the matter, copies of all correspondence in connection with the appeal, all motions, orders, statements, and other legal documents, a transcript of the hearing, and the board's final determination.

§ 68.6 Time and place of hearing.

(a) The time and place of each hearing shall be designated by the Judge for that hearing. The Associate Director and the General Counsel shall be promptly advised of such designations.

(b) The board's notice of the time and place of hearing shall be sent by the Flood Insurance Docket Clerk by registered or certified mail, return receipt requested, to all appellants. Such notice shall include a statement indicating the nature of the proceedings and their purpose and all appellants' entitlement to counsel. Notice of the hearing shall be sent no later than 30 days before the date of hearing unless such period is waived by all appellants.

§ 68.7 Conduct of hearings.

(a) The Judge shall be responsible for the fair and expeditious conduct of proceedings.

(b) The Associate Director shall be represented by the General Counsel or his/her designee.

(c) One administrative hearing shall be held for any one community unless the Associate Director for good cause shown grants a separate hearing or hearings.

(d) The Chief Executive Officer (CEO) of the community or his/her designee shall represent all appellants from that community; *Provided,* That any appellant may petition the board to allow such appellant to make an appearance on his/her own behalf. Such a petition shall be granted only upon a showing of good cause.

(e) Hearings shall be open to the public.

(f) A verbatim transcript will be made of the hearing. An appellant may order copies of the transcribed verbatim record directly from the reporter and will be responsible for payments.

§ 68.8 Scope review.

Review at administrative hearings shall be limited to: An examination of any information presented by each appellant within the 90 day appeal period indicating that elevations proposed by the Associate Director are scientifically or technically incorrect; the FIRM; the flood insurance study; its backup data and the references used in development of the flood insurance study; and responses by FEMA to the issues raised by the appellant(s).

§ 68.9 Admissible evidence.

(a) Legal rules of evidence shall not be in effect at adminstrative hearings. However, *only* evidence relevant to issues within the scope of review under § 68.8 shall be admissible.

(b) Documentary and oral evidence shall be admissible.

(c) Admissibility of non-expert testimony shall be within the discretion of the board.

(d) All testimony shall be under oath.

(e) *Res judicata*/collateral estoppel. Where there has been a previous determination, decision or finding of fact by the Director, one of his delegees, an administrative law judge, hearing officer, or hearing board regarding the base flood elevations of any other community, such determination, decision, or finding of fact shall not be binding on the board and may only be admissible into evidence if relevant.

§ 68.10 Burden of proof.

The burden shall be on appellant(s) to prove that the flood elevation determination is not scientifically or technically correct.

§ 68.11 Determination.

The board shall render its written decision within 45 days after the conclusion of the hearing. The entire record of the hearing including the board's decision will be sent to the Director for review and approval. The Director shall make the final base flood elevation determination by accepting in whole or in part or by rejecting the board's decision.

§ 68.12 Relief.

The final determination may be appealed by the appellant(s) to the United States district court as provided in Section 1363(f) of the Act (42 U.S.C. 4104).

(Catalog of Federal Domestic Assistance Number 83.100 National Flood Insurance Program)

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-14624 Filed 5-27-82; 8:45 am]

BILLING CODE 6718-01-M

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44 CFR Part 70

[Docket No. FEMA-5909]

Letter of Map Amendment for Maricopa County, Arizona, Under National Flood Insurance Program; Correction

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule, map correction.

SUMMARY: The Federal Emergency Management Agency (FEMA) published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included Maricopa County, Arizona. It has been determined by the Associate Director, State and Local Programs and Support, after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for Maricopa County, Arizona, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal of federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: May 28, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, P.E., Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472; (202) 287–0230.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034; Telephone: (800) 638–6620.

The map amendments listed below are in accordance with § 70.7(b):

Map No. H & I 040037 Panel 0935A, published on October 6, 1980, in 45 FR 66116, indicates that Lots 129 through 147, North Valley View, Unit Two, Phoenix, Arizona, as recorded in Book 235, Page 9, in the Office of the Recorder, Maricopa County, Arizona are located within the Special Flood Hazard Area.

Map No. H & I 040037 Panel 0935A is hereby corrected to reflect that the above mentioned lots are not within the Special Flood Hazard Area identified on July 2, 1979. These lots are in Zone B.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 70

Flood insurance, Flood plains.

(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; delegation of authority to Associate Director, State and Local Programs and Support)

Issued: May 19, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82–14569 Filed 5–27–82; 8:45 am]

BILLING CODE 6718–03–M

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44 CFR Part 70

[Docket No. FEMA–5909]

Letter of Map Amendment for Santa Barbara County, California, Under National Flood Insurance Program; Correction

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule, map correction.

SUMMARY: The Federal Emergency Management Agency (FEMA) published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included Santa Barbara County, California. It has been determined by the Associated Director, State and Local Programs and Support, after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for Santa Barbara County, California, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: May 28, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, P.E., Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472; (202) 287–0230.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034; Telephone: (800) 638–6620.

The map amendments listed below are in accordance with § 70.7(b):

Map No. H & I 060331 Panel 0765B, published on October 6, 1980, in 45 FR 66119, indicates that Lot 4, Tract 11511, Santa Barbara County, California, as recorded in Book 79, Pages 91 through 93 of Record Maps, in the Office of the Recorder, Santa Barbara County, California, is located within the Special Flood Hazard Area.

Map No. H & I 060331 Panel 0765B is hereby corrected to reflect that the above mentioned property is not within the Special Flood Hazard Area identified on March 15, 1979. This property is in Zone C.

Pursuant to provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 70

Flood insurance, Flood plains.

(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; delegation of authority to Associate Director, State and Local Programs and Support)

Issued: May 5, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82–14581 Filed 5–27–82; 8:45 am]

BILLING CODE 6718–03–M

44 CFR Part 70

[Docket No. FEMA-6116]

Letter of Map Amendment for the City of Santa Maria, California, Under National Flood Insurance Program; Correction

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule, map correction.

SUMMARY: The Federal Emergency Management Agency (FEMA) published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included the City of Santa Maria, California. It has been determined by the Associate Director, State and Local Programs and Support, after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for City of Santa Maria, California, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: May 28, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, P.E., Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472; (202) 287-0230.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034; Telephone: (800) 638-6620.

The map amendments listed below are in accordance with § 70.7(b):

Map No. H & I 060336 Panel 0005B, published on July 22, 1981, in 46 FR 37653, indicates that Lots 1 through 61, Proposed Tract No. 5296, Hancock Village, being Lot 201, Tract 5226, Santa Maria, California, recorded as Instrument Number 80-15075, in the Office of the Recorder, Santa Barbara County is located within the Special Flood Hazard Area.

Map No. H & I 060336 Panel 0005B is hereby corrected to reflect that the existing structures located on the above mentioned lots are not within the Special Flood Hazard Area identified on June 1, 1981. These structures are in Zone B.

Pursuant to provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 70.

Flood insurance, Flood plains.

(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; delegation of authority to Associate Director, State and Local Programs and Support)

Issued: May 5, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-14570 Filed 5-27-82; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 70

[Docket No. FEMA-5909]

Letter of Map Amendment for Brevard County, Florida, Under National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: The Federal Emergency Management Agency published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included Brevard County, Florida. It has been determined by the Associate Director, State and Local Programs and Support after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for Brevard County, Florida, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: May 28, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472; (202) 287-0230.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP). P.O. Box 34294, Bethesda, Maryland 20034; Phone: (800) 638-6620.

The map amendments listed below are in accordance with § 70.7(b):

Map Number H & I 125092 B, Panel 49, published on October 6, 1980 in 45 FR 66058 indicates that Lot 22 of the Suntree Planned Unit Development, Stage Fourteen, Tract Ten, Unit One and Tract Eleven-A, also known as 611 Casa Grande Drive as recorded in Official Records Book 2330, Page 1338 in the Circuit Court Clerk's Office of Brevard County, Florida, is located within the Special Flood Hazard Area.

Map Number H and I 125092 B, Panel 49 is hereby corrected to reflect that the above-mentioned property is not within the Special Flood Hazard Area as identified on August 6, 1976. The property is located in Zone C.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities.

This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 70

Flood insurance, Flood plains.

(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; delegation of authority to Associate Director, State and Local Programs and Support)

Issued: May 5, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-14571 Filed 5-27-82; 8:45 am]

BILLING CODE 6718-03-M

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44 CFR Part 70

[Docket No. FEMA-5909]

Letter of Map Amendment for the City of Cocoa Beach, Florida, Under National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: The Federal Emergency Management Agency published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included the City of Cocoa Beach, Florida. It has been determined by the Associate Director, State and Local Programs and Support after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the City of Cocoa Beach, Florida, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: May 28, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472; (202) 287–0230.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP). P.O. Box 34294, Bethesda, Maryland 20034; Phone: (800) 638–6620.

The map amendments listed below are in accordance with § 70.7(b):

Map Number H & I 125097 C, Panel 03, published on October 6, 1980 in 45 FR 66058 indicates that Lot 6 in Block 7, in the City of Cocoa Beach, Florida as recorded in Plat Book 3 at Page 54 of the Public Records of Brevard County, Florida is within the Special Flood Hazard Area.

Map Number H & I 125097 C, Panel 03 is hereby corrected to reflect that the existing structure on the above-mentioned property is not within the Special Flood Hazard Area identified on May 20, 1977. The structure is in Zone C. However portions of the property would still be inundated by a flood having a one-percent chance of occurrence in any given year (base flood).

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 70

Flood insurance, Flood plains.

(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; delegation of authority to Associate Director, State and Local Programs and Support)

Issued: May 5, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-14572 Filed 5-27-82; 8:45 am]

BILLING CODE 6718-03-M

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44 CFR Part 70

[Docket No. FEMA-5909]

Letter of Map Amendment for Dade County, Florida, Under National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: The Federal Emergency Management Agency published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included Dade County, Florida. It has been determined by the Associate Director, State and Local Programs and Support after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for Dade County, Florida, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction of acquisition purposes.

EFFECTIVE DATE: May 28, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472; (202) 287–0230.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program

(NFIP). P.O. Box 34294, Bethesda, Maryland 20034; Phone: (800) 638–6620.

The map amendments listed below are in accordance with § 70.7(b):

Map Number H and I 125098, Panel 0275 D published on 10–6–80 in 45 FR 66058 indicates that Lot 10 of Block 3, Southland Pines, in Dade County, Florida, according to the Plat thereof as recorded in Plat Book 94 at Page 77 of the Public Records of Dade County, is located within the Special Flood Hazard Area.

Map Number H and I 125098, Panel 0275 D is hereby corrected to reflect that the existing structure on the above-mentioned property is not within the Special Flood Hazard Area identified on November 14, 1980. The structure is located in Zone B. The low would still be partially inundated by a flood having a one-percent chance of occurrence in any given year.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 70

Flood insurance, Flood plains.

(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; delegation of authority to Associate Director, State and Local Programs and Support)

Issued: May 5, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82–19573 Filed 5–27–82; 8:45 am]

BILLING CODE 6718–03–M

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44 CFR Part 70

[Docket No. FEMA–5909]

Letter of Map Amendment for Hillsborough County, Florida, Under National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: The Federal Emergency Management Agency published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included Hillsborough County, Florida. It has been determined by the Associate Director, State and Local Programs and Support after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the Hillsborough County, Florida that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: May 28, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472; (202) 287–0230.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP). P.O. Box 34294, Bethesda, Maryland 20034, Phone: (800) 638–6620.

The map amendments listed below are in accordance with § 70.7(b):

Map Number H & I 120112, Panel 0205 B pubished on October 6, 1980 in 45 FR 66059 indicates that Lot 24, Block 1, Livingston II–A Subdivision, Hillsborough County, Florida, as recorded in Plat Book 50, Page 37, in the Office of the Clerk of the Circuit Court of Hillsborough County, Florida is located within the Special Flood Hazard Area.

Map Number H & I 120112, Panel 0205 B is hereby corrected to reflect the above-mentioned property is not within the Special Flood Hazard Area indentified on June 18, 1980. The property is in Zone C.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rules provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 70

Flood insurance, Flood plains.

(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; delegation of authority to Associate Director, State and Local Programs and Support)

Issued: May 5, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82–14574 Filed 5–27–82; 8:45 am]

BILLING CODE 6718–03–M

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44 CFR Part 70

[Docket No. FEMA–6237]

Letter of Map Amendment for Pasco County, Florida, Under National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: The Federal Emergency Management Agency published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included Pasco County, Florida. It has been determined by the Associate Director, State and Local Programs and Support after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for Pasco County, Florida, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: May 28, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472; (202) 287–0230.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP). P.O. Box 34294, Bethesda, Maryland 20034; Phone: (800) 638–6620.

The map amendments listed below are in accordance with § 70.7(b):

Map Number H & I 120230, Panel 0195 B, published on January 25, 1982 in 47 FR 3355 indicates that Tract 178 of Golden Acres Unit Eleven, in Pasco County, Florida, as shown on the plat recorded in Plat Book 15, Pages 84 through 87 of the Public Records of Pasco County is within the Special Flood Hazard Area.

Map Number H & I 120230, Panel 0195 B is hereby corrected to reflect that the existing structure on the above-mentioned property is not within the Special Flood Hazard Area identified on November 18, 1981. The structure is in Zone C. However, portions of the property would still be inundated by a flood having a one-percent chance of occurrence in any given year (base flood).

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participation communities.

List of Subjects in 44 CFR Part 70

Flood insurance, Flood plains.

(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; delegation of authority to Associate Director, State and Local Programs and Support)

Issued: May 5, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-14575 Filed 5-27-82; 8:45 am]

BILLING CODE 6718-03-M

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44 CFR Part 70

[Docket No. FEMA-5909]

Letter of Map Amendment for the City of Baltimore, Maryland, Under National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule, map correction.

SUMMARY: The Federal Emergency Management Agency published a list of communities for which maps were published identifying Special Flood Hazard Areas. This list included the City of Baltimore, Maryland. It has been determined by the Associate Director, State and Local Programs and Support, after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the City of Baltimore, Maryland, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: May 28, 1982.

FOR FURTHER INFORMATION CONTACT: Robert G. Chappell, Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472; (202) 287–0230.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally related financial assistance for construction or acquisiton purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034; Phone: (800) 638–6620 toll free.

The Map amendments listed below are in accordance with § 70.7(b):

Map No. H&I 240087A, Panel No. 09, published on October 6, 1980, in 45 FR 66039, indicates that Lot No. 19, Ward 28, Section 4, Block 8393–J, also known as 2553 Pickwick Road, City of Baltimore, Maryland, as recorded in Liber 3484, Pages 566 and 567, in the Office of the Clerk of the Circuit Court of the City of Baltimore, Maryland, is located within the Special Flood Hazard Area.

Map No. H&I 240087A, Panel No. 09, is hereby corrected to reflect that the above-mentioned property is not within the Special Flood Hazard Area identified on March 15, 1978. The property is in Zone C.

Pursuant to the provisions of U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated Special Flood Hazards Areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 70

Flood insurance, Flood plains.

(National Flood Insurance Act ot 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 Associate Director, State and Local Programs and Support)

Issued May 5, 1982.

Lee M. Thomas

Associate Director, State and Local Programs and Support.

[FR Doc. 82-14576 Filed 5-27-82; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 70

[Docket No. FEMA-5909]

Letter of Map Amendment for the Township of Scotch Plains, New Jersey, Under National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: The Federal Emergency Management Agency published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included the Township of Scotch Plains, New Jersey. It has been determined by the Associate Director, State and Local Programs and Support after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the Township of Scotch Plains, New Jersey, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: May 28, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472; (202) 287-0230

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP). P.O. Box 34294, Bethesda, Maryland 20034; Phone: (800) 638-6620.

The map amendments listed below are in accordance with § 70.7(b):

Map Number H & I 340474, Panel 0005 B published on October 6, 1980 in 45 FR 66030 indicates that structures numbered 1 through 4 and 6 through 12 of the property known as Riverside Village in the Township of Scotch Plains, New Jersey, as recorded in Book 3194, Pages 22 through 24 in the Register's Office, Union County, New Jersey, are located within the Special Flood Hazard Area.

In addition, the above-mentioned Map and Panel Number indicated that the structures numbered 1 through 5, 7 through 18, and 20 through 26 of the property known as Country Club Village in the Township of Scotch Plains, New Jersey, as recorded in Book 3191, Pages 504 through 506 in the Register's Office, Union County, New Jersey, are located within the Special Flood Hazard Area.

Map Number H & I 340474, Panel 0005 B is hereby corrected to reflect that structures numbered 1 through 4 and 6 through 12 of the Riverside Village are not within the Special Flood Hazard Area identified on July 18, 1980. These existing structures are in Zone B.

Furthermore, the above-mentioned Map and Panel Number is hereby corrected to reflect that structures numbered 1 through 5, 7 through 18, and 20 through 26 of Country Club Village are not within the Special Flood Hazard Area identified on July 18, 1980. Structures numbered 1 through 3, 5, 7 through 18, and 20 through 26 are in Zone B, structure number 4 is in Zone C.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 70

Flood insurance, Flood plains.

(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; delegation of authority to Associate Director, State and Local Programs and Support).

Issued: May 5, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-14577 Filed 5-27-82; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 70

[Docket No. FEMA-5909]

Letter of Map Amendment for the Town of Ramapo, New York, Under National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: The Federal Emergency Management Agency published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included the Town of Ramapo, New York. It has been determined by the Associate Director, State and Local Programs and Support after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the Town of Ramapo, New York, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: May 28, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472; (202) 287-0230.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP). P.O. Box 34294, Bethesda, Maryland 20034; Phone: (800) 638-6620.

The map amendments listed below are in accordance with § 70.7(b):

Map Number H & I 365340 B, Panel 04 published on October 6, 1980 in 45 FR 66035 indicates that the Pacesetter Park Shopping Center in the Town of Ramapo, New York, as recorded in Liber

1055, Pages 294 through 297 in the Rockland County Clerk's Office, is located within the Special Flood Hazard Area.

Map Number H & I 365340 B, Panel 04 is hereby corrected to reflect that the structures of the above-mentioned shopping center are not within the Special Flood Hazard Area identified on May 14, 1976. The structures are in Zone C. However, portions of the property would still be inundated by a flood having a one-percent chance of occurrence in any given year (base flood).

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazards areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 70

Flood insurance, Flood plains.

(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; delegation of authority to Associate Director, State and Local Programs and Support)

Issued: May 4, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-14578 Filed 5-27-82; 8:45 am]

BILLING CODE 6718-03-M

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44 CFR Part 70

[Docket No. FEMA-5909]

Letter of Map Amendment for Durham County, North Carolina, Under National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: The Federal Emergency Management Agency published a list of communities for which maps indentifying Special Flood Hazard Areas have been published. This list included Durham County, North Carolina. It has been determined by the Associate Director, State and Local Programs and Support after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for Durham County, North Carolina, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: May 28, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472; (202) 287–0230.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP). P.O. Box 34294, Bethesda, Maryland 20034; Phone: (800) 638–6620.

The map amendments listed below are in accordance with § 70.7(b):

Map Number H & I 370085, Panel 0025 A published on October 6, 1980 in 45 FR 66067 indicates that Lot 4 of Block D in Section V "Heather Glen" Subdivision, recorded in Plat Book 91 at Page 76 in the Office of the Register of Deeds for Durham County, North Carolina is located within the Special Flood Hazard Area.

Map Number H & I 370085, Panel 0025 A is hereby corrected to reflect that the above-mentioned property is not located within the Special Flood Hazard Area identified on February 15, 1979. The property is located in Zones B and C.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 70

Flood insurance, Flood plains.

(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; delegation of authority to Associate Director, State and Local Programs and Support)

Issued: May 5, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-14579 Filed 5-27-82; 8:45 am]

BILLING CODE 6718-03-M

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44 CFR Part 70

[Docket No. FEMA-5909]

Letter of Map Amendment for the City of Oklahoma City, Oklahoma, Under National Flood Insurance Program; Correction

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule, map correction.

SUMMARY: The Federal Emergency Management Agency (FEMA) published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included the City of Oklahoma City, Oklahoma. It has been determined by the Associate Director, State and Local Programs and Support, after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for the City of Oklahoma City, Oklahoma, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: May 28, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, P.E., Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472; (202) 287–0230.

SUPPLEMENTARY INFORMATION: If a property owner was required to

purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034; Telephone: (800) 638–6620.

The map amendments listed below are in accordance with § 70.7(b):

Map No. H & I 405378A Panel 64, published on October 6, 1980, in 45 FR 66095, indicates that Lots 9A through 14A, 23A, 24A, 8B through 13B, 22B, and 23B, Knight Lake II, Oklahoma City, Oklahoma, as recorded in Plat Book 47, Page 72, in the Office of the County Clerk, Oklahoma County, Oklahoma, are within the Special Flood Hazard Area.

Map No. H & I 405378A Panel 64 is hereby corrected to reflect that the above mentioned lots are not within the Special Flood Hazard Area identified on February 2, 1979. These lots are in Zone C.

Pursuant to provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 70

Flood insurance, Flood plains.

(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; delegation of authority to Associate Director, State and Local Programs and Support)

Issued: May 5, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82–14580 Filed 5–27–82; 8:45 am]

BILLING CODE 6718–03–M

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44 CFR Part 70

[Docket No. FEMA–5909]

Letter of Map Amendment for the City of Tulsa, Oklahoma, Under National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule; map correction.

SUMMARY: The Federal Emergency Management Agency (FEMA) published a list of communities for which maps identifying Special Flood Hazard Areas have been published. This list included the City of Tulsa, Oklahoma. It has been determined by the Associate Director, State and Local Programs and Support, after acquiring additional flood information and after further technical review of the Flood Insurance Rate Map for The City of Tulsa, Oklahoma, that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: May 28, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, P.E., Chief Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472; (202) 287–0230.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, provided that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained through the insurance agent or broker who sold the policy, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034; Telephone: (800) 638–6620.

The map amendments listed below are in accordance with § 70.7(b):

Map No. H & I 405381D Panel 71, published on October 6, 1980, in 45 FR 66095, indicates that Lot 1, Block 2, Harvard Square, Tulsa, Oklahoma, recorded as Plat No. 1248, Record No. 732989, in the Office of the Clerk, Tulsa County, Oklahoma, is partially located within the Special Flood Hazard Area.

Map No. H & I 405381D Panel 71 is hereby corrected to reflect that the above mentioned property is not within the Special Flood Hazard Area identified on August 14, 1979. This property is in Zone C.

Map No. H & I 405381D Panel 62, published on October 6, 1980, in 45 FR 66095, indicates that Lots 14 and 15, Block 19, Amended Plat of Dawson, Tulsa, Oklahoma, recorded as Plat No. 516, in the Office of the Clerk, Tulsa County, Oklahoma, are located within the Special Flood Hazard Area.

Map No. H & I 405381D Panel 62 is hereby corrected to reflect that the above mentioned lots are not within the Special Flood Hazard Area identified on August 14, 1979. These lots are in Zone C.

Pursuant to provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 70

Flood insurance, Flood plains.

(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; delegation of authority to Associate Director, State and Local Programs and Support.

Issued: May 17, 1982

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82–14568 Filed 5–27–82; 8:45 am]

BILLING CODE 6718–03–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 67

[CC Docket No. 80-286; FCC 82-106]

Order Adopting Supplemental Ex Parte Procedures

AGENCY: Federal Communications Commission—Federal State Joint Board.

ACTION: Order adopting Supplemental Ex Parte Procedures.

SUMMARY: The Federal Communications Commission is publishing new procedural rules adopted by the Federal-State Joint Board. The Joint Board is adopting supplemental *ex parte* procedures to facilitate its decision making processes in light of the logistical requirements resulting from the fact that the members of the Joint Board and its staff are located in different cities throughout the country.

EFFECTIVE DATE: This Order shall be effective May 28, 1982. in the Federal Register

ADDRESS: Federal Communications Commission, 1919 M Street, NW., Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: James W. McConnaughey, Policy and Program Planning Division, Common Carrier Bureau, at (202) 632-9342.

Order

Adopted: February 24, 1982.

Released: March 5, 1982.

By the Federal-State Joint Board: Commissioner Jones dissenting and issuing a statement.

In the matter of amendment of Part 67 of the Commission's rules and establishment of a joint board; CC Docket No. 80-286.

I. Background

1. This proceeding was instituted by the Commission on June 11, 1980 to reexamine the rules governing the allocation of local exchange plant and expenses between the intrastate and interstate jurisdictions in light of the new competitive environment for interstate communications services and the Commission's decision in the *Second Computer Inquiry* detariffing terminal equipment. Pursuant to Section 410(c) of the Communications Act, the Commission convened a Federal-State Joint Board composed of three Federal and four State Commissioners to develop recommended rule changes for review by the Commission. 78 FCC 2d 837 (1980). In the Notice of Proposed Rulemaking instituting this proceeding the Commission noted that certain interested persons had requested that the Commission apply its *Ex Parte* Rules to the proceedings before the Joint Board. The Commission, however, concluded that the Joint Board should be allowed to develop its own procedural ground rules, although it noted that Section 1.1207(a) of the Rules provides that rulemaking proceedings such as this involving Section 221(c) of the Communications Act are generally restricted.

2. In its First Supplemental Notice in this proceeding the Commission stated that "all parties will be protected if the Joint Board is subject to the *ex parte* rules pertaining to informal rulemaking proceedings until final written submissions or oral presentations are made to the Joint Board." CC Docket No. 80-286, 82 FCC 2d 157-158 (1980). Although informal rulemaking proceedings can be either restricted or nonrestricted depending on whether they involve "conflicting claims to a valuable privilege," this statement, read in context, indicated that this proceeding was to be treated as nonrestricted until final written or oral presentations were made to the Joint Board. Thus, Docket No. 80-286 was listed as nonrestricted under the *Ex Parte* Rules in a Public Notice issued by the Commission. Public Notice, "Classification of Notice of Proposed Rulemaking and Inquiry Proceedings For Purposes of *Ex Parte* Communications," Mimeo No. 08011, March 13, 1981.

II. Discussion

3. The Joint Board believes that the procedures governing nonrestricted informal rulemaking proceedings set out in the Commission's *Ex Parte* Rules provide important protections to the parties to this proceeding. However, the fact that the members of the Joint Board and the Joint Board Staff are located in different cities throughout the country makes it particularly difficult for the Board to consider pleadings and other proposals filed outside the established pleading cycles. In order to ensure the Joint Board and its staff a full opportunity to analyze all pleadings filed in this proceeding and allow all interested persons an opportunity to respond to such filings, we are imposing the following procedures.

4. Except for written *ex parte* presentations which are subject to somewhat different requirements discussed below, written materials which are filed outside a pleading cycle established by the Joint Board shall be accompanied by a Petition for Leave to File showing cause why the material should be considered by the Joint Board. The Joint Board will not consider any filing made outside an authorized pleading cycle and received by the Federal Communications Commission less than 15 days in advance of a Joint Board meeting at which the Joint Board is to consider the subject matter of that filing.[1] In general, written *ex parte* presentations differ from other written material filed outside an established pleading cycle by virtue of the fact that they are given directly to individual Board or staff members and not served on the other parties to the proceeding.[2] See Section 1.1201(g) of the Commission's Rules. Written *ex parte* presentations need not be accompanied by a Petition for Leave to File and may be received in the discretion of the Joint Board or staff member involved. However, no written *ex parte* presentations are to be made during the 15-day period immediately preceding a Joint Board meeting except in response to an inquiry initiated by a member of the Joint Board or its staff.

5. Oral *ex parte* presentations, except those initiated by Joint Board members or members of its staff, will also be prohibited during the final seven days preceding Joint Board meetings. Oral *ex parte* presentations are being treated differently than written *ex parte* presentations because it is unlikely that a party would attempt to present major new substantive recommendations concerning resolution of the issues in this proceeding solely through oral *ex parte* presentations. While we realize that this could happen, thereby impeding the Joint Board's ability to give full consideration to the recommendation and adversely affecting the opportunity of interested persons to respond, the probability of it does not warrant cutting off the oral input of interested parties for 15 full days before each Joint Board meeting.

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[1] In calculating this 15-day period, neither the day on which the material is filed nor the day on which the Joint Board meeting is to be held shall be counted.

[2] In this proceeding, the parties shown on the closed service list are required to serve the Federal and State members of the Joint Board, the Joint Board staff and all other parties shown on the closed service list with copies of their pleadings. Public Notice, "Service List for CC Docket No. 80-286," Mimeo No. 1061, released December 14, 1981. Thus, any substantive written material concerning this proceeding sent by a party on the closed service to a Joint Board member or a member of the staff would be *ex parte* if it was not served in conformity with this requirement. Parties not included on the closed service list are required to serve the Joint Board members and staff, but they are not required to serve the other parties to this proceeding. However, a filing by such a party outside an established pleading cycle will be treated as *ex parte* for the purposes of these supplemental procedures unless the filing is served on the parties on the closed service list as well as the Joint Board members and the staff.

This seven-day cutoff period will adequately ensure equitable treatment of all parties during the final days immediately before Joint Board meetings.

6. However, because of the importance of the issues involved, the Joint Board may, on certain occasions, wish to obtain the views on interested persons during this period. In these situations the Joint Board will provide an opportunity for public oral argument the day before the Joint Board is to meet. In addition, individual members of the Joint Board and the Joint Board Staff may initiate written or oral *ex parte* presentations during the cutoff period.[3] The Commission's *Ex Parte* Rules governing nonrestricted informal rulemaking proceedings will continue to apply to the extent that they are not inconsistent with the procedures outlined above.

III. Ordering Clause

7. Accordingly, it is ordered, That the procedures set forth above SHALL APPLY to the conduct of this proceeding before the Federal-State Joint Board. This action is taken pursuant to Sections 4 (i) and (j), 221(c) and 410(c) of the Communications Act, 47 U.S.C. 154 (i) and (j), 221(c) and 410(c) (1976). These procedures shall be effective immediately upon publication in the **Federal Register.** (May 28, 1982)[4]

Federal Communications Commission. [5]

William J. Tricarico,

Secretary.

Dissenting Statement of Commissioner Anne P. Jones

In re: Amendment of Part 67 of the Commission's Rules and Establishment of a Joint Board, CC Docket No. 80–286

March 2, 1982.

I dissent from the Joint Board's decision to adopt these supplemental restrictions on *ex parte* communications in this proceeding primarily for the reasons I dissented from the Commission's adoption two years ago of *ex parte* restrictions for its informal rulemaking proceedings (78 FCC 2d 1384). As I pointed out then, the purpose of proceedings such as these is to establish sound public policy in the broad public interest, and in such an effort the paramount need of the decision makers is wisdom. Because *ex parte* restrictions limit access by decision makers to wisdom outside the agency (or in this case the Joint Board), I believe they should not be imposed except as required by law, and no such requirement applies here.

An additional objection to the restrictions adopted here by the Joint Board is that only a little ingenuity will be required to evade them. For example, a party wishing to impart an *ex parte* communication during the cut-off period need only drop a hint convincing enough to induce the member of the Joint Board or the Joint Board Staff with whom he wishes to communicate to initiate the otherwise prohibited presentation.

In short, these restrictions are objectionable both because their purpose is counterproductive and because they are, in any event, ill designed for that purpose.

[FR Doc. 82–14674 Filed 5–27–82; 8:45]

BILLING CODE 6712–01–M

[3] This procedure is different from that set out in the Commission's *Ex Parte* Rules governing nonrestricted informal rulemaking proceedings which prohibit Commission initiated *ex parte* presentations during the cutoff period.

[4] Notice and an opportunity for comment as well as 30 days' notice prior to the effective date of these changes are not required pursuant to Section 553 of the Administrative Procedure Act, 5 U.S.C. 553 (1976), because this Order deals exclusively with procedural matters.

[5] See attached Dissenting Statement of Commissioner Anne P. Jones.

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47 CFR Part 83

[PR Docket No. 81–657; FCC 82–203]

Stations on Land in the Maritime Services and Stations on Shipboard in the Maritime Services; Commission's Rules To Make a Certain Frequency Available Exclusively for Vessel Traffic Service (VTS) Communications in the Houston VTS Radio Protected Area

Correction

In FR Doc. 82–14341 appearing on page 22962 in the issue of Wednesday, May 26, 1982, make the following correction:

On page 22963, second column, in the amendatory language and the section heading, "81.361" should read "83.361".

BILLING CODE 1505–01–M

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Parts 271 and 278

[Amendment No. 216]

Food Stamp Program: Defining Which Financial Institutions May Redeem Food Stamps

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final rule.

SUMMARY: This amendment permits certain insured financial institutions to redeem food stamps for authorized retailers and wholesalers. This provision is authorized by Title XIII of Pub. L. 97–98 (The Food Stamp and Commodity Distribution Amendments of 1981). This rule will permit these institutions to begin redeeming food stamps immediately. Prior to this provision only banks were permitted to redeem food stamps.

EFFECTIVE DATE: May 28, 1982.

FOR FURTHER INFORMATION CONTACT: Herbert A. Scurlock, Director, Federal Operations Division, Family Nutrition Programs, Food and Nutrition Service, USDA, Alexandria, Virginia 22302 (703) 756–3487.

SUPPLEMENTARY INFORMATION:

Classification

Executive Order 12291.

This rule has been reviewed under Executive Order 12291 and the Secretary's Memorandum No. 1512–1. The Department has determined that this rule does not constitute a major rule. Since this rule merely implements technical aspects of parts of Title XIII of Pub. L. 97–98 (the Food Stamp and Commodity Distribution Amendments of 1981), 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, industries, Federal, State or local governments, 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. This rule will not significantly raise the Food Stamp Program's total benefit and administrative expenses. The rule deals exclusively with the administration of the Food Stamp Program and since it merely restates the provisions of the statute it will not affect industry and trade.

Publication

Mr. Samuel J. Cornelius, Administrator of the Food and Nutrition Service, has determined, in accordance with 5 U.S.C. 553(b)(1)(B), that notice of proposed rulemaking and public comment procedures prior to the effective date of this rule are unncessary since the rule merely restates the provisions of the statute. Public Law 97–98 permits insured savings and loan institutions to redeem food stamps in the same way as banks operated under current Food Stamp regulations. Because

Pub. L. 97–98 is now effective it is in the public interest to grant such savings and loan institutions the opportunity extended to them by the law without delay.

Regulatory Flexibility Act

This 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 rule does not have a significant economic impact on a substantial number of small entities because the rule reiterates the provisions of the statute and extends the right to redeem food stamps to fiscal organizations insured by FSLIC and FDIC.

This rule does not contain recordkeeping or reporting requirements under the provisions of the Paperwork Reduction Act of 1980.

Background

Currently only banks are permitted to redeem food stamps for retailers and wholesalers participating in the Food Stamp Program. However, Title XIII of Pub. L. 97–98 (the Food Stamp and Commodity Distribution Amendments of 1981) requires that the term "bank" be struck wherever it appears in the Food Stamp Act of 1977 and the term "financial institutions which are insured by the Federal Deposit Insurance Corporation (FDIC) or the Federal Savings and Loan Insurance Corporation (FSLIC)" be substituted.

The economic circumstances prevailing in the country today make it desirable for insured savings and loan institutions to accept food stamps for redemption without delay. Therefore, the Department has determined that this rule shall take effect upon publication.

List of Subjects

7 CFR Part 271

Administrative practice and procedure, Food stamps, Grant programs-social programs.

7 CFR Part 278

Administrative practice and procedure, Banks, Banking, Claims, Food stamps, Groceries-retail, Groceries, General line-wholesaler, Penalties.

Accordingly, 7 CFR Parts 271 and 278 are amended as follows:

PART 271—GENERAL INFORMATION AND DEFINITIONS

§ 271.1 [Amended]

1. In § 271.1, paragraph (b) is amended by striking out the term "banks" and inserting the term "insured financial institutions".

§ 271.2 [Amended]

2. In § 271.2, the following definition is added in alphabetical order:

* * * * *

"Insured financial institution" means a financial institution insured by the Federal Deposit Insurance Corporation (FDIC) or the Federal Savings and Loan Insurance Corporation (FSLIC).

* * * * *

PART 278—PARTICIPATION OF RETAIL FOOD STORES, WHOLESALE FOOD CONCERNS AND FINANCIAL INSTITUTIONS

3. The term "bank" or "banks" is struck wherever it appears (except where preceded by the term "Federal Reserve") and replaced by the term "insured financial institution" or "insured financial institutions".

(91 Stat. 958 (7 U.S.C. 2011–2027))

(Catalog of Federal Domestic Assistance Programs, No. 10.551, Food Stamps)

Dated: May 26, 1982.

Samuel J. Cornelius,

Administrator.

[FR Doc. 82–10373 Filed 5–27–82; 10:21 am]

BILLING CODE 3410–30–M

Proposed Rules

Federal Register
Vol. 47, No. 104
Friday, May 28, 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.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 52

United States Standard for Grades of Lemon Juice

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule; extension of comment period.

SUMMARY: On September 4, 1981, the Agricultural Marketing Service published in the **Federal Register** a document proposing to amend the U.S. Standards for Grades of Canned Lemon Juice by incorporating into it the current grading standards for concentrated lemon juice for manufacturing and adding new grading standards for lemon juice from concentrate. All three products are subject to the newly established Food and Drug Administration (FDA) standards of identity and fill of container for lemon juice. This proposed rule wuld make the U.S. Department of Agriculture (USDA) grading standards consistent with FDA's standards of identity and fill of container and would promote orderly and efficient marketing. A request was made by the Processors Council of the California/Arizona Citrus League for additional time to study the proposal and gather data. Since the Department is interested in receiving meaningful data, an extension of comment period is being granted.

DATE: Comments must be received by October 29, 1982.

ADDRESS: Interested persons are invited to submit written comments concerning this proposal. Comments must be sent in duplicate to the Hearing Clerk, U.S. Department of Agriculture, Room 1077, South Building, Washington, D.C. 20250. Comments should reference the date and page number of the **Federal Register** in which the proposal was published and will be made available for public inspection in the Office of the Hearing Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Graesanto V. Berbano, Processed Products Branch, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C., 20250, (202) 447–6193.

Done at Washington, D.C., on May 26, 1982.

William T. Manley,
Acting Administrator.

[FR Doc. 82–14685 Filed 5–27–82; 8:45 am]
BILLING CODE 3410–02–M

7 CFR Part 1040

Milk in the Southern Michigan Marketing Area; Notice of Proposed Suspension of Certain Provisions of the Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed suspension of rules.

SUMMARY: This notice invites written comments on a proposal to suspend for the months of June through August 1982 the requirement in the Southern Michigan order that a cooperative association deliver to pool distributing plants at least 50 percent of its members' producer milk in order to qualify its supply plants as pool plants under the order. The suspension was requested by a cooperative association that represents producers supplying milk to the fluid market. The association claims that the action is needed to avoid inefficient handling of milk and to ensure that dairy farmers who have been historically associated with the Southern Michigan market will continue to share in the market's fluid milk sales.

DATE: Comments are due June 4, 1982.

ADDRESS: Comments (two copies) should be filed with the Hearing Clerk, Room 1077, South Building, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Martin J. Dunn, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C., 20250, (202) 447–7311.

SUPPLEMENTARY INFORMATION: This proposed action has been reviewed under USDA procedures established to implement Executive Order 12291 and has been classified "not significant" and, therefore, not a major action.

It has also been determined that any need for suspending certain provisions of the order on an emergency basis precludes following certain review procedures set forth in Executive Order 12291. Such procedures would require that this document be submitted for review to the Office of Management and Budget at least 10 days prior to its publication in the **Federal Register**. However, this would not permit the completion of the required suspension procedures in time for the suspension to be made effective for the month of June 1982 if this is found necessary. The initial request for the action was received on May 17, 1982.

Further, it has been determined that this proposed action would not have a significant economic impact on a substantial number of small entities. Such action would lessen the regulatory impact of the order on certain milk handlers and would tend to ensure that dairy farmers would continue to have their milk priced under the order and thereby receive the benefits that accrue from such pricing without the necessity of inefficient handling and tranportation of milk.

Notice is hereby given that, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), the suspension of the following provisions of the order regulating the handling of milk in the Southern Michigan marketing area is being considered for the months of June through August 1982.

1. In § 1040.7(b)(2) the words "if transfers from such supply plant to plants described in paragraph (b)(5) of this section and by direct delivery from the farm to plants qualified under paragraph (a) of this section are:"

2. In § 1040.7(b)(2), subdivisions (i) and (ii).

All persons who want to send written comments about the proposed suspension should send two copies to the Hearing Clerk, United States Department of Agriculture, Washington, D.C. 20250 on or before June 4, 1982.

The period for filing comments is limited because a longer period would not provide the time needed to complete the required procedures and include

June 1982 in the suspension order.

The comments that are sent will be made available for public inspection at the Office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

Statement of Consideration

The proposal would make inoperative for the months of June through August 1982 the provisions requiring a cooperative association to deliver at least 50 percent of its members' producer milk to pool distributing plants, either through its supply plants or directly from farms, in order to qualify the supply plants as pool plants.

The suspension was requested by Michigan Milk Producers Association, and it was supported by another cooperative association and by a proprietary handler regulated by the order.

The association said that milk production is increasing while Class I sales are falling. It noted that April 1982 was the 36th consecutive month of increased milk production for the market and also the 18th consecutive month of declining Class I sales. The association said that for the first four months of 1982, producer milk receipts for the market increased 2.3 percent from a year ago. Class I sales, it said, had decreased 5.2 percent.

The association said that increased milk production has resulted from larger cow members and increased production per cow, and that lower fluid milk sales are attributable to the depressed economy in Michigan. The association anticipates that the imbalance between milk production and fluid milk sales will continue during June through August while schools are closed and there is a seasonal increase in milk production. The cooperative said that the problem of pooling supply plants under these marketing conditions has been made particularly acute with a recent loss to another cooperative of a large volume of sales to a major distributor in the market.

The association said that the suspension is needed to avoid the inefficient handling of milk merely to assure pooling for supply plants and to ensure that dairy farmers who have been historically associated with the Southern Michigan market will continue to share in the fluid milk sales of the market.

List of Subjects in 7 CFR Part 1040

Milk marketing orders, Milk, Dairy products.

Signed at Washington, D.C., on May 25, 1982.

William T. Manley,

Deputy Administrator, Marketing Program Operations.

[FR Doc. 82-14593 Filed 5-27-82; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Parts 214 and 248

Nonimmigrant Classes; Change of Nonimmigrant Classification; Proposed Revisions in Regulations Pertaining to Nonimmigrant Students and Schools Approved for Their Attendance

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Proposed rule.

SUMMARY: The Immigration and Nationalization Service proposes to amend its regulations regarding nonimmigrant student visa classifications, and the schools approved for attendance by these students. The proposals would eliminate certain burdensome and time-consuming paperwork and filing requirements for both the students and the Service, while ensuring that the students and the schools they are attending are bona fide. These proposals also would implement the provisions of the Immigration and Nationality Act Amendments of 1981 which created a new M nonimmigrant visa classification for vocational nonimmigrant students.

DATE: Comments must be received on or before June 28, 1982.

ADDRESS: Please submit written comments, in duplicate, to the Commissioner of the Immigration and Naturalization Service, Room 7100, 425 I Street, NW., Washington, D.C. 20536.

FOR FURTHER INFORMATION CONTACT:

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

For Specific Information: Alice Strickler, Immigration Examiner, Immigration and Naturalization Service, 425 I Street, NW., Washington, D.C. 20536, Telephone: (202) 633-5014.

SUPPLEMENTARY INFORMATION: The proposed regulations regarding F-1 students and approved schools are based in part on recommendations in "The President's Management Improvement Council Report on Foreign Students in the United States", a report dated July 1981 by Dr. Bayard L. Catron, Associate Professor of Public Administration, George Washington University, Washington, D.C., and former team member of the President's Management Improvement Council.

On October 2, 1981, the Service furnished a copy of the report to the National Association for Foreign Student Affairs (NAFSA). On November 20, 1981, NAFSA advised that their response to the report was, for the most part, favorable.

Since Dr. Catron's proposals do not include any recommendations about practical training, on December 7, 1981, the Service requested the views of Peter S. Levitov, Project Director, NAFSA/AID Practical Training Feasibility Project, and Director of International Educational Services, University of Nebraska, on this issue. Mr. Levitov furnished his views on December 18, 1981. We have adopted some of Mr. Levitov's suggestions in the proposed regulations.

The student program has been deemed to serve U.S. foreign policy objectives by exposing citizens of other countries to the institutions and culture of the United States, by helping to cement alliances with other countries, and by transferring knowledge and skills to other countries, particularly those in the Third World. The student program also benefits the American economy and those academic and vocational schools which depend on foreign student enrollments as a major source of tuition revenue. This source becomes increasingly important to those institutions as the domestic student population shrinks.

While adverse public attention was focused on the foreign student program in 1979-80, when American hostages were held by "students" in Iran, and political demonstrations were conducted by a smaller number of Iranian students in this country, there is little evidence that students violate the conditions of their entry and stay to a greater extent than other nonimmigrants. Furthermore, only a small fraction of the nonimmigrants admitted to this country are students. For example, in 1978, only 2.3% of the nonimmigrants admitted were students. Therefore, in an effort to increase efficiency, we are proposing a revised foreign student program for students in colleges, universities, seminaries, conservatories, academic high schools, elementary schools, and other academic institutions, and in language training programs, which would eliminate much burdensome paper work and maintain control over the students by more effective use of

institutional sponsorship of the students by the schools. In addition, we are proposing revisions to the regulations which are intended to prevent abuses by mala fide schools and mala fide students. Recent events have revealed a number of questionable practices on the part of some approved schools.

We are also proposing procedures for the efficient administration of that portion of section 2(a) of the Immigration and Nationality Act Amendments of 1981, Pub. L. 97–116, which pertains to creation of an M nonimmigrant visa classification for students in vocational or nonacademic institutions other than in language training programs. Section 2(a) of Pub. L. 97–116 also limits the F–1 nonimmigrant visa classification to students in colleges, universities, seminaries, conservatories, academic high schools, elementary schools, or other academic institutions, or in language training programs. Although Pub. L. 97–116 was enacted on December 29, 1981, section 2(a) will not go into effect until June 1, 1982.

In House Report 97–264 of October 2, 1981, which accompanies Pub. L. 97–116, the committee makes it quite clear that the legislative intent of section 101(a)(15)(M)(i) of the Immigration and Nationality Act relating to M students was to afford maximum control over this group of students and that the regulations implementing this section of law are meant to be strict. The report refers to testimony by the Department of State before the Subcommittee on Immigration, Refugees, and International Law in the 94th Congress regarding "the high percentage of foreign students enrolled in vocational education programs in fields of little or no applicability to their own country." The Service believes that the separation of students into two classifications will permit closer scrutiny of length of stay and employment abuses by nonacademic students.

One of the main proposed revisions regarding F–1 students would provide for a return to the prior policy of admitting students for the duration of their status in the United States. Service regulations require that, upon acceptance of a nonimmigrant F–1 student for a full course of study, an approved school issue to the student a Form I–20, Certificate of Eligibility for Nonimmigrant (F–1) Student Status. Under current regulations, students are admitted for the period of time necessary to complete the course of study indicated on Form I–20. A return to duration of status for F–1 students, however, would not enable them to stay in the United States for longer periods of time than under current regulations. First of all, the vast majority of applications for extension of stay for students are approved. Secondly, under the proposed regulations, the schools would have to report to the Service when the students terminate their attendance.

Another major revision in the regulations relating to F–1 students would require them to give approved Forms I–20A to the schools from which they are transferring prior to transferring schools. The schools from which they transfer would have to advise the Service regarding the students' intent to transfer schools. Not only would this eliminate the necessity of the students' applying to the Service for permission to transfer schools, it would also alleviate the hardship now imposed on bona fide students who currently may lose time from school while waiting for permission to transfer.

A third major revision regarding F–1 students would prohibit off-campus employment for students who remain in the United States in lawful status for one year or less and would prohibit employment during the first year in United States for all students who remain in the United States for more than one year. According to State Department guidelines, a consular officer must require specific documentary evidence that an applicant for a student visa have funds at his or her disposal sufficient to provide for all his or her expenses for the first year of study in the United States. A student in the United States longer than one year would be eligible to apply to the Service for employment authorization based upon economic necessity due to unforeseen circumstances arising subsequent to entry or subsequent to change to student classification.

Dr. Catron, in his report, recommended that a student in the United States longer than one year be authorized to work without demonstrating economic necessity and without applying to the Service for permission to do so, upon execution of certain written certifications from the designated school official and from the student himself or herself. The Service has determined, however, that it would not be advisable to eliminate the requirement that the student demonstrate economic necessity or to relinquish control over employment authorization. Doing so would have an adverse effect on the employment of United States workers.

A fourth major revision regarding F–1 students would permit a designated school official to grant a student permission to engage in temporary employment for practical training when certain conditions are met. There would be no substantial change, however, in the aggregate number of months of practical training that could be authorized. In addition, a minor revision would clarify the existing procedure for reinstatement to F–1 student status.

The proposed regulations regarding students would stipulate that an M–1 student be admitted for the period of time necessary to complete his/her course of study plus thirty days within which to depart from the United States or for one year, whichever is less, and that he/she be required to apply for extensions of stay. The proposed regulations on M–1 students would not permit them to work except when employment for practical training is authorized. Applications would have to be made for practical training and school transfer. School transfer would not be permitted after the student has been in M–1 status for six months unless the student is unable to remain at the school to which he/she was initially admitted due to circumstances beyond his/her control. Furthermore, an M–1 student would not be permitted to change his/her educational objective. The proposed regulations would also provide, under certain conditions, for the reinstatement to M–1 student status.

In addition, the regulations regarding change of nonimmigrant classification would be revised to provide for change of classification to and from that of an M–1 student. The revised regulations would provide, among other things, that an applicant for a change to classification as an M–1 student must certify that he/she will be able to utilize, in his/her home country, the education or training which he/she receives in the United States and that a course of study of comparable quality and cost is unavailable to him/her in his/her home country. The revised regulations would also provide for denial of a change to classification as an M–1 student if the applicant intends to pursue the course of study solely in order to qualify for a subsequent change to classification as an alien temporary worker under section 101(a)(15)(H) of the Act and for denial of a change of classification from that of an M–1 student to that of an F–1 student.

Under the proposed regulations, M–1 students would use a Certificate of Eligibility for Nonimmigrant (M–1) Student Status, Form I–20 M–N. Form I–20 A–B, Certificate of Eligibility for Nonimmigrant (F–1) Student Status, would be used only for F–1 students.

The regulations regarding petitions for approval of schools would be revised to provide for approval of petitions for attendance of either F–1 or M–1 students or both. They would also clarify the requirements of approved schools for record keeping and making the required records available to an immigration officer upon request. These records would pertain solely to F–1 and M–1 students and would contain information necessary for determining whether they are in status as bona fide students. The proposed regulations would require that the schools report each new F–1 and M–1 student who registers. In addition, the regulations would require approved schools to submit the names, titles and sample signatures of designated school officials and statements from designated school officials that they have read the Service regulations relating to nonimmigrant students and school approvals and that they intend to comply with them.

While the above requirements concerning approved schools would result in a slight expense to the schools, they are intended to provide the safeguards necessary for effective control of foreign students. The requirement for record keeping and making the records available to Service officers upon request would assist Service officers in determining the status of F–1 and M–1 students. The requirement for reporting new students who have registered would provide information necessary for the Service to maintain its records on nonimmigrant students. The requirement for submission of the names, titles, and sample signatures of designated school officials would give the Service needed information to verify Forms I–20 and would identify those officials vested with the responsibility for their issuance. The requirement for submission of statements of designated school officials that they have read the Service regulations relating to students and school approvals would ensure that officials at approved schools are aware of Service requirements.

One of the principal proposed revisions regarding schools approved for attendance by nonimmigrant students would provide for a one-time recertification process in which all schools seeking to continue their approval to admit foreign students would reapply for approval and reaffirm their intent to comply with Service regulations. While this procedure would result in a slight expenses to schools, it would enable the Service to determine exactly how many schools are actually admitting nonimmigrant students, to update Service information on approved schools, and to ensure that all approved schools are aware of Service requirements.

The regulations would also be revised to clarify the procedures to be followed in issuing a Form I–20. This provision is necessary because of the questionable practices in the issuance of these forms which have come to light recently. The proposed regulations would list various additional grounds for withdrawal of school approval. This provision is necessary to eliminate abuses by mala fide schools. In addition, the proposed regulations would provide for automatic withdrawal of a school's approval when the school closes and automatic withdrawal of its approval when it changes ownership unless it files a new petition for school approval to enable the Service to determine whether it is still eligible for its approval.

Public comments are invited with respect to all of the proposed regulations. The Service would appreciate public comments particularly with respect to the proposed 8 CFR 214.2(m)(6) regarding the definition of "full course of study" for M–1 students.

In accordance with 5 U.S.C. 605(b), the Commissioner certifies that this rule would not have a significant economic impact on a substantial number of small entities. While portions of the rule deal with record keeping and reporting requirements, compliance with them would not result in a significant effect on the economy or operation of the affected institutions or individuals. This rule, therefore, would not be a major rule within the meaning of section 1(b) of EO 12291.

List of Subjects

8 CFR Part 214

Aliens, Employment, Schools, Students.

18 CFR Part 248

Administrative practice and procedures, Aliens.

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

PART 214—NONIMMIGRANT CLASSES

1. Section 214.2(f) would be revised to read as follows:

§ 214.2 Special requirements for admission, extension, and maintenance of status.

* * * * *

(f) *Students in colleges, universities, seminaries, conservatories, academic high schools, elementary schools, other academic institutions, and in language training programs.*—(1) *Admission of student.* Except as provided in paragraph (f)(4)(ii) of this section, an alien seeking admission to the United States under section 101(a)(15)(F)(i) of the Act (as an F–1 student) and his/her accompanying F–2 spouse and/or minor children, if applicable, are not eligible for admission unless—

(i) The student presents a Certificate of Eligibility for Nonimmigrant (F–1) Student Status, Form I–20A–B, properly and completely filled out by himself/herself and by the designated official of the school to which he/she is destined; and

(ii) The student establishes that he/she is destined to and intends to attend the school specified in his/her visa.

The inspecting immigration officer shall endorse the name of the school the student is authorized to attend on the student's Arrival/Departure Record, Form I–94. An F–1 student returning to the United States from a temporary absence in accordance with paragraph (f)(4)(ii) of this section is not eligible for admission unless he/she establishes that he/she is destined to and intends to attend the school specified on his/her Form I–94 or in the statement required by paragraph (f)(6)(ii) of this section if he/she transferred schools while in the United States.

(2) *Spouse and/or minor children following to joint student.* The F–2 spouse and/or minor children following to join an F–1 student are not eligible for admission to the United States unless they present Form I–20A from the school in which the student is enrolled stating that the student is taking a full course of study or is engaged in approved practical training. The designated school official must note on Form I–20A the date the student is expected to complete his/her studies at the school or his/her approved practical training.

(3) *Duration of status.*—(i) *General.* Subject to the condition that the alien maintain his/her passport valid for a minimum period of six months at all times while in the United States unless his/her government has entered into an agreement with the United States Government under which passports from his/her country are recognized as valid for the return of the bearer to that country for a period of six months beyond the date of expiration of the passport, or unless he/she is exempt from the requirement for presentation of a passport—

(A) An alien admitted to the United States as an F–1 student is to be admitted for the duration of his/her status in the United States; and

(B) An alien granted a change of nonimmigrant classification to that of an F–1 student is considered to be in status for the duration of his/her status as a student in the United States.

As of the effective date of this regulation, an F–1 student in a college, university, seminary, conservatory, academic high school, elementary school, or other academic institution, or in a lauguage training program who is pursuing a full course of study and is otherwise in status as a student, is automatically granted duration of status. The spouse and children of an F–1 student are also eligible for duration of status.

(ii) *Meaning of duration of status.* For purposes of this regulation, duration of status means the period during which the student is pursuing a full course of study in one or more educational programs and any period of authorized practical training, plus thirty days following completion of the full course of study or authorized practical training. An F–1 student at an academic institution is considered to be in status during the summer if he/she is eligible to, and intends to, register for the next term. A student attending a school on a quarter or trimester calendar who takes his/her vacation during only one of the quarters or trimesters instead of during the summer, however, is considered to be in status during his/her vacation provided that he/she is eligible to, and intends to, register for the next term and he/she has completed the equivalent of an academic year prior to taking his/her vacation. An F–1 student who is compelled by illness to interrupt his/her course of study may be permitted to remain in the United States in duration of status for the time necessary to complete his/her studies provided that the student establishes that he/she will pursue a full course of study upon his/her recovery.

(4) *Temporary absence.*—(i) *Presentation of Form I–20A.* Except as provided in paragraph (f)(4)(ii) of this section, an F–1 student returning to the United States from a temporary absence to attend the school which he/she was previously authorized to attend must present Form I–20A. If the student has transferred schools, the designated school official must have noted that fact on Form I–20A. The student may retain the original Form I–20A and present it when applying for reentry during one year from the date of its issuance or until the date of completion of the course of study, whichever occurs first.

(ii) *Students exempt from requirement for presentation of Form I–20A.* The inspecting immigration officer may readmit any of the following aliens and his/her accompanying spouse and minor children without presentation of Form I–20A if the student is returning to the United States as a nonimmigrant under section 101(a)(15)(F)(i) of the Act to attend the school which he/she was previously authorized to attend provided that he/she presents Form I–94 indicating that he/she had duration of status:

(A) A Canadian national.

(B) An alien landed immigrant of Canada who has a common nationality with Canadian nationals who has been temporarily absent in Canada.

(C) An alien whose visa is considered to be automatically revalidated pursuant to 22 CFR 41.125(f)(2).

(D) An alien within the purview of 22 CFR 41.125(f)(2) except that his/her nonimmigrant visa has not expired.

The student must also present the statement required by paragraph (f)(6)(ii) of this section if he/she transferred schools while in the United States.

(5) *Full course of study.* A "full course of study" as required by section 101(a)(15)(F)(i) of the Act means—

(i) Postgraduate study at a college or university, or undergraduate or postgraduate study at a conservatory or religious seminary, certified by a designated school official as a full course of study;

(ii) Undergraduate study at a college or university, certified by a designated school official to consist of at least twelve credit hours of instruction, or its equivalent, except when the student needs a lesser course load to complete the course of study during the current term;

(iii) Study in a postsecondary language program at a school which confers upon its graduate recognized associate or other degrees or has established that its credits have been and are accepted unconditionally by at least three institutions of higher learning within category (1) or (2) of § 214.3(c), and which has been certified by a designated school official to consist of at least twelve hours of instruction a week, or its equivalent;

(iv) Study in any other language training program, certified by a designated school official to consist of at least twenty clock hours of attendance a week; or

(v) Study in a primary or academic secondary curriculum certified by a designated school official to consist of class attendance for not less than the minimum number of hours a week prescribed by the school for normal progress towards graduation. Successful completion of the course of study must lead to the attainment of a specific educational, professional, or vocational objective. For purposes of this paragraph, a college or university is an institution of higher learning which awards recognized associate, bachelor's, master's, doctor's, or professional degrees. Schools which devote themselves exclusively or primarily to vocational, business, or language instruction are not included in the category of colleges or universities.

(6) *School transfer.*—(i) *Eligibility.* An F–1 student is eligible to transfer to another school if he/she—

(A) Is a bona fide nonimmigrant student;

(B) Has been pursuing a full course of study at the school he/she was last authorized to attend; and

(C) Intends to pursue a full course of study at the school to which he/she intends to transfer.

(ii) *Procedure.* An F–1 student who wants to transfer schools must obtain from the school to which he/she intends to transfer a Form I–20A. The student must give the Form I–20A to the school he/she was last authorized to attend. The designated official of the school he/she intends to attend must retain Form I–20B for use in compliance with the reporting requirements described in § 214.3(g)(2). The designated official of the school which the student was last authorized to attend must—

(A) Issue a statement on page 6 of the student's Form I–20A–B which the student must have with him/her at all times, including the name of the school the student intends to attend and the name, title, and signature of the designated school official;

(B) Endorse a Form I–20B to reflect the fact that the student has indicated his/her intent to transfer schools and to give the designated school official's recommendation concerning the proposed transfer;

(C) Submit the endorsed Form I–20B within thirty days to the office of this Service having jurisdiction over the area in which the school is located; and

(D) Submit with the endorsed Form I–20B the Form I–20A from the school to which the student intends to transfer.

(iii) *General.* An F–1 student who transfers to another school without presenting to the designated official of the school he/she was last authorized to attend a properly completed Form I–20A from the school he/she intends to attend is considered to be out of status. An F–1 student who does not enroll in the new school in the first term for which he/she is eligible after leaving the previous school is considered to be out of status.

If an F–1 student who has not been pursuing a full course of study at the school he/she was last authorized to attend desires to attend a different school, he/she must apply for reinstatement to student status in accordance with the provisions of paragraph (f)(9) of this section.

(7) *Employment.*—(i) *On-campus employment.* On-campus employment pursuant to the terms of scholarship, fellowship, or assistantship is deemed to be part of the academic program of a student otherwise taking a full course of study. An F–1 student may, therefore, engage in this kind of on-campus employment or any other on-campus employment which will not displace a United States resident. He/she may not engage in on-campus employment after completion of his/her course(s) of study.

(ii) *Off-campus employment.* Off-campus employment is prohibited for students who remain in the United States in F–1 status for one year or less. Off-campus employment is prohibited during the first year in the United States for students who remain in the United States in F–1 status for more than one year. If a student pursues more than one course of study, off-campus employment is prohibited only during the first year of study in the United States. The first year of study means the first calendar year in the United States in bona fide F–1 status. A temporary absence from the United States during the first calendar year does not disqualify an F–1 student from being eligible for employment authorization. An F–1 student in a program longer than one year must apply for employment authorization on Form I–538 accompanied by his/her Form I–94. He/she must submit the application to the Office of this Service having jurisdiction over the school the student was last authorized to attend. The designated school official must certify on Form I–538 that—

(A) The student is in good standing as a student who is carrying a full course of study as defined in paragraph (f)(5) of this section;

(B) The student has demonstrated economic necessity due to unforeseen circumstances arising subsequent to entry or subsequent to change to student classification;

(C) The student has demonstrated that acceptance of employment will not interfere with his/her carrying a full course of study; and

(D) The student has agreed that he/she will not work more than twenty hours a week when school is in session.

A student has permission to engage in employment only if and when he/she receives his/her Form I–94 endorsed to that effect. Employment authorized under this paragraph must not exceed twenty hours a week while school is in session. An F–1 student authorized to work under this paragraph, however, may work full-time when school is not in session, including during the summer if the student is eligible to, and intends to register for the next term. An F–1 student authorized to work under this paragraph who is attending a school on a quarter or trimester calendar who takes his/her vacation during only one quarter or trimester instead of during the summer may work full-time during his/her vacation provided that he/she is eligible to, and intends to, register for the next term and he/she does not work more than twenty hours a week during the summer while school is in session. An F–1 student may not engage in off-campus employment after compensation of his/her course(s) of study except as provided in paragraph (f)(8) of this section.

(iii) *Effect of strike or other labor dispute.* Authorization for all employment, whether or not part of an academic program, is automatically suspended upon certification by the Secretary of Labor or his/her designee to the Commissioner of Immigration and Naturalization or his/her designee that a strike or other labor dispute involving a work stoppage of workers is in progress in the occupation at the place of employment. As used in this paragraph, "place of employment" means wherever the employer or a joint employer does business.

(iv) *Spouse and children of F–1 student.* The F–2 spouse and children of an F–1 student may not accept employment.

(8) *Practical training.*—(i) *General.* Permission to engage in temporary employment for practical training may be authorized only—

(A) After completion of the course of study if the student intends to engage in only one course of study;

(B) After completion of at least one course of study if the student intends to engage in more than one course of study;

(C) After completion of all course requirements for the degree if the student is a graduate student in a master's or doctoral program; or

(D) During the degree program or course of study if the student is attending a college, university, seminary, or conservatory which requires practical training of all degree candidates in a specified professional field and the student is a candidate for a degree in that field.

Practical training authorized after completion of a course of study is deemed to commence on the date the student begins employment or sixty days after completion of the course of study, whichever is earlier.

(ii) *Procedure for authorizing practical training.* A designated official of the school an F–1 student is authorized to attend may grant the student permission to engage in temporary employment for practical training if—

(A) The student has been offered temporary employment for practical training; and

(B) The student presents to the designated school official a written recommendation from his/her academic adviser, major professor, or a school counselor familiar with the student's course of study. The recommendation must certify that—

(*1*) The employment is for the purpose of practical training;

(*2*) The employment is related to the student's course of study and/or intended future employment in his/her home country if the future employment will make use of his/her education in the United States; and

(*3*) Upon the academic adviser's, major professor's, or school counselor's information and belief, employment comparable to the employment offered to the student in the United States is not available to him/her in the country of his/her foreign residence.

The designated school official must issue a written certification on page 6 of the student's Form I–20A–B that the above conditions have been met for each period of practical training which he/she authorizes for an F–1 student. The certification must include the official's name, title, and signature. The student must have the certification with him/her at all times and present it to an immigration officer upon request. The designated school official must advise the Service office having jurisdiction over the school within thirty days that the above certification regarding practical training has been executed for the student. The official must indicate the duration of the practical training authorized.

(iii) *Duration of practical training.* The designated school official may grant an F–1 student not in a language training program permission to accept or continue temporary employment for practical training in increments of not more than six months for a maximum of not more than twelve months in the aggregate provided that the student's course of study is of at least twelve months' duration. When the course of study is of less than twelve months' duration, however, the designated school official may grant an F–1 student

not in a language training program permission to engage in employment for practical training for an aggregate number of months not exceeding the length of the student's course of study. The designated school official may grant an F–1 student in a language training program employment for practical training for a period or periods of time equal to one month for each four months during which the student carried a full course of study at the school he/she was authorized to attend in the United States. A designated school official may not grant a student a period of practical training which would result in the student's being authorized practical training for more than twelve months in the aggregate. Permission to accept employment for practical training may not be granted if the training applied for cannot be completed within the maximum period of time for which the student is eligible. In such a case, the student may, upon graduation, apply for a change to another nonimmigrant classification which would permit his/her accepting employment.

(iv) *Alternate work/study courses.* An F–1 student enrolled in a college, university, conservatory or seminary having alternate work/study courses as a part of the regular curriculum available within the student's program of study may participate in those courses without obtaining a change of status and without obtaining permission to accept employment. Periods of actual off-campus employment which are part of a work/study program, however, are considered to be practical training. They, therefore, must be deducted from the total practical training time for which the student is eligible.

(v) *Temporary absence of F–1 student granted practical training.* An F–1 student who has been granted permission to accept employment for practical training and who departs from the United States temporarily, may be readmitted for the remainder of the authorized period if he/she presents a properly completed Form I–20A endorsed by the designated school official to indicate the date to which the training was authorized.

(9) *Reinstatement to student status.* A district director may, in his/her discretion, reinstate to F–1 student status an alien who was admitted to the United States as, or whose status was changed to that of, an F–1 student and who has overstayed his/her authorized period of stay or who has otherwise violated the conditions of his/her status only if—

(i) The student establishes to the satisfaction of the district director that his/her violation of status resulted from circumstances beyond his/her control or that failure to receive reinstatement to lawful F–1 status would result in extreme hardship to him/her;

(ii) The student makes a written request for reinstatement accompanied by a properly completed Form I–20A–B from the school he/she is attending or intends to attend;

(iii) The student is currently pursuing, or intending to pursue, a full course of study at the school which issued the Form I–20A–B;

(iv) The student has not been employed without authorization unless he/she was engaged in on-campus employment pursuant to the terms of a scholarship, fellowship or assistantship or in other on-campus employment which did not displace a United States resident, while pursuing a full course of study at an academic institution and was employed without authorization only because he/she had overstayed his/her authorized period of stay;

(v) The student is not deportable on any ground other than sections 241(a)(2) or (9) of the Act.

If the district director reinstates the student, the district director shall endorse Form I–20B to indicate that the student has been reinstated and then mail it to the school which the student is attending or intends to attend for use in compliance with the reporting requirements described in § 214.3(g)(2). If the district director refuses to reinstate the student, the student may not appeal that decision.

* * * * * *

2. The existing § 214.2(m) would be redesignated as § 214.2(n) and the following new § 214.2(m) would be added:

* * * * * *

(m) *Students in established vocational or other recognized nonacademic institutions, other than in language training programs.*—(1) *Admission of student.* An alien seeking admission to the United States under section 101(a)(15)(M)(i) of the Act (as an M–1 student) and his/her accompanying M–2 spouse and/or minor children, if applicable, are not eligible for admission unless he/she—

(i) Presents a Certificate of Eligibility for Nonimmigrant (M–1) Student Status, Form I–20M–N, properly and completely filled out by himself/herself and by the designated official of the school to which he/she is destined; and

(ii) Establishes that he/she is destined to and intends to attend the school specified in his/her visa.

The inspecting immigration officer shall endorse the name of the school the student is authorized to attend on the student's Arrival/Departure Record, Form I–94.

(2) *Spouse and/or minor children following to join student.* The M–2 spouse and/or minor children following to join an M–1 student are not eligible for admission to the United States unless they present Form I–20M from the school in which the student is enrolled stating that the student is taking full course of study or is engaged in approved practical training. The designated school official must have noted on Form I–20M the date of expiration of the student's authorized stay in the United States as shown on the student's Form I–94.

(3) *Period of stay.* An alien admitted to the United States as an M–1 student is to be admitted for the period of time necessary to complete the course of study indicated on Form I–20M plus thirty days within which to depart from the United States or for one year, whichever is less. An alien granted a change of nonimmigrant classification to that of an M–1 student is to be given an extension of stay for the period of time necessary to complete the course of study indicated on Form I–20M plus thirty days within which to depart from the United States or for one year, whichever is less.

(4) *Conversion to M–1 status of students in established vocational or other recognized nonacademic institutions, other than in language training programs, who were previously in status as F–1 students.* As of June 1, 1982, a student in an established vocational or other recognized nonacademic institution, other than in a language training program who is in status as an F–1 student under section 101(a)(15)(F)(i) of the Act in effect prior to June 1, 1982 and his/her F–2 spouse and children, if applicable, are—

(i) Automatically converted to M–1 and M–2 status respectively; and

(ii) Limited to the authorized period of stay shown on their Forms I–94 plus thirty days within which to depart from the United States or to an authorized period of stay which expires May 31, 1983, whichever is less.

(5) *Temporary absence.* An M–1 student returning from a temporary absence to attend the school which he/she was previously authorized to attend during the period of his/her previously authorized stay must present Form I–20M. If the student has been granted permission to transfer schools, the designated school official must have noted that fact on Form I–20M. The student may retain the original Form I–20M and present it when applying for reentry during one year from the date of

its issuance or until the date of completion of the course of study, whichever occurs first.

(6) *Full course of study.* A "full course of study" as required by section 101(a)(15)(M)(i) of the Act means—

(i) Study in a vocational or other nonacademic curriculum, other than in a language training program, certified by a designated school official to consist of at least twenty clock hours of attendance a week if the dominant part of the course of study consists of classroom instruction, or at least twenty-five hours a week if the dominant part of the course of study consists of shop or laboratory work; or

(ii) Study in a vocational or other nonacademic secondary curriculum, certified by a designated school official to consist of class attendance for not less than the minimum number of hours a week prescribed by the school for normal progress towards graduation.

Successful completion of the course of study must lead to the attainment of a specific educational or vocational objective.

(7) *Certification of Form I–20M.* An M–1 student must certify on Form I–20M that the education or training he/she receives in the United States can be utilized in his/her home country and that a course of study of comparable quality and cost is unavailable to him/her in his/her home country.

(8) *Extension of stay.*— (i) *Eligibility.* An M–1 student may be granted an extension of stay if the student establishes that he/she—

(A) Is a bona fide nonimmigrant currently maintaining student status; and

(B) Is able to, and in good faith intends to, continue to maintain that status for the period for which the extension is granted.

(ii) *Application.* An M–1 student must apply for an extension of stay on Form I–538. A student who desires an extension of stay for his/her M–2 spouse and children shall include them in his/her application. A student's M–2 spouse or children are not eligible for an extension of stay unless the student is granted an extension of stay. The student must submit the application to the office of this Service having jurisdiction over the school. The application must also be accompanied by the student's Form I–94 and the Forms I–94 of his/her spouse and children, if applicable.

(iii) *Period of stay.* If an application for extension of stay is granted, the student is to be given an extension of stay for the period of time necessary to complete the course of study indicated on Form I–20M plus thirty days within which to depart from the United States or for one year, whichever is less. An M–1 student who has been compelled by illness to interrupt his/her course of study may be granted an extension of stay without being required to change his/her nonimmigrant classification provided that he/she establishes that he/she will pursue a full course of study upon his/her recovery.

(9) *School transfer.*— (i) *Eligibility.* An M–1 student may not transfer to another school after six months from the date he/she is first admitted as, or changes nonimmigrant classification to that of, an M–1 student unless the student is unable to remain at the school to which he/she was initially admitted due to circumstances beyond his/her control. An M–1 student may be otherwise eligible to transfer to another school if he/she—

(A) Is a bona fide nonimmigrant student;

(B) Has been pursuing a full course of study at the school he/she was last authorized to attend;

(C) Intends to pursue a full course of study at the school to which he/she intends to transfer.

(ii) *Procedure.* An M–1 student must apply for permission to transfer schools on Form I–538 accompanied by his/her Form I–94 and the Forms I–94 of his/her spouse and children, if applicable. The Form I–538 must also be accompanied by Form I–20M–N properly and completely filled out by himself/herself and by the designated official of the school which he/she desires to attend. The student must submit his/her application for school transfer to the office of this Service having jurisdiction over the school the student was last authorized to attend. After having filed an application for school transfer, an M–1 student may effect his/her transfer. If the application is approved, the approval of the transfer will be retroactive to the date of filing the application, and the student will be granted an extension of stay for the period ot time necessary to complete the course of study indicated on Form I–20M plus thirty days within which to depart from the United States or for one year, whichever is less. The adjudicating officer must endorse the name of the school to which transfer is authorized on the student's Form I–94. The officer must also endorse Form I–20N to indicate that a school transfer has been authorized and mail it to the school to which the transfer has been authorized for use in compliance with the reporting requirements described in § 214.3(g)(2).

(iii) *General.* an M–1 Student who transfers to another school without first applying for a school transfer is considered to be out of status. If an M–1 student who has not been pursuing a full course of study at the school he/she was last authorized to attend desires to attend a different school, he/she must apply for reinstatement to student status in accordance with the provisions of paragraph (m)(14) of this section.

(10) *Change in educational objective.* An M–1 student may not change his/her educational objective.

(11) *Employment.* Except as provided in paragraph (m)(12) of this section, an M–1 student may not accept employment. The M–2 spouse and children of an M–1 student may not accept employment.

(12) *Practical training.*—(i) *Application.* An M–1 student must be offered temporary employment for practical training before he/she is eligible to apply for permission to accept it. The student must apply for permission to accept employment for practical training on Form I–538 accompanied by his/her Form I–94. He/she must submit the application to the office of this Service having jursdiction over the school the student was last authorized to attend. The designated school official must certify on Form I–538 that—

(A) The proposed employment is recommended for the purpose of practical training;

(B) The proposed employment is related to the student's course of study and/or intended future employment in his/her home country if the future employment will make use of his/her education in the United States; and

(C) Upon the designated school official's information and belief, employment comparable to the proposed employment is not available to him/her in the country of his/her foreign residence.

An application to accept practical training must be supported by a letter from the student's prospective employer stating the proposed occupation and describing in detail the duties of the occupation. The application must be submitted prior to the expiration of the student's authorized period of stay and not more than sixty days before completion of his/her course of study or more than thirty days after completion of the course of study. The student has permission to engage in employment for practical training only if and when he/she receives his/her Form I–94 endorsed to that effect.(ii) *Duration of practical training.* An M–1 student may be granted one period of practical training for a period of time equal to one month for each four months during which he/

she pursued a full course of study, but not to exceed six months. If an application for permission for an M–1 student to engage in practical training is granted, the authorized period is deemed to commence either on the date the student begins the employment or sixty days after he/she completes his/her course of study, whichever is earlier. He/she may not, however, begin his/her practical training prior to completion of his/her course of study. Permission to accept employment may not be granted if the training applied for cannot be completed within the maximum period of time for which the applicant is eligible.

(iii) *Temporary absence of M–1 student granted practical training.* An M–1 student who has been granted permission to accept employment for practical training and who temporarily departs for the United States, may be readmitted for the remainder of the authorized period if he/she presents a properly completed Form I–20M endorsed by the designated school official to indicate the date to which the training was authorized.

(iv) *Effect of strike or other labor dispute.* Authorization for all employment for practical training is automatically suspended upon certification by the Secretary of Labor or his/her designee to the Commissioner of Immigration and Naturalization or his/her designee that a strike or other labor dispute involving a work stoppage of workers is in progress in the occupation at the place of employment. As used in this paragraph, "place of employment" means wherever the employer or joint employer does business.

(13) *Decision on application for extension, permission to transfer to another school, or permission to accept employment for practical training.* The district director shall notify the applicant of the decision and, if the application is denied, of the reason(s) for the denial. The applicant may not appeal the decision.

(14) *Reinstatement to student status.* A district director may, in his/her discretion, reinstate to M–1 student status an alien who was admitted to the United States as, or whose status was changed to that of, an M–1 student and who has overstayed his/her authorized period of stay or who has otherwise violated the conditions of his/her status only if—

(i) The student establishes to the satisfaction of the district director that his/her violation of status occurred because the school to which the student was admitted has ceased operation or the student was unable to pursue a full course of study due to illness;

(ii) The student makes a written request for reinstatement accompanied by a properly completed Form I–20 M–N from the school he/she is attending or intends to attend;

(iii) The student is currently pursuing, or intending to pursue, a full course of study at the school which issued the Form I–20M–N;

(iv) The student has not been employed without authorization;

(v) The student is not deportable on any ground other than sections 241 (a)(2) or (9) of the Act.

If the district director reinstates the student, he/she shall endorse Form I–20N to indicate that the student has been reinstated and then mail it to the school which the student is attending or intends to attend for use in compliance with the reporting requirements described in § 214.3(g)(2). If the district director refuses to reinstate the student, the student may not appeal that decision.

3. § 214.3 would be amended by removing the words "Office of Education" and "Education Directory, Higher Education" from paragraph (b) and inserting, in their place, the words "Department of Education" and "Education Directory, colleges and Universities", respectively and by removing the words "Office of Education", "Education Directory, Higher Education" and "Office" from paragraph (c) and inserting, in their place, the words "Department of Education", "Education Directory, Colleges and Universities", and "Department" respectively. Section 214.3 would be amended further by revising paragraphs (a), (e), (g), (h), (i), and (k) and by adding paragraph (1), to read as follows:

§ 214.3 Petitions for approval of schools.

(a) *Filing petitions.* A school or school system seeking approval for attendance by nonimmigrant students under secton 101(a)(15)(F)(i) and/or 101(a)(15)(M)(i) of the Act shall file a petition on Form I–17 in duplicate with the district director having jurisdiction over the place in which the school or school system is located. Separate petitions are required for different schools in the same school system located within the jurisdiction of different district directors. A petition by a school system must specifically identify by name and location those schools included in the petition. the petition must also state whether the school or school system is seeking approval for attendance of nonimmigrant students under sections 101(a)(15)(F)(i) or 101(a)(15)(M)(i) of the Act, or both.

* * * * *

(e) *Approval of petition.* To be eligible for approval, the petitioner must establish that—

(1) It is a bona fide school;

(2) It is an established institution of learning or other recognized place of study;

(3) It possesses the necessary facilities, personnel, and finances to conduct instruction in recognized courses; and

(4) It is, in fact, engaged in instruction in those courses.

Upon approval of a petition, the district director shall notify the petitioner. The approval of a school for attendance by nonimmigrant students is valid only as long as the school continues to operate in the manner represented on the petition. The approval is also valid only for the type of student, i.e., F–1 or M–1 or both, specified in the petition. The approval may be subject to withdrawal in accordance with the provisions of § 214.4.

* * * * *

(g) *Record Keeping and reporting requirements.*— (1) *Record keeping requirements.* An approved school must keep records containing the following information relating to each F–1 or M–1 student to whom it has issued a Form I–20A or I20M while the student is attending the school and until the school complies with the reporting requirements of paragraph (g)(2) of this section:

(i) Address and telephone number.

(ii) Status, i.e., full-time or part-time.

(iii) Course load.

(iv) Date of commencement of studies.

(v) Degree program and field of study.

(vi) Expected date of completion.

(vii) Visa type.

(viii) Employment authorization.

(ix) Termination date and reason, if known.

The designated school official must make the information required by this paragraph available to and furnish it to an immigration officer upon request.

(2) *Reporting requirements.* Each approved school, upon receiving Service notification of arrival in the United States of a nonimmigrant F–1 or M–1 student destined to that school or Service notification of permission to attend the school shall submit within thirty days to the office of the Service having jurisdication over the area in which the school is located a report on Form I–20B or I–20N if the student fails to register personally at the school within sixty days of the time he/she was

expected to do so. Each approved school shall also make a report on Form I–20B or I–20N, either as soon as a designated school official has knowledge of the information or sixty days after the registration period, whichever occurs first, in the case of each nonimmigrant student who—

(i) Fails to carry a full course of study as defined in §§ 214.2(f)(5) or 214.2(m)(6);

(ii) Fails to attend classes to the extent normally required; and

(iii) Terminates his/her attendance at the school.

In addition, the school must report within sixty days after each registration period each new student who registers at the school. The report must be submitted to the Service office having jurisdiction over the school.

(h) *Review of school approvals.*— (1) *Regular review of school approvals.* The district director shall review from time to time the approval accorded to the schools in his/her district. The purpose of the review is to determine whether the school meets the eligibility requirements of paragraph (e) of this section and has complied with the reporting requirements of paragraph (g)(2) of this section. The district director may require each school whose approval is reviewed to furnish a currently executed Form I–17 as a petition for continuation of school approval without fee together with the supporting documents specified in paragraph (b) of this section. If, upon completion of the review, the district director finds that the approval should not be continued, he/she shall institute withdrawal proceedings in accordance with § 214.4(b).

(2) *One-time recertification process.* Beginning October 1, 1982, each district director shall notify, in writing, each approved school in his/her district that it must submit a petition for continuation of its school approval. Within sixty days of receipt of the notification, each school desiring to continue its approval must submit to the Service office having jurisdiction over it—

(i) Form I–17, in triplicate, without fee;

(ii) The names, titles, and sample signatures of its designated officials as defined in paragraph (l)(1) of this section;

(iii) A statement signed by each designated official certifying that he/she has read the Service regulations relating to nonimmigrant students, namely § 214.2(f) and/or § 214.2(m) depending on whether his/her school is approved for attendance by F–1 or M–1 students or both; the Service regulations relating to change of nonimmigrant classification for students, namely §§ 248, 248.1(d), 248.3(b), and 248.3(d); the Service regulations relating to school approval namely this section; and the Service regulations relating to withdrawal of school approval, namely § 214.4; and affirming his/her intent to comply with these regulations; and

(iv) The supporting documents specified in paragraph (b) of this section.

The purpose of the one-time recertification process is to enable this Service to update its records and review the approval of each school desiring to continue its approval to determine whether it meets the eligibility requirements of paragraph (e) of this section and has complied with the reporting requirements of paragraph (g)(2) of this section. If, upon completion of the review, the district director finds that the approval should not be continued, he/she shall institute withdrawal proceedings in accordance with § 214.4(b). If an approved school fails to submit a petition for continuation of school approval in accordance with this paragraph, its approval will be automatically withdrawn. The district director will advise the school of an automatic withdrawal of a school's approval pursuant to this paragraph. Automatic withdrawal of the school's approval, however, is without prejudice to consideration of a new petition for school approval.

(i) *Administration of student regulations by the Immigration and Naturalization Service.* District directors in the field shall be responsible for conducting periodic reviews on the campuses under the jurisdiction of their offices to determine whether students are complying with Service regulations including keeping their passports valid for a period of six months at all times when required. Service officers shall take appropriate action regarding violations of the regulations.

* * * * *

(k) *Issuance of Certificate of Eligibility.* Only a designated official of a school that has been approved for attendance by nonimmigrant students shall issue a Certficate of Eligibility, Form I–20A–B or I–20M–N, to a prospective student and only after the following conditions are met:

(1) The prospective student has made a written application to the school.

(2) The written application, the student's transcripts, proof of financial responsibility for the student, and other supporting documents have been received, reviewed, and evaluated at the school's location in the United States.

(3) The appropriate school authority has determined that the prospective student's qualifications meet all standards for admission.

(4) The official responsible for admission at the school has accepted the prospective student for enrollment in a full course of study.

A designated official must certify the Form I–20A or I–20M, only after page 1 has been completed in full. A Form I–20A–B or I–20M–N issued by an approved school system must state which school within the system the student will attend. The form must be issued in the United States.

(l) *Designated official.*—(1) *Meaning of term "designated official".* As used in §§ 214.2(f), 214.2(m), 214.4 and this section, a "designated official" or "designated school official" means a regularly employed member of the school administration whose office is located at the school and whose compensation does not come from commissions for recruitment of foreign students. An individual whose principal obligation to the school is to recruit foreign students for compensation does not qualify as a designated official. The president, owner, or head of a school or school system must designate a designated official. The designated official may not delegate his/her designation by the president, owner, or head of the school or school system to any other person.

(2) *Name, title, and sample signature.* Petitions for school approval must include the names, titles, and sample signatures of designated officials. An approved school must immediately report to the Service office having jurisdiction over its changes in designated officials and furnish the names, titles, and sample signatures of the new designated officials.

(3) *Statement of designated official.* A petition for school approval must include a statement by each designated official certifying that he/she has read the Service regulations relating to nonimmigrant students, namely § 214.2(f) and/or § 214.2(m) depending on whether his/her school is approved for attendance by F–1 or M–1 students or both; the Service regulations relating to change of nonimmigrant classification for students, namely §§ 248.1(c), 248.1(d), 248.3(b), and 248.3(d); the Service regulations relating to school approval, namely, this section; and the Service regulations relating to withdrawal of school approval, namely § 214.4; and affirming his/her intent to comply with these regulation. An

approved school must also submit to the Service office having jurisdiction over it such a statement from any new designated official.

4. Section 214.4 would be amended by removing the words "Office of Education" from paragraph (e) and inserting, in their place, the words, "Department of Education". § 214.4 would be amended further by revising paragraph (a) to read as follows:

§ 214.4 Withdrawal of school approval.

(a) *General.* The approval by the Service, pursuant to sections 101(a)(15)(F)(i) and/or 101(a)(15)(M)(i) of the Act, of a petition by a school or school system for the attendance of nonimmigrant students will be withdrawn if the school or school system is no longer entitled to the approval for any reason including, but not limited to, the following:

(1) Failure to submit reports required by § 214.3(g)(2).

(2) Failure of a designated official to notify the Service that an F–1 student has transferred to another school as required by § 214.2(f)(6)(ii).

(3) Willful issuance by a designated official, academic adviser, major professor, or school counselor of a false certification or recommendation in connection with a practical training authorization or an application for employment or practical training.

(4) Any conduct on the part of a designated school official which does not comply with the regulations.

(5) The designation as a designated official of an individual who does not meet the requirements of § 214.3(l)(1).

(6) Failure to provide the Service with the names, titles, and sample signatures of designated officials as required by § 214.3(l)(2).

(7) Failure to submit statements of designated officials as required by § 214.3(l)(3).

(8) Issuance of Forms I–20A or I–20M to students without receipt of proof of scholastic, language, or financial requirements.

(9) Issuance of Forms I–20A or I–20M to aliens who will not be enrolled in or carry a full course of study as defined in §§ 214.2(f)(5) or 214.2(m)(6).

(10) Failure to operate as a bona fide institution of learning.

(11) Failure to employ qualified professional personnel.

(12) Failure to maintain proper facilities for instruction.

(13) Failure to limit its advertising in the manner prescribed in § 214.3(j).

(14) Failure to maintain accredition or licensing necessary to qualify graduates as represented in the petition.

(15) Failure to maintain the physical plant, curriculum, and teaching staff in the manner represented in the petition for school approval.

(16) Failure to comply with the procedures for issuance of Forms I–20A or I–20M as set forth in § 214.3(k).

If an approved school terminates its operations, its approval will be automatically withdrawn. If an approved school changes ownership, its approval will be automatically withdrawn unless it files a new petition for school approval within sixty days of the change of ownership. The district director must review the petition to determine whether the school still meets the eligibility requirements of § 214.3(e). If, upon completion of the review, the district director finds that the approval should not be continued, he/she shall institute withdrawal proceedings in accordance with paragraph (b) of this section. Automatic withdrawal of a school's approval is without prejudice to consideration of a new petition of school approval. If a school's approval is withdrawn for any other reason, however, the school will not be eligible to file another petition for school approval until at least one year after the effective date of the withdrawal.

PART 248—CHANGE OF NONIMMIGRANT CLASSIFICATION

5. § 248.1 would be amended by revising paragraph (b) and by adding paragraphs (c) and (d). Paragraphs (b), (c), and (d) would read as follows:

§ 248.1 Eligibility.

* * * * *

(b) *Maintenance of status.* In determing whether an applicant has continued to maintain his/her nonimmigrant status, the district director shall consider whether the alien has remained in the United States for a longer period that that authorized by the Service. The district director shall consider any conduct by the applicant relating to the maintenance of the status from which the applicant is seeking a change. An applicant may not be considered as having maintained his/her nonimmigrant status within the meaning of this section if he/she failed to submit his/her application for change of nonimmigrant classification before his/her authorized temporary stay in the United States expired, unless the district director, in his/her discretion, is satisfied that

(1) The failure to file a timely application is excusable;

(2) The alien has not otherwise violated his/her nonimmigrant status;

(3) The alien is a bona fide nonimmigrant; and

(4) The alien is not the subject of deportation proceedings under Part 242 of this chapter.

(c) *Change of nonimmigrant classification to that of a nonimmigrant student.*

A nonimmigrant applying for a change to classification as a student under sections 101(a)(15)(F)(1) or 101(a)(15)(M)(i) of the Act is not considered ineligible for such a change solely because he/she may have started attendance at school before his/her application was submitted. A nonimmigrant applying for a change to classification as a student under section 101(a)(15)(M)(i) of the Act must certify on Form I–20M that—

(1) He/she will be able to utilize, in his/her home country, the education or training which he/she receives in the United States; and

(2) A course of study of comparable quality and cost to that for which Form I–20M was issued is unavailable to him/her in his/her home country.

The district director shall deny an application for a change to classification as a student under section 101(a)(15)(M)(i) of the Act if the applicant intends to pursue the course of study solely in order to qualify for a subsequent change of nonimmigrant classification to that of an alien temporary worker under section 101(a)(15)(H) of the Act. Furthermore, an alien may not change from classification as a student under section 101(a)(15)(M)(i) of the Act to that of a student under section 101(a)(15)(F)(i) of the Act.

(d) *Application for change of nonimmigrant classification from that of a student under section 101(a)(15)(M)(i) to that described in section 101(a)(15)(H).* A district director shall deny an application for change of nonimmigrant classification from that of an M-1 student to that of an alien temporary worker under section 101(a)(15)(H) of the Act if the education or training which the student received while an M-1 student enables him/her to meet the qualifications for temporary worker classification under section 101(a)(15)(H) of the Act.

6. Section 248.3 would be amended by revising paragraph (b), by adding new paragraphs (c) and (d), and by redesignating existing paragraphs (c) and (d) as (e) and (f), respectiely. Paragraphs (b), (c), and (d) would read as follows:

§ 248.3 Application.

* * * * *

(b) *Application and fee not required.* Neither an application nor a fee is

required for the following changes of nonimmigrant classification:

(1) A change to classification under sections 101(a)(15)(A) or 101(a)(15)(G) of the Act.

(2) A change to a classification under section 101(a)(15)(A) or (G) of the Act for an immediate family member, as defined in 22 CFR 41.1, of a principal alien whose status has been changed to such a classification.

(3) A change to the appropriate classification for the nonimmigrant spouse or child of an alien whose status has been changed to a classification under sections 101(a)(15)(E),(F),(H),(I),(J),(L), or (M) of the Act.

(4) A change of classification from that of a visitor for pleasure under section 101(a)(15)(B) of the Act to that of a visitor for business under the same section.

(5) A change of classification from that of a student under section 101(a)(15)(F)(i) of the Act to that of an accompanying spouse or minor child under section 101(a)(15)(F)(ii) of the Act or vice versa.

(6) A change from any classification within section 101(a)(15)(H) of the Act to any other classification within section 101(a)(15)(H) of the Act provided that the requisite Form I–129B visa petition has been filed and approved.

(7) A change from classification as a participant under section 101(a)(15)(J) of the Act to clasification as an accompanying spouse or minor child under that section or vice versa.

(8) A change from classification as an intra-company transferee under section 101(a)(15)(L) of the Act to classification as an accompanying spouse or minor child under that secton or vice versa.

(9) A change of classification from that of a student under section 101(a)(15)(M)(i) of the Act to that of an accompanying spouse or minor child under section 101(a)(15)(M)(ii) of the Act or vice versa.

(c) *Fee not required.* No fee is required for a request for change to exchange alien classification under section 101(a)(15)(J) of the Act made by an agency of the United States Government. In such a case, the agency may submit Form IAP–66, Certificate of Eligibility for Exchange-Visitor (J–1) Status, together with its request in lieu of Form I–506, Application for Change of Nonimmigrant Status.

(d) *Change of classification not required.* The following do not need to request a change of classification:

(1) An alien classified as a visitor for business under section 101(a)(15)(B) of the Act who intends to remain in the United States temporarily as a visitor for pleasure.

(2) An alien classified under sections 101(a)(15)(A) or 101(a)(15)(G) of the Act as a member of the immediate family of a principal alien classified under the same section, or an alien classified under section 101(a)(15)(E),(F),(H),(I),(J),(L), or (M) of the Act as the spouse or child who accompanied or followed to join a principal alien who is classified under the same section, to attend school in the United States, as long as the immediate family member or spouse or child continues to be qualified for and maintains the status under which he/she is classified.

(Secs. 101(a)(15)(F), 101(a)(15)(M), 214, and 248, Immigration and Nationality Act, as amended (8 U.S.C. 1101 (a)(15)(F), 1101(a)(15)(M), 1184 and 1258)).

Dated: May 7, 1982.

Alan C. Nelson,

Commissioner of Immigration and Naturalization.

[FR Doc. 82–14620 Filed 5–27–82; 8:45 am]

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DEPARTMENT OF THE TREASURY

Comptroller of the Currrency

12 CFR Part 9

[Docket No. 82–8]

Registration of National Bank Transfer Agents

AGENCY: Comptroller of the Currency, Treasury.

ACTION: Notice of proposed rulemaking; adoption of revised Form TA–1.

SUMMARY: The Comptroller of the Currency ("Comptroller") is proposing amendments to the rules regarding the registration of transfer agents for securities registered under section 12 of the Securities Exchange Act of 1934 or for certain securities exempt from registration. The Comptroller is adopting a simplified Form TA–1 for such registration, and the regulations are being changed to conform to the new form.

DATES: Comments should be received regarding the proposed rulemaking no later than July 27, 1982. The Comptroller will require registrants to use revised Form TA–1 30 days after publication in the **Fededral Register** of this notice of adoption of the revised Form TA–1. During the 30-day period before use of the revised Form TA–1 is required, registrants may, if they so choose, use either the existing or the revised Form TA–1.

ADDRESSES: Comments should be directed to Docket No. 82–8, Communications Division, Office of the Comptroller of the Currency, 490 L'Enfant Plaza East SW., 3rd Floor, Washington, D.C. 20219, Attention: Marie Giblin. Telephone (202) 447–1800. Comments will be available for inspection and copying.

FOR FURTHER INFORMATION CONTACT: Tyler Tullos, Trust Examinations, 490 L'Enfant Plaza East SW., Washington, D.C. 20219, (202) 447–1731; Larry Raz, Legal Advisory Services Division, (202) 447–1880.

SUPPLEMENTARY INFORMATION: The Comptroller is proposing changes to the rule regarding registration of national bank transfer agents. In addition, the Comptroller is adopting a revised registration Form TA–1.

Adoption of Revised Form TA–1

The Comptroller is adopting a revised Form TA–1 for registration of national bank transfer agents. The new form results from the combined efforts of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, the Board of Governors of the Federal Reserve System, and the Securities and Exchange Commission. The four agencies intend to adopt a uniform format for reporting purposes. The Comptroller's form has been approved by the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). (OMB 1557–0124 (expiration date 11/30/84)).

The Comptroller will require use of revised Form TA–1 for any registration, or amendment to registration, occurring more than 30 days after the date of publication of this notice in the **Federal Register.** During the 30 day interim period, registrants may use either the old Form TA–1, or the simplified and revised Form TA–1.

Changes to 12 CFR 9.20

The Comptroller is proposing an amendment to 12 CFR 9.20(c) to conform the rule to the adoption of revised Form TA–1.

In addition, the Comptroller proposes extending the time for filing amendments to registration from 21 days to 60 days. The proposed change should give registered transfer agents sufficient time to comply with the rule that requires the transfer agent to correct information contained in Form TA–1 that becomes inaccurate, misleading or incomplete. The Comptroller recognizes that persons whose securities are handled by the transfer agent may have reasons to discuss the extension of time to file amendments, and therefore the

Comptroller requests comments on this proposed change.

The Comptroller also proposes to remove 12 CFR 9.20(e). This subsection was enacted as a transitional rule in 1975. The Comptroller believes that this transitional subsection no longer serves a useful purpose, and should be eliminated in the interests of regulatory simplification and clarity. The Comptroller invites comments from persons, especially registrants, who believe that § 9.20(e) presently serves any useful purpose and should be retained.

Finally, the Comptroller proposes a specific addition of an authority citation to 12 CFR 9.20 to inform the public better as to the Comptroller's specific rulemaking authority for transfer agents under the Securities Exchange Act of 1934.

Regulatory Flexibility Act

A regulatory flexibility analysis was not prepared. The Secretary of Treasury has certified that the proposed amendments, if adopted, would not have a significant economic impact on a substantial number of small entities. The changes, coupled with adoption of revised Form TA–1, should reduce the present recordkeeping and reporting burdens on registered transfer agents. Regulatory burdens of gathering information, recordkeeping, and reporting should be reduced substantially. Small banks should find it easier to comply with the new Form TA–1 and 12 CFR 9.20.

Regulatory Impact

A regulatory impact analysis will not be prepared. An *a priori* review of the proposed rule did not uncover any of the three required effects upon the economy that triggers a regulatory impact analysis pursuant to Executive Order 12291. The proposal will not have an annual effect on the economy of $100 million or more, will not result in a major increase in the cost of bank operations or government supervision, and will not have adverse effects on competition, employment, investment, productivity, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

List of Subjects in 12 CFR Part 9

National banks, Fiduciary powers.

For the reasons set forth in the preamble, the Comptroller proposes to amend 12 CFR Part 9 as follows:

1. The authority citation for Part 9 reads as follows:

Authority: Sec. 1, 76 Stat. 668; 12 U.S.C. 92a; and R.S. 5240, as amended (12 U.S.C. 481), unless otherwise noted.

2. Section 9.20(c) is revised to read as follows:

§ 9.20 Registration of national bank transfer agents.

* * * * *

(c) Within sixty calendar days following the date on which any information reported on Form TA–1 becomes inaccurate, misleading or incomplete, the registrant shall file an amendment on Form TA–1 correcting the inaccurate, misleading or incomplete information.

3. Section 9.20(e) is removed.

4. Section 9.20 is amended by adding an authority citation at the end to read as follows:

(Secs. 3(a)(34)(B), 17, 17A, and 23 of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(34)(B), 78q, 78q–1, 78w))

Dated: May 7, 1982.

C. T. Conover,

Comptroller of the Currency.

[FR Doc. 82–14622 Filed 5–27–82; 8:45 am]

BILLING CODE 4810–33–M

CIVIL AERONAUTICS BOARD

14 CFR Part 399

[Policy Statements Docket: 40673; PSDR–76]

Statements of General Policy Regulatory Flexibility Act; Definition of "Small Business"

Dated: May 7, 1982.

AGENCY: Civil Aeronautics Board.

ACTION: Request for comments.

SUMMARY: The CAB requests comments on its definition of which airlines are "small businesses" for the purposes of the Regulatory Flexibility Act.

DATES: Comments by: July 27, 1982.

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

Requests to be put on the Service List: June 14, 1982.

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

ADDRESSES: Twenty copies of comments should be sent to Docket 40673, 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: Mark Schwimmer, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428; 202–673–5442.

SUPPLEMENTARY INFORMATION:

The Regulatory Flexibility Act, Pub. L. 96–354, directs agencies to consider the effects of their rules on small businesses and other small entities. The general idea of the Act is that agencies should consider "tiering" and other approaches to fit regulatory requirements to the scale of the regulated entities as long as that is consistent with the underlying regulatory purpose. The main requirements of the Act include the publication of a semiannual regulatory agenda, initial and final regulatory flexibility analyses of proposed and final rules, and the periodic review of existing rules.

The Act provides at 5 U.S.C. 601(3) that, unless an agency establishes its own definition, "small business" has the same meaning as "small business concern" under section 3 of the Small Business Act (5 U.S.C. 632). The definition in that section is stated in general terms that are in turn refined in Small Business Administration (SBA) rules at 13 CFR Part 121. That part sets out a different definition for each of several SBA programs. The primary one, which is for the SBA loan program, defines an airline as small if it has not more than 1,000 employees (§ 121.3–10(f)(2)).

This definition, or any one based on employment levels, is not well suited to the Board's regulatory functions. An airline's employment level depends not only on the size and scope of its operations, but also on the extent to which it uses its own employees or contracts out for services such as maintenance, ticketing, baggage handling, or even, by wet lease (*i.e.*, with crew) from another airline flying the aircraft. If regulatory requirements were keyed to the level of employment, airlines might be induced to make otherwise uneconomic choices between hiring their own personnel and contracting out, in order to avoid them. Moreover, because employment levels have no direct relationship to the type of service that an airline provides, an employment-based standard could give some airlines an unfair competitive advantage over others operating the same type of service in the same markets. This result would be at odds with the procompetitive thrust of the Airline Deregulation Act of 1978.

The Regulatory Flexibility Act allows, and the legislative history encourages, an agency to establish one or more definitions of "small business" that are appropriate to the agency's own activities. By this notice the Board proposes to establish such a definition for airlines: an airline would be considered a small business if it provided air transportation only with small aircraft. The distinction between small and large aircraft is already set out in the Board's rules, with large aircraft defined as those designed for a maximum passenger capacity of more than 60 seats or a maximum payload capacity of more than 18,000 pounds (14 CFR 298.3(i)).

The proposed definition conforms to the Board's long-established special treatment of air taxi operators, as modified by recent extensions of that treatment to the small aircraft operations of all airlines. The Board has for many years maintained under 14 CFR Part 298 a separate classification of U.S. airlines known as air taxie operators. These are airlines that use only small aircraft and comply with registration and certain other requirements, in exchange for which they are exempted from the certificate and other major requirements of the Federal Aviation Act and many of the Board's rules. Some airlines using only small aircraft, however, have chosen to obtain certificates for independent reasons. To provide comparable treatment for these airlines, and, more generally, to equalize competitive opportunities the Board has recently taken several steps to realign its requirements on the basis of aircraft size. In the dual authority rules, it has extended the air taxi exemptions to cover the small aircraft operations of certificated airlines (ER–1251; 46 FR 51371; October 20, 1981; and ER–1278; 47 FR 604; January 6, 1982). The denied boarding compensation rules have been amended to eliminate coverage of small aircraft entirely (ER–1237, 46 FR 42442; August 21, 1981). The smoking rule now applies uniformly to U.S. airlines' aircraft with 30 or more seats, without regard to whether the airline is an air taxi operator or holds a certificate. And the Board has proposed various alternatives for domestic baggage liability rules, all of which would eliminate coverage entirely for small aircraft operations (EDR–438; 47 FR 5232; February 4, 1982; Docket 40366).

In light of these changes, the proposed standard, based on aircraft size, for identifying airlines as small businesses appears to be the most sensible one. The Board recognizes that an airline with may small aircraft may in some senses be a larger business than another airline that uses one or two large jets and no small aircraft. But these anomalies will be rare, because business size tends to correspond to aircraft size. Moreover, where they do occur they are outweighed in importance by the need to maintain comparable regulatory treatment for comparable service.

List of Subjects in 14 CFR Part 399

Air carriers, Small businesses.

PART 399—STATEMENTS OF GENERAL POLICY

Accordingly, the Civil Aeronautics Board proposes to add a new § 399.73 to 14 CFR Part 399, *Statements of General Policy*, to read;

§ 399.73 Definition of "small business" for Regulatory Flexibilty Act.

For the purposes of the Board's implementation of Chapter 6 of Title 5, U.S. Code (Regulatory Flexibility Act), a direct air carrier or foreign air carrier is a "small business" if it provides air transportation only with "small aircraft" as defined in § 298.3 of this chapter (up to 60 seats/18,000 pound payload capacity).

(Secs. 101, 102, 105, 204, 401, 402, 403, 404, 405, 406, 407, 408, 409, 411, 412, 414, 416, 801, 1001, 1002, 1102, 1104, Pub. L. 85–726 as amended, 72 Stat. 737, 740, 743, 754, 757, 758, 760, 763, 766, 767, 768, 769, 770, 771, 782, 788, 797, 92 Stat. 1708; 49 U.S.C. 1301, 1302, 1305, 1324, 1371, 1372, 1373, 1374, 1375, 1376, 1377, 1378, 1379, 1381, 1382, 1384, 1386 1461, 1481, 1482, 1502, 1504, 5 U.S.C. 601)

By the Civil Aeronautics Board:

Phyllis T. Kaylor,

Secretary.

[FR Doc. 82–14660 Filed 5–27–82; 8:45 am]

BILLING CODE 6320–01–M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1910

[Docket No. H–103S]

Educational/Scientific Diving

Note.—This document originally appeared in the **Federal Register** of Wednesday, May 26, 1982. It is reprinted in this issue to meet requirements for publication on the Tuesday/Friday schedule assigned to the Department of Labor.

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

ACTION: Extension of the comment period; notice of informal public hearing.

SUMMARY: This notice extends the comment period for written responses to OSHA's notice of proposed rulemaking on educational/scientific diving (47 FR 13005, March 26, 1982). The written responses were to be postmarked by May 10, 1982.

In addition, OSHA is scheduling an informal public hearing concerning the notice of proposed rulemaking on educational/scientific diving.

DATES: Written comments must be received by June 18, 1982.

Notices of intention to appear at the informal public hearing, and testimony and all evidence which will be introduced into the hearing record must be received by June 18, 1982.

The hearing will begin at 9:30 a.m. and be held on the following dates: June 29–30, and July 7–9, 1982.

ADDRESSES: Written comments should be submitted, in quadruplicate, to the Docket Officer, Docket H–103S, Room S6212, 200 Constitution Avenue, N.W., Washington, D.C. 20210, (202) 523–7894.

Notices of intention to appear, and testimony and documentary evidence which will be introduced into the hearing record must be sent to Mr. Tom Hall, U.S. Department of Labor, Occupational Safety and Health Administration, Division of Consumer Affairs, Room N3635, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

The hearings will be held at the following locations:

1. June 29–30, 1982, at the Frances Perkins Department of Labor Building, Auditorium, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

2. July 7–9, 1982, at the Quality Inn Airport, Century III—Hearing Room, 5249 W. Century Boulevard, Los Angeles, California 90045, (213) 645–2200.

FOR FURTHER INFORMATION CONTACT:

Hearing: Mr. Tom Hall, U.S. Department of Labor, Occupational Safety and Health Administration, Division of Consumer Affairs, Room N3635, 200 Constitution Avenue, N.W., Washington, D.C. 20210, (202) 523–8024.

Proposal: Mr. Glen E. Gardner or Ms. Joanne E. Slattery, U.S. Department of Labor, Occupational Safety and Health Administration, Room N3463, 200 Constitution Avenue, N.W., Washington, D.C. 20210, (202) 523–7225.

SUPPLEMENTARY INFORMATION: On March 26, 1982, OSHA published in the **Federal Register** (47 FR 13005) a Notice of Proposed Rulemaking to exempt diving "performed solely for marine scientific research and development purposes by educational institutions" (educational/scientific diving) from its

standard for Commercial Diving Operations (29 CFR Part 1910, Subpart T).

OSHA recognized that some of the information and data supporting the educational/scientific exemption also pertained to the scientific diving community in general. Therefore, OSHA solicited additional information and data for determining the appropriate scope of an exemption by asking the following questions:

1. Should OSHA adopt the second exemption provided by the U.S. Coast Guard standard (§ 197.202(a)(2)) which states that the standard does not apply to any diving operation "performed solely for research and development for the advancement of diving equipment and technology?"

2. Should OSHA exempt all scientific diving? If so, how should OSHA define those activities which constitute scientific diving?

3. Should OSHA only exempt scientific diving when such diving complies with an alternative standard which provides divers a comparable level of safety and health as OSHA's Subpart T standard?

Interested persons were given until May 10, 1982, to submit written data, views, and arguments on the proposal, to file objections, and request a hearing.

OSHA received a request to extend the comment period from the American Academy of Underwater Sciences (AAUS). AAUS noted that disseminating the notice to its members and other interested persons had been more time consuming than anticipated. In order to assure that interested parties have sufficient time to compile data and prepare responses, OSHA has decided to extend the comment period to June 18, 1982.

Additionally, OSHA received a request for a hearing from the United Brotherhood of Carpenters and Joiners. The hearing request contained objections to the proposed exemption, and to the possible extension of the exemption to other segments of scientific diving.

The United Brotherhood of Carpenters and Joiners believes that an exemption is unnecessary. They state that granting any exemption would be denying protection to divers. Further they contend that "merely the demonstration of a good safety record does not negate the need for a standard to prevent future problems and act as a safeguard."

The Carpenters Union also suggests that in lieu of granting an exemption to any scientific diving activity, the employers of the scientific diving community should seek a variance from the commercial diving operations standard under section 6(d) of the Occupational Safety and Health Act. Section 6(d) states:

> Any affected employer may apply to the Secretary for a rule or order for a variance from a standard promulgated under this section. Affected employees shall be given notice of each such application and an opportunity to participate in a hearing. The Secretary shall issue such rule or order if he determines on the record, after opportunity for an inspection where appropriate and a hearing, that the proponent of the variance has demonstrated by a preponderance of the evidence that the conditions, practices, means, methods, operations, or processes used or proposed to be used by an employer will provide employment and places of employment to his employees which are as safe and healthful as those which would prevail if he complied with the standard. The rule of order so issued shall prescribe the conditions the employer must maintain, and the practices, means, methods, operations, and processes which he must adopt and utilize to the extent they differ from the standard in question. Such a rule or order may be modified or revoked upon application by an employer, employees, or by the Secretary on his own motion, in the manner prescribed for its issuance under this subsection at any time after six months from its issuance.

Accordingly, pursuant to section 6(b)(3) of the Act, OSHA has scheduled an informal public hearing to receive testimony on whether OSHA should grant an exemption from the diving standard for educational/scientific diving, the nature of any exemption and whether the scope of the exemption should be broadened to include other segments of scientific diving.

In addition to the general issue concerning an exemption as stated above, OSHA invites testimony at the informal public hearing on the appropriateness of the section 6(d) variance mechanism.

Public Participation in Hearing

Notice of Intention to Appear: Persons desiring to participate at the hearing, must file a notice of intention to appear by June 18, 1982. The notice of intention to appear must contain the following:

1. The name, address and telephone number of each person to appear;

2. The capacity in which the person will appear;

3. The city where the person intends to appear;

4. The approximate amount of time required for the presentation;

5. The specific issues that will be addressed;

6. A detailed statement of the position that will be taken with respect to each issue addressed; and

7. Whether the party intends to submit documentary evidence, and if so, a detailed summary of the evidence.

Filing of Testimony and Evidence Before the Hearing: Any party requesting more than 15 minutes for presentation at the hearing or who will submit documentary evidence, must provide in quadruplicate, the complete text of its testimony, including all documentary evidence to be presented at the hearing, to the OSHA Division of Consumer Affairs by June 18, 1982.

Each submission will be reviewed in light of the amount of time requested in the notice of intention to appear. In instances where the information contained in the submission does not justify the amount of time requested, a more appropriate amount of time will be allocated and the participant will be notified of that fact.

Any party who has not substantially complied with the above requirements, may be limited to a 15 minute presentation, and may be requested to return for questioning at a later time. Any party who has not filed a notice of intention to appear may be allowed to testify, as time permits, at the discretion of the Administrative Law Judge.

Notices of intention to appear, testimony and evidence, will be available for inspection and copying at the Docket Office, Docket H–103S, U.S. Department of Labor, Occupational Safety and Health Administration, Room S6212, 200 Constitution Avenue, N.W., Washington, D.C. 20210, (202)523–7894.

The hearing will commence at 9:30 a.m. at the scheduled locations with the resolution of any procedural matters relating to the proceeding. The hearing will be presided over by an Administrative Law Judge who will have the powers necessary or appropriate to conduct a full and fair informal hearing as provided in 29 CFR Part 1911, including the powers:

1. To regulate the course of the proceedings;

2. To dispose of procedural requests, objections and comparable matters;

3. To confine the presentation to the matters pertinent to the issues raised;

4. To regulate the conduct of those present at the hearing by appropriate means;

5. In the Judge's discretion, to question and permit questioning of any witness; and

6. In the Judge's discretion, to keep the record open for a reasonable stated time to receive written information and additional data, views, and arguments from any person who has participated in the oral proceedings.

Following the close of the hearing, the presiding Administrative Law Judge will certify the record of the hearing to the Assistant Secretary of Labor for Occupational Safety and Health. The notice of proposed rulemaking will be reviewed in light of all testimony and written submissions received as part of the record, and the standard will be modified or a determination will be made not to modify the standard, based on the entire record of the proceeding.

Authority

This document was prepared under the direction of Thorne G. Auchter, Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210. (Sec 6, 84 Stat. 1593 (29 U.S.C. 655); 29 CFR Part 1911, Secretary of Labor's Order No. 8–76 (41 FR 25059))

Signed at Washington, D.C., this 21st day of May 1982.

Thorne G. Auchter,

Assistant Secretary of Labor.

[FR Doc. 82–14287 Filed 5–25–82; 8:45 am]

BILLING CODE 4510–26–M

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29 CFR Part 1910

[Docket No. S–600]

Proposed Revocation of Advisory and Repetitive Standards

AGENCY: Occupational Safety and Health Administration, Labor.

ACTION: Proposed Revocation.

SUMMARY: The Occupational Safety and Health Administration (OSHA) proposes to revoke nearly two hundred provisions of the General Industry Safety and Health Standards (Part 1910) in which the word "should" or other advisory language is used instead of the mandatory "shall". OSHA has determined that these provisions are unenforceable and proposes that they be deleted from Part 1910. Also proposed for revocation is one advisory paragraph which was improperly adopted as a mandatory provision by OSHA. It is also proposed to delete three sections whose requirements are repeated elsewhere in Part 1910. In addition, OSHA is proposing to amend § 1910.6 to clarify that only mandatory provisions of standards incorporated by reference are adopted as OSHA standards. The removal of advisory and repetitive provisions from the standards will facilitate OSHA's enforcement responsibilities regarding these provisions and also assist employers by improving the clarity of the standards.

DATES: All comments on this notice should be received by July 27, 1982.

ADDRESS: All comments should be submitted in quadruplicate to the Docket Officer, Docket S–600, Occupational Safety and Health Administration, U.S. Department of Labor, Room S–6212, Frances Perkins Building, 200 Constitution Avenue, NW., Washington, D.C. 20210. Telephone (202) 523–7894.

FOR FURTHER INFORMATION CONTACT: Mr. Thomas H. Seymour or Mr. Wendell Glasier, Occupational Safety and Health Administration, U.S. Department of Labor, Room N3463, Frances Perkins Building, 200 Constitution Avenue, NW., Washington, D.C. 20210, Telephone (202) 523–7216.

SUPPLEMENTARY INFORMATION:

Background

Under section 6(a) of the Occupational Safety and Health Act of 1970 (the Act) (84 Stat. 1593, 29 U.S.C. 655) OSHA was directed to adopt existing national consensus standards and established Federal standards in order to ensure that the nation's employees be guaranteed at least a minimum level of occupational safety and health protection as soon as possible after the effective date of the Act. For the adoption of these standards, section 6(a) dispensed with procedural requirements for notice and public comment.

Following this congressional direction, OSHA published its initial package of occupational safety and health standards on May 29, 1971, as 29 CFR Part 1910 (36 FR 10466). These standards were derived largely from national consensus standards developed by the American National Standards Institute (ANSI) and the National Fire Protection Association (NFPA).

Some of the standards adopted under section 6(a) have been found to be unenforceable because their precursor ANSI Standards were intended to be advisory and not mandatory.

Most of these advisory ANSI Standards were adopted verbatim by OSHA. They generally provided that an employer "should" undertake specified safety or health obligations. For example, 29 CFR 1910.134(b)(4) provides that respirators *should* be assigned to employees for their exclusive use, where practicable.

In other instances ANSI standards contained "should" provisions which OSHA changed to "shall" when the regulations were promulgated under section 6(a). The sole remaining standard of this type is 29 CFR 1910.28(a)(3), which provides that guardrails *shall* be installed on platforms more than 10 feet in height. This regulation's ANSI precursor merely advised that guardrails *should* be provided. OSHA anticipates future rulemaking on this issue.

In still other instances, OSHA incorporated by reference certain ANSI or NFPA consensus standards which contain advisory provisions. It is clear that the problems associated with the "should" standards and other advisory provisions which are actually published verbatim in Part 1910, are also present wherever such advisory provisions are found in standards incorporated by reference.

In the past, OSHA maintained that all standards, regardless of whether the term "should" or "shall" is used, create mandatory compliance responsibilities. Employers have consistently challenged this position on the basis that section 6(a) of the Act only gave OSHA the authority to adopt ANSI standards verbatim. In ANSI standards, use of the term "should" means that the provision is only advisory. Therefore, employers maintained that ANSI "should" standards can only be advisory when adopted by OSHA under § 6(a).

Enforcement of "should" standards has been denied by the Occupational Safety and Health Review Commission and by most of the appellate courts in which contested cases have been heard. For example, in *Marshall* v. *Pittsburgh-Des Moines Steel Co.*, 584 F.2d 638, 643–44 (1978), the Third Circuit Court of Appeals determined that "should" standards were merely advisory because the consensus organizatioin had reached "substantial agreement" that these provisions be viewed only as *recommendations,* and not as mandatory standards.

The courts have also ruled that failure to adopt an ANSI standard verbatim (in this case by changing a "should" to a "shall") renders the resulting OSHA section 6(a) standard invalid and unenforceable (see *Usery* v. *Kennecott Copper Corporation,* 577 F.2d 1113, 1117 (10th Cir. 1977)).

Although the "should" standards have not been enforceable in and of themselves, OSHA has also employed the "should" provisions to demonstrate the existence of "recognized hazards" under the general duty clause (section 5(a)(1)) of the Act. However, the Review Commission recently ruled that, as long as the "should" standard remains in effect, OSHA may not issue a general duty clause citation for the hazard addressed by that "should" standard (see *A. Prokosch & Sons Sheet Metal and Mid-Hudson Automatic Sprinkler,* 1980 CCH OSHD ¶24, 840).

Types of Provisions Proposed for Revocation and Reasons for Revocation

There are three categories of provisions being proposed for revocation in this notice.

1. Provisions adopted under section 6(a), either verbatim or by incorporation by reference, which use the word "should", or are otherwise advisory in nature.

2. One provision ostensibly creating an obligation through the use of the word "shall", which was changed from "should" in the ANSI standard adopted by OSHA under section 6(a).

3. Other standards which repeat requirements contained elsewhere in Part 1910.

Some of the hazards covered by the "should" standards and other advisory provisions may be serious or potentially serious under certain conditions. The fact that OSHA cannot enforce these provisions either directly or indirectly leaves gaps in coverage, resulting in a decrease in safety and health protection for the nation's employees. Where these provisions cover hazards which may cause death or serious physical harm to employees, the revocation of such provisions will enable OSHA to issue citations for these hazards under the general duty clause.

Ultimately, OSHA intends to promulgate appropriate specific standards under section 6(b) of the Act to deal with these hazards. For example, § 1910.97, nonionizing radiation, covers a hazards which OSHA considers to be worthy of consideration for future regulatory action.

Although some of the "should" provisions deal with hazards which may under some conditions be serious, many others have little direct or immediate relationship to employee safety and health. The removal of these other advisory provisions will help to streamline and simplify the existing Part 1910 standards.

The standards contained in the third category, §§ 1910.166–168, are not "shoulds" or other advisory provisions, but are merely repetitions of requirements contained elsewhere in Part 1910. These three sections which cover compressed gas and compressed air equipment, contain requirements which are also found in § 1910.101 of Subpart H. Future rulemaking under section 6(b) to replace these standards, therefore, is not considered necessary.

At its meeting on December 18, 1981, the National Advisory Committee on Occupational Safety and Health (NACOSH) recommended that OSHA not proceed with its deletion of advisory provisions at this time. Instead, the Committee recommended that OSHA wait until the Agency can simultaneously propose mandatory rules to take the place of the advisory provisions wherever necessary, under section 6(b) of the Act. OSHA agrees with NACOSH that rulemaking action may be warranted to provide specific coverage for certain hazards which are currently addressed only by advisory provisions. However, for the reasons set forth above, the Agency has decided to proceed expeditiously with its proposed revocation. This option will strengthen OSHA's current enforcement powers, by permitting the Agency to issue general duty clause citations for serious recognized hazards which are presently covered only by advisory provisions. This will be done in accordance with the new general duty clause policy found in OSHA Instruction CPL 2.50 issued March 17, 1982. OSHA believes that continuation of its ongoing policy of revising its existing standards on a subpart-by-subpart basis will be the most effective way to update these standards while maintaining the greatest degree of protection in the interim.

Proposal Format

This notice contains a single list incorporating three categories of provisions proposed for revocation. As noted above, the first category includes the paragraphs or portions of paragraphs which contain the word "should" or other precatory language. The second category is the single improperly promulgated "shall" provision, § 1910.28(a)(3). The third category includes the three sections (§§ 1910.166–168) which repeat requirements contained elsewhere in Part 1910.

In addition, those "should" provisions which are incorporated in the OSHA general industry standards will be deleted by amendment of § 1910.6. Paragraph (a) of this section provides that "the standards * * * which are legally incorporated by reference in this part, have the same force and effect as other standards in this part." OSHA is proposing to add a sentence at the end of § 1910.6(a) to read as follows: "Only the mandatory provisions (i.e., provisions containing the word "shall" or other mandatory language) of standards incorporated by reference are adopted as standards under the Occupational Safety and Health Act." This amendment, combined with the list of provisions in Part 1910 which are proposed for deletion, will effectively eliminate "should" standards and other advisory provisions found throughout Part 1910 and in the incorporations by reference.

Regulatory Assessment

The proposed revocation of "should" and other advisory or repetitive provisions of the General Industry (Part 1910) Safety and Health Standards is not a "major" action as defined by Executive Order No. 12291 (46 FR 13193, February 19, 1981) as it will not have an annual effect on the economy of $100 million or more, cause major increases in costs or prices, or have any other significant adverse effects. Revocation of these provisions will not constitute a "major rule" primarily because few, if any, additional requirements will be imposed on industry. Revocation will relieve current regulatory burdens created by the uncertainty regarding the enforceability of these provisions.

For the same reason, it is certified that pursuant to the provisions of the Regulatory Flexibility Act (Pub. L. 96–354, 5 U.S.C. 601) these proposed revocations will not have a significant economic impact on a substantial number of small entities.

Public Participation

Interested persons are invited to submit written data, views and arguments on the specific provisions and issues raised in this proposed revocation. These comments must be postmarked no later than July 27, 1982, and submitted in quadruplicate to OSHA Docket Office, Docket No. S–600, Room S–6212, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20210, where they will be available for public inspection and copying. Written submissions must clearly identify the provisions which are addressed and the position taken with respect to each issue.

Pursuant to section 6(b)(3) of the Act interested parties may, in addition to written comments, file objections to the proposal and request an informal hearing on the objections. Objections and requests for an informal hearing, addressed as above, must be postmarked no later than July 27, 1982, and must comply with the following conditions:

1. The objection must include the name and address of the objector.

2. The objection must specify with particularity the provisions of the proposed revocation to which objection is taken, and must state the grounds for the objection.

3. Each objection must be separately stated and numbered; and

4. The objection must be accompanied by a detailed summary of the evidence to be adduced at the requested hearing.

List of Subjects in 29 CFR Part 1910

Explosives, Flammable materials, Gases, Hazardous materials, Health, Industrial trucks, Ladders and scaffolds, Machinery, Noise control, Occupational safety and health, Protective equipment, Radiation protection, Respiratory protection, Safety, Signs and symbols, Tools, Welding.

Authority

This document was prepared under the direction of Thorne G. Auchter, Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20210.

Accordingly, pursuant to section 6(b) and 8(g) of the Occupational Safety and Health Act of 1970 (84 Stat 1593, 1600; 29 U.S.C. 655, 657), Secretary of Labor's Order No. 8–76 (41 FR 25059) and 29 CFR Part 1911, it is proposed to amend 29 CFR Part 1910 as set forth below.

Signed at Washington, D.C. this 21st day of May 1982.

Thorne G. Auchter,

Assistant Secretary of Labor.

PART 1910—OCCUPATIONAL SAFETY AND HEALTH STANDARDS

It is proposed to amend Part 1910 of 29 CFR as follows:

A. By revising paragraph (a) of § 1910.6 to read as follows:

§ 1910.6 Incorporation by reference. [Amended]

(a) The standards of agencies of the U.S. Government and organizations which are not agencies of the U.S. Government which are incorporated by reference in this part, have the same force and effect as other standards in this part. Only the mandatory provisions (i.e., provisions containing the work "shall" or other mandatory language) of standards incorporated by reference are adopted as standards under the Occupational Safety and Health Act.

* * * * * * *

§ 1910.24 [Amended]

B. By revising the heading of paragraph (g) of § 1910.24 to read "Stairway platforms."

C. By removing the following listed provisions:

Subpart D—Walking/Working surfaces

§ 1910.22 General requirements. [Amended]

1. Remove the phrase, "and false floors, platforms, mats, or other dry standing places should be provided where practicable", in the second sentence of paragraph (a)(2) of § 1910.22.

§ 1910.23 Guarding floor and wall openings and holes. [Amended]

2. Remove the phrase, "and should preferably be hinged or otherwise mounted so as to be conveniently replaceable," in the second sentence of paragraph (a)(3)(ii) of § 1910.23.

3. Remove the phrase, "which should be hinged in place," in the first sentence of paragraph (a)(5) of § 1910.23.

4. Remove the phrase, "that should be hinged in place," in the first sentence of paragraph (a)(8)(ii) of § 1910.23.

5. Remove the second sentence of paragraph (b)(1)(i) of § 1910.23.

6. Remove the third sentence of paragraph (e)(5)(i) of § 1910.23.

§ 1910.24 Fixed industrial stairs. [Amended]

7. Remove the first two sentences of paragraph (f) of § 1910.24.

8. Remove the first two sentences of paragraph (g) of § 1910.24.

9. Remove paragraph (j) of § 1910.24.

§ 1910.25 Portable wood ladders. [Amended]

10. Remove paragraph (c)(5) of § 1910.25.

11. Remove paragraph (d)(1)(xi) of § 1910.25.

12. Remove paragraph (d)(2)(ii) of § 1910.25.

13. Remove paragraph (d)(2)(vi) of § 1910.25.

14. Remove paragraph (d)(2)(vii) of § 1910.25.

15. Remove the second sentence of paragraph (d)(2)(xiv) of §1910.25.

16. Remove paragraph (d)(2)(xv) of §1910.25.

17. Remove paragraph (d)(2)(xvi) of § 1910.25.

18. Remove paragraph (d)(2)(xvii) of § 1910.25.

19. Remove paragraph (d)(2)(xviii) of § 1910.25.

20. Remove the first sentence of paragraph (d)(2)(xix) of § 1910.25.

§ 1910.26 Portable metal ladders. [Amended]

21. Remove the second sentence of paragraph (c)(2)(iv) of § 1910.26.

22. Remove paragraph (c)(2)(v(of § 1910.26.

23. Remove the first sentence of the introductory text of paragraph (c)(2)(vi) of § 1910.26.

24. Remove paragraph (c)(2)(vi)(*b*) of § 1910.26.

25. Remove paragraph (c)(2)(vi)(*c*) of § 1910.26.

26. Remove paragraph (c)(2)(vi)(*d*) of § 1910.26.

27. Remove the first sentence of paragraph (c)(3)(i) of §1910.26.

28. Remove the second and third sentences of paragraph (c)(3)(iii) of § 1910.26.

29. Remove the second sentence of paragraph (c)(3)(iv) of § 1910.26.

30. Remove paragraph (c)(3)(vii) of § 1910.26.

§ 1910.28 Safety requirements for scaffolding. [Amended]

31. Remove paragraph (a)(3) of § 1910.28.

32. Remove paragraph (p)(1) of § 1910.28.

33. Remove the third sentence of paragraph (u)(5) of § 1910.28.

§ 1910.30 Other working surfaces. [Amended]

34. Remove the phrase, "and should be defined by marking," in the second sentence of paragraph (b)(2) of § 1910.30.

Subpart F—Powered Platforms, Manlifts and Vehicle-Mounted Work Platforms

§1910.66 Powered platforms for exterior building maintenance. [Amended]

35. Remove the first sentence of paragraph (c)(20)(viii) of § 1910.66.

36. Remove paragraph (d)(8)(ii) of § 1910.66.

Subpart G—Occupational Health and Environmental Control

§ 1910.94 Ventilation. [Amended]

37. Remove paragraph (c)(6)(iii) (*a*) of § 1910.94.

38. Remove the phrase "periodically, thereafter, the air flow should be remeasured, and," in the fourth sentence of paragraph (d)(8)(iii) of § 1910.94.

§ 1910.95 Occupational noise exposure. [Amended]

39. Remove the entire footnote at the end of table G–16 of § 1910.95.

§ 1910.97. Nonionizing radiation. [Removed]

40. Remove § 1910.97

Subpart H—Hazardous Materials

§ 1910.107 Spray finishing using flammable and combustible materials. [Amended]

41. Remove the fourth, fifth and sixth sentences of paragraph (b)(5)(i) of § 1910.107.

42. Remove paragraph (c)(9)(ii) of § 1910.107.

43. Remove the third sentence of paragraph (e)(7) of § 1910.107.

44. Remove the second sentence of paragraph (i)(3) of § 1910.107.

§ 1910.108 Dip tanks containing flammable or combustible liquids. [Amended]

45. Remove the second sentence of paragraph (c)(1) of § 1910.108.

46. Remove the second, third and fourth sentences of paragraph (c)(2)(i) of § 1910.108.

47. Remove the second sentence of paragraph (g)(3)(ii)(a) of § 1910.108.

48. Remove the phrase, "and should be at least five feet from processing equipment" in the second sentence of paragraph (h)(3)(x) of § 1910.108.

§ 1910.109 Explosives and blasting agents. [Amended]

49. Remove the phrase, "in addition, they should be separated from each other by not less than the distances shown for 'separation of magazines,' except that the quantity of explosives contained in cap magazines shall govern in regard to the spacing of said cap magazines," in note 4 of Table H–21, § 1910.109.

§ 1910.110 Storage and handling of liquefied petroleum gases. [Amended]

50. Remove the fourth sentence of paragraph (b)(10)(xii) of § 1910.110.

51. Remove the note, "Fixed electrical equipment should preferably not be installed." in the fourth column, Table H–28 of § 1910.110.

52. Remove the third sentence (including the entire formula for determining maximum volume of LP gas) and notes at end of paragraph (b)(19)(v)(*a*) of § 1910.110.

53. Remove the second sentence of paragraph (d)(7)(vi)(*b*) of § 1910.110.

54. Remove the words, "pits and," in the heading and the first sentence of paragraph (d)(11) of § 1910.110.

55. Remove the first sentence of paragraph (e)(5)(iv)(*e*) of § 1910.110.

56. Remove the words "should preferably be stored in the open" and "they" in paragraph (f)(2)(v) of § 1910.110, with the two sentences being combined into one.

57. Remove paragraph (h)(4)(iii) (*b*) of § 1910.110.

§ 1910.111 Storage and handling of anhydrous ammonia. [Amended]

58. Remove paragraph (b)(10)(i) of § 1910.111.

59. Remove paragraph (b)(15) of § 1910.111.

Subpart I—Personal Protective Equipment

§ 1910.133 Eye and face protection. [Amended]

60. Remove paragraph (a)(2)(vii) of § 1910.133.

§ 1910.134 Respiratory protection. [Amended]

61. Remove paragraph (b)(4) of § 1910.134.

62. Remove the second sentence of paragraph (b)(5) of § 1910.134.

63. Remove paragraph (b)(10) of § 1910.134.

64. Remove the second and third sentences of paragraph (e)(1) of § 1910.134.

65. Remove the fourth, fifth, and sixth sentences of paragraph (e)(2) of § 1910.134.

66. Remove the second and third sentences of paragraph (f)(3) of § 1910.134.

67. Remove the second, third and fifth sentences of paragraph (f)(5)(i) of § 1910.134.

68. Remove paragraph (f)(5)(ii) of § 1910.134.

Subpart J—General Environmental Controls

§ 1910.144 Safety color code for marking physical hazards. [Amended]

69. Remove the second sentence of paragraph (a)(3) of § 1910.144.

§ 1910.145 Specifications for accident prevention signs and tags. [Amended]

70. Remove the first sentence of paragraph (c)(1)(i) of § 1910.145.

71. Remove paragraph (e)(2) of § 1910.145.

72. Remove the phrase, "but should be used until a positive means can be employed to eliminate the hazard," in the second sentence of paragraph (f)(1)(i) of § 1910.145.

73. Remove paragraph (f)(4)(i) of § 1910.145.

74. Remove paragraph (f)(4)(ii) of § 1910.145.

75. Remove paragraph (f)(5)(i) of § 1910.145.

76. Remove paragraph (f)(5)(ii) of § 1910.145.

77. Remove paragraph (f)(6) of § 1910.145.

Subpart M—Compressed Gas and Compressed Air Equipment

§ 1910.166 Inspection of compressed gas cylinders. [Removed]

78. Remove § 1910.166.

§ 1910.167 Safety relief devices for compressed gas cylinders. [Removed]

79. Remove § 1910.167.

§ 1910.168 Safety relief devices for cargo and portable tanks storing compressed gases. [Removed]

80. Remove § 1910.168.

§ 1910.169 Air receivers. [Amended]

81. Remove the second and fourth sentences of paragraph (b)(1) of § 1910.169.

Subpart N—Materials Handling and Storage

§ 1910.178 Powered industrial trucks. [Amended]

82. Remove paragraph (g)(3) of § 1910.178.

83. Remove the first sentence of paragraph (g)(9) of § 1910.178.

84. Remove paragraph (h)(1) of § 1910.178.

85. Remove paragraph (i)(2) of § 1910.178.

86. Remove paragraph (n)(7)(ii) of § 1910.178.

87. Remove the first sentence of paragraph (o)(4) of § 1910.178.

§ 1910.179 Overhead and gantry cranes. [Amended]

88. Remove the second sentence of paragraph (b)(2) of § 1910.179.

89. Remove paragraph (c)(1)(iii) of § 1910.179.

90. Remove the first sentence of paragraph (c)(3) of § 1910.179.

91. Remove the second sentence of paragraph (d)(1)(i) of § 1910.179.

92. Remove paragraph (d)(1)(ii) of § 1910.179.

93. Remove paragraph (d)(2)(iii) of § 1910.179.

94. Remove the first sentence of paragraph (d)(2)(iv) of § 1910.179.

95. Remove paragraph (j)(3)(ix) of § 1910.179.

96. Remove the second sentence of paragraph (j)(4)(iii) of § 1910.179.

97. Remove the first two sentences of paragraph (k)(2) of § 1910.179.

98. Remove paragraph (1)(2)(i)(*f*) of § 1910.179.

§ 1910.180 Crawler locomotive and truck cranes. [Amended]

99. Remove paragraph (h)(3)(ii)(*d*) of § 1910.180.

§ 1910.181 Derricks. [Amended]

100. Remove the second sentence of paragraph (b)(2) of § 1910.181.

101. Remove all of paragraph (d)(3)(i)(*f*) of § 1910.181 except the word "Hooks."

102. Remove the second sentence of paragraph (d)(4)(iii) of § 1910.181.

103. Remove paragraph (i)(3)(ii)(*d*) of § 1910.181.

104. Remove paragraph (i)(3)(vi) of § 1910.181.

105. Remove paragraph (i)(4)(ii) of § 1910.181.

Subpart O—Machinery and Machine Guarding

§ 1910.213 Woodworking machinery requirements. [Amended]

106. Remove paragraph (b)(4) of § 1910.213.

107. Remove the fifth sentence of paragraph (c)(1) of § 1910.213.

108. Remove the phrase, "and should be placed so that there is not more than ½-inch space between the spreader and the back of the saw when the largest saw is mounted in the machine," in the fourth sentence of paragraph (c)(2) of § 1910.213.

109. Remove paragraph (d)(2) of § 1910.213.

110. Remove the fourth sentence of paragraph (h)(5) of § 1910.213.

111. Remove the phrase, "and the top member of the guard should have at least a 2-inch clearance outside the saw and be lined with smooth material, preferably metal", in the ninth sentence of paragraph (i)(1) of § 1910.213.

112. Remove the tenth sentence of paragraph (i)(1) of § 1910.213.

113. Remove paragraph (1)(2) of § 1910.213.

114. Remove paragraph (m)(2) of § 1910.213.

115. Remove the phrase, "which should be hinged to the machines so that they can be thrown back for making adjustments," of paragraph (o)(2) of § 1910.213.

116. Remove the third sentence of paragraph (p)(1) of § 1910.213.

§ 1910.215 Abrasive wheel machinery. [Amended]

117. Remove the phrase, "should not exceed 90° or one-fourth of the periphery," in the first sentence, and the phrase, "This exposure," in the second sentence of paragraph (b)(3) of § 1910.215, with the two sentences being combined into one.

118. Remove the phrase, "and should be greater where practicable," in the second sentence of paragraph (c)(8)(i) of § 1910.215.

119. Remove the phrase, "and should be greater where practicable," in the second sentence of paragraph (c)(8)(ii) of § 1910.215.

120. Remove the phrase, "and should be greater where practicable," in the second sentence of paragraph (c)(8)(iii) of § 1910.215.

121. Remove the second and third sentences of paragraph (d)(5) of § 1910.215.

122. Remove paragraph (d)(7) of § 1910.215.

§ 1910.216 Mills and calendars in the rubber and plastics industries. [Amended]

123. Remove the third sentence of paragraph (b)(1)(i) of § 1910.216.

124. Remove paragraph (b)(2) of § 1910.216.

125. Remove the second and third sentences of paragraph (c)(2) of § 1910.216.

126. Remove paragraph (g) of § 1910.216.

§ 1910.218 Forging machines. [Amended]

127. Remove the second sentence of paragraph (a)(3)(iv) of § 1910.218.

128. Remove the second, third and fourth sentences of paragraph (a)(3)(iv) of § 1910.218.

129. Remove the phrase, "and should not project more than 2 inches in front and 4 inches in back of ram or die," in paragraph (b)(1) of § 1910.218.

130. Remove the phrase, "and should be conveniently located and distinctly marked for ease of identification," in paragraph (e)(1)(ii) of § 1910.218.

131. Remove the second, third and fourth sentences of paragraph (h)(4) of § 1910.218.

132. Remove the the second and third sentences of paragraph (j)(2) of § 1910.218.

§ 1910.219 Mechanical power transmission apparatus. [Amended]

133. Remove paragraph (d)(2)(ii) of § 1910.219.

134. Remove paragraph (1)(1)(iii) of § 1910.219.

135. Remove the second sentence of paragraph (1)(3) of § 1910.219.

136. Remove paragraph (m)(1)(ii) of § 1910.219.

137. Remove the seventh sentence of paragraph (o)(5)(ii) of § 1910.219.

138. Remove the second sentence of paragraph (o)(5)(iii) of § 1910.219.

139. Remove paragraph (p)(5)(ii) of § 1910.219.

140. Remove paragraph (p)(5)(iii) of § 1910.219.

141. Remove paragraph (p)(5)(iv) of § 1910.219.

142. Remove paragraph (p)(6)(iii) of § 1910.219.

143. Remove the phrase, "and should use cans with long spouts to keep their hands out of danger," in the first sentence of paragraph (p)(7) of § 1910.219.

Subpart P—Hand and Portable Powered Tools and Other Handheld Equipment

§ 1910.243 Guarding of portable powered tools. [Amended]

144. Remove the phrase, "and hands should be kept clear of the open barrel end," in the second sentence of paragraph (d)(4)(iii) of § 1910.243.

145. Remove the fourth sentence of paragraph (d)(4)(v) of § 1910.243.

§ 1910.244 Other portable tools and equipment. [Amended]

146. Remove the second sentence of paragraph (a)(2)(v) of § 1910.244.

Subpart Q—Welding, Cutting, and Brazing

§ 1910.252 Welding, cutting, and brazing. [Amended]

147. Remove the fourth sentence of paragraph (a)(2)(iii)(*a*) of § 1910.252.

148. Remove paragraph (a)(3)(v)(*e*) of § 1910.252.

149. Remove the second sentence of paragraph (a)(4)(iii)(*e*) of § 1910.252.

150. Remove the second sentence of paragraph (a)(6)(vii)(*f*) of § 1910.252.

151. Remove the first sentence of paragraph (b)(2)(iii) of § 1910.252.

152. Remove the second sentence of paragraph (b)(2)(iv)(*a*) of § 1910.252.

153. Remove the first and second sentence of paragraph (b)(2)(iv)(*d*) of § 1910.252.

154. Remove the phrase, "and appropriate periodic inspections should be conducted to ascertain that no condition of electrolysis or shock, or fire hazard exists by virtue of such use," in paragraph (b)(3)(ii)(*d*) of § 1910.252.

155. Remove the second sentence of paragraph (b)(4)(viii) of § 1910.252.

156. Remove the first sentence of paragraph (b)(4)(ix)(*a*) of § 1910.252.

157. Remove the first sentence of paragraph (b)(4)(ix)(*c*) of § 1910.252.

158. Remove the third and fourth sentences of paragraph (d)(2)(vii) of § 1910.252.

159. Remove the second and third sentences of paragraph (d)(2)(xv) of § 1910.252.

160. Remove the second and third sentences of paragraph (e)(2)(i)(*a*) of § 1910.252.

161. Remove paragraph (e)(2)(ii)(*f*) of § 1910.252.

162. Remove paragraph (f)(1)(ii) of § 1910.252.

163. Remove the second sentence of paragraph (f)(11)(ii) of § 1910.252.

164. Remove the second sentence of paragraph (f)(13) of § 1910.252.

Subpart R—Special Industries

§ 1910.261 Pulp, paper, and paperboard mills. [Amended]

165. Remove the phrase "those on the unloading side should be partially cut through first, and then the binder wires cut on the opposite side. Wire cutters equipped with long extension handles

shall be used." in the first and second sentences of paragraph (c)(4)(iii) of § 1910.261, with the remainder of the first sentence and the third sentence being combined into one.

166. Remove paragraph (d)(4)(i) of § 1910.261.

167. Remove the second sentence of paragraph (d)(4)(ii) of § 1910.261.

168. Remove paragraph (d)(4)(iv) of § 1910.261.

169. Remove the second sentence of paragraph (e)(17) of § 1910.261.

170. Remove the third sentence of paragraph (e)(18) of § 1910.261.

171. Remove paragraph (f)(6)(iii) of § 1910.261.

172. Remove the phrase, "and buildings should be designed with explosion relief," in paragraph (g)(1)(iii) of § 1910.261.

173. Remove the phrase, "and should be replaced when necessary," in the second sentence of paragraph (g)(12)(iii) of § 1910.261.

174. Remove paragraph (g)(14)(iv) of § 1910.261.

175. Remove paragraph (g)(19)(i) of § 1910.261.

176. Remove paragraph (g)(19)(ii) of § 1910.261.

177. Remove the second sentence of paragraph (h)(1) of § 1910.261.

178. Remove the second sentence of paragraph (h)(3)(v) of § 1910.261.

179. Remove paragraph (j)(4)(v) of § 1910.261.

180. Remove paragraph (k)(5) of § 1910.261.

181. Remove the second and third sentences of paragraph (k)(18) of § 1910.261.

182. Remove paragraph (k)(19)(i) of § 1910.261.

183. Remove paragraph (k)(19)(ii) of § 1910.261.

184. Remove the first sentence of paragraph (k)(22) of § 1910.261.

185. Remove paragraph (k)(26)(ii) of § 1910.261.

186. Remove the first and third sentences of paragraph (k)(29) of § 1910.261.

187. Remove the second sentence of paragraph (k)(30) of § 1910.261.

188. Remove the third sentence of paragraph (1)(9)(i) of § 1910.261.

§ 1910.262 Textiles. [Amended]

189. Remove the phrases, "and should not be operated at a speed greater than", and "which", in the first sentence of paragraph (y)(1)(iv) of § 1910.262, with that sentence now being divided into two sentences.

190. Remove the second sentence of paragraph (cc)(1) of § 1910.262.

§ 1910.263. Bakery equipment. [Amended]

191. Remove the second sentence of paragraph (i)(11) of § 1910.263.

192. Remove the second and third sentences of paragraph (j)(1)(vii)(*c*) of § 1910.263.

§ 1910.265 Sawmills. [Amended]

193. Remove paragraph (c)(12)(i) of § 1910.265.

194. Remove paragraph (c)(20)(i) of § 1910.265.

(Secs. 6, 8, 84 Stat. 1593, 1600 (29 U.S.C. 655, 657), Secretary of Labor's Order No. 8–76 (41 FR 25059), 29 CFR Part 1911)

[FR Doc. 82–14289 Filed 5–27–82; 8:45 am]
BILLING CODE 4510–26–M

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29 CFR Part 1910

[Docket No. H–365]

Occupational Exposure to Coal Tar Pitch Volatiles; Notice of Intention to Modify Interpretation

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

ACTION: Proposed rule; notice of intention to modify interpretation.

SUMMARY: OSHA intends to modify its interpretation of coal tar pitch volatiles (CTPV) found in § 1910.1002. This interpretation has been the subject of a number of requests for clarification. The requests have concerned primarily the inclusion of asphalt fumes as coal tar pitch volatiles. The new interpretation would make it clear that the CTPV standard does not cover petroleum asphalt or other substances that are not derived from coal.

DATES: Written comments must be submitted by August 26, 1982.

ADDRESS: Comments should be sent in quadruplicate to: Docket Officer, Docket H–365, Room S6212, Occupational Safety and Health Administration, U.S. Department of Labor, 3rd St. and Constitution Ave., NW., Washington, D.C. 20210.

FOR FURTHER INFORMATION CONTACT: James Foster, Office of Consumer Affairs, Occupational Safety and Health Administration, Room N3718, U.S. Department of Labor, Washington, D.C. 20210, 202–523–8148.

SUPPLEMENTARY INFORMATION: In May 1971, in accordance with section 6(a) of the Occupational Safety and Health Act, OSHA published its first package of national consensus and established federal standards in 29 CFR Part 1910 (36 FR 10466). In this package were standards governing exposure to airborne contaminants (§ 1910.1000). These standards for airborne contaminants were first issued by the American Conference of Governmental Industrial Hygienists (ACGIH) in 1968. They were adopted by the Department of Labor under the Walsh-Healey Public Contracts Act, 41 U.S.C. 35 *et seq.* in 1969 (34 FR 7946) and became OSHA standards as noted in 1971.

Among these standards was a permissible exposure limit (PEL) for occupational exposure to "coal tar pitch volatiles." Section 1910.1000, Table Z–1, listed "coal tar pitch volatiles (benzene soluble fraction) anthracene, benzo(a) pyrene, phenanthrene, acridine, chrysene, and pyrene," and designated the permissible exposure limit as an eight-hour time-weighted average (TWA) not to exceed 0.2 milligram per cubic meter of air (0.2 mg/m^3). Apart from the language quoted, the meaning of the term "coal tar pitch volatiles" was not clearly defined in either the original 1968 listing or in the OSHA standard, which made OSHA enforcement of this standard difficult. Specifically, no further explanation was included as to the sources of CTPV.

In 1969, ACGIH proposed an asphalt threshold limit value (TLV) different from the TLV for CTPV; it was adopted in 1971. ACGIH proposed a TLV of 5 mg/m^3 for asphalt while its TLV for CTPV remained at 0.2 mg/m^3. The documentation accompanying the new asphalt TLV gave the pertinent scientific information and data used to determine each limit.

In November 1972, OSHA published an interpretation of the term "coal tar pitch volatiles" in 29 CFR 1910.1002 (37 FR 2474) as follows:

> As used in § 1910.1000 (Table Z–1) coal tar pitch volatiles include the fused polycyclic hydrocarbons which volatilize from the distillation residues of coal, petroleum, wood, and other organic matter.

The preamble explained the reasons for the interpretation:

> Although the term suggests that it only refers to the distillation residues of coal, it is considered to include other hydrocarbons with the same chemical composition. The term "coal tar pitch volatiles" thus denotes the complete class of fused polycyclic hydrocarbons which volatilize from the distillation residues of organic matter rather than from the distillation residues of coal alone. Since all of these volatiles have the same basic chemical composition and since all of them present the same dangers to a person's health, the standard prescribed by § 1910.93 (now redesignated as § 1910.1000), is applied to the use of all of them. (37 FR 24749, November 21, 1972).

Since asphalt is a product of the distillation of petroleum, under this interpretation of CTPV the standard

now covered asphalt fumes. Although this published interpretation did not specifically include the term "asphalt fumes," an earlier reference in OSHA Program Directive #72-21 (July 5, 1972) indicated that § 1910.1000 was intended to apply to asphalt fumes. The Agency incorporated asphalt fumes into this definition because asphalt is a complex mixture of materials, including polcyclic aromatic hydrocarbons such as anthracene, acridine, pyrene, chrysene, phenanthrene and benzo(a)pyrene, that are referenced in Table Z-1 under coal tar pitch volatiles. Many of these same polycyclic hydrocarbons may be detected in the volatile emissions from both asphalt and coal tar pitch.

In a letter dated October 15, 1973, the American Petroleum Institute (API) recommended to OSHA that the definition of coal tar pitch volatiles be amended to refer only to those distillations that are destructive, such as occur from coal or wood distillation, and not the common petroleum distillations that are nondestructive. Subsequently, on August 1, 1975, the Asphalt Institute endorsed the 1973 letter from API and recommended deletion of the standard insofar as it applied to materials not containing significant amounts of hazardous fused polycyclic hydrocarbons. It was the Asphalt Institute's view also that the inclusion of the word destructive would correct the interpretation rendered by OSHA.

In September 1977, the National Institute for Occupational Safety and Health (NIOSH) submitted a criteria document for a recommended standard for occupational exposure to asphalt fumes. That document stated that the toxic effects produced by asphalt, tars, and pitches are quantitatively and qualitatively different. Based on these findings, NIOSH recommended a ceiling concentration limit of 5 mg/m ^{3}, based on total particulates, for asphalt fumes.

On February 23, 1979, the Asphalt Institute wrote OSHA urging that asphalt fumes and CTPV be differentiated and that NIOSH's recommended standards be adopted. In a letter dated September 7, 1979, the Agency addressed the Asphalt Institute's recommendations. The Agency acknowledged that asphalt and coal tar pitch may be produced differently and have different uses and properties, but reiterated that both are complex polycyclic aromatic hydrocarbons. Further, the OSHA letter described the air sampling techniques for asphalt and CTPV and the limited circumstances under which citations for violations of 29 CFR 1910.1002 would be issued, as follows:

(1) At the time of inspection employees are found to be exposed to volatile emissions from distillation residues of coal, petroleum, wood, or other organic matter, and

(2) Samples obtained to determine employee exposure to the volatile emissions are found to contain more than 0.2 mg of benzene-soluble material per cubic meter of air, and

(3) Laboratory analysis of the benzene-soluble fraction described in (2) confirms the presence of benzo(a)pyrene and/or one or more of the five additionally named fused polycyclic hydrocarbons to which the standard refers: anthracene, acridine, pyrene, chrysene and phenanthrene.

On June 9, 1980, the Asphalt Institute submitted to OSHA a formal petition requesting that the 0.2 mg/m^3 level be declared unenforceable and inapplicable to asphalt fumes and that 29 CFR 1910.1002 be amended to exclude asphalt. The petition also requested a rulemaking to amend 29 CFR 1910.1000 to establish an occupational health standard for exposure to asphalt fumes of 5 mg/m^3 as recommended in the NIOSH criteria document and ACGIH's 1971 TLV documentation. That petition was denied on November 25, 1980, by Assistant Secretary Bingham who reiterated the rationale for the interpretation of CTPV that was given in the November 21, 1972 (37 FR 24749) preamble explanation and repeated the limited circumstances that would result in citations.

On April 24, 1981, the Asphalt Institute filed a petition for reconsideration of the Assistant Secretary's denial. It asked the Assistant Secretary to overrule and withdraw the response on the ground that the decision was contrary to law. It also asked for confirmation that 29 CFR 1910.1000 is inapplicable and unenforceable as to asphalt fumes because 29 CFR 1910.1002 was issued without notice and comment. The Asphalt Institute also requested that OSHA amend 29 CFR 1910.1002 to exclude asphalt and that rulemaking procedures be instituted to establish the 5 mg/m^3 limit for asphalt fumes.

In reviewing the appeal submitted by the Asphalt Institute, as well as evaluating the NIOSH and ACGIH data and the circumstances surrounding the original interpretation, OSHA has found that its 1972 interpretation of CTPV was not consistent with what ACGIH intended to cover as a coal tar pitch volatile when it adopted its 1968 TLV. This is supported by the adoption in 1971 of an ACGIH TLV for asphalt fumes and its accompanying documentation. ACGIH adopted this TLV based on its explanation that:

Asphalt is a native mixture of hydrocarbons which occurs as an amorphous, brownish black solid or semisolid. It results from evaporation of the lighter hydrocarbons from petroleum and partial oxidation of residue. Petroleum asphalt thus is to be differentiated from tar or pitch, which results from the destructive distillation of coal.

Thus OSHA believes that the original ACGIH 1968 standard for CTPV, which was adopted by OSHA in 1971, was not intended to cover asphalt and that OSHA's 1972 interpretation was therefore in error. In addition, OSHA has not successfully enforced this interpretation. To correct this interpretation of CTPV, OSHA intends to amend the definition of coal tar pitch volatiles by deleting the reference to "petroleum, wood, and other organic matter." As amended, the interpretation would read:

As used in § 1910.1000 (Table Z-1) coal tar pitch volatiles include the fused polycyclic hydrocarbons which volatilize from the distillation residues of coal.

While petroleum asphalt will no longer be covered by the coal tar pitch volatiles standard under this interpretation, OSHA considers asphalt fumes to present a recognized hazard to exposed employees and is studying what regulatory response is most appropriate to protect employees from this hazard. In the interim, OSHA may use Section 5(a)(1) of the Act (general duty clause) to provide protection to employees from exposure to asphalt fumes. OSHA's Instruction CPL 2.50 dated March 17, 1982, contains Agency guidelines for enforcement of Section 5(a)(1).

Summary of Regulatory Impact Assessment and Regulatory Flexibility Certification

The potential economic effects of modifying the interpretation of this regulation have been reviewed. The Secretary has determined that this proposed modification is not a "major" action as defined by Executive Order 12291, Section 1(b). The Secretary also certifies that the action will have no significant economic impact on a substantial number of small entitites as defined by the Regulatory Flexibility Act of 1980 (U.S.C. Title 6). THe foregoing determinations are based on the following analysis.

1. *Production and use.* Both coal tar pitch and asphalt are produced as by-products of major industrial processes. Coal tar pitch is a distillate of coke which is used in steel production. Asphalt is the residue of petroleum refining. Consequently, the availability of both products is tied more closely to

demand for steel and petroleum than to direct demand for asphalt or coal tar pitch. In economic terms, the products are supply inelastic.

Asphalt and coal tar pitch are directly competitive in roofing applications and, to a lesser extent, for highway patching and repair. Even in these weather-proofing applications, the two products are not perfect substitutes because coal tar pitch is more pliable and resistant to temperature changes and weather errosion than asphalt. Although coal tar pitch is 50 percent more expensive than asphalt, many builders elect to use coal tar pitch for roofing in the belief that the life cycle costs are less and that the reduced risk of building damage due to roof leaks justifies the greater initial investment.

2. *Effects on Competition.* Any change in the competitive position of the two products would result from a reappraisal of their relative safety by the products' users. If the modification of the interpretation of the CTPV regulation results in a new impression that asphalt is much safer, the result might be an increased demand for asphalt and a decreased demand for coal tar pitch. Since the supply of neither product can be expected to vary with demand, for the reasons already stated, the relative prices will vary with change in demand.

Price shifts will also be limited by the fact that neither asphalt nor coal tar pitch is predominantly used for roofing applications. Approximately 20 percent of asphalt is used for roofing while less than 10 percent of coal tar pitch is used for roofing. Thus relative prices will be governed by other markets in which the products do not compete directly.

There is no evidence that OSHA compliance costs are a significant aspect in the price of asphalt roofing, or that this action will result in decreased protection for asphalt roofers. The primary determinent of the amount of asphalt fumes is the temperature of the asphalt during its application. Since the temperature of the asphalt must also be controlled to assure proper viscosity, there is no apparent incentive to reduce costs at the expense of worker protection. The cost of applying roofs will not change as a result of this action.

3. *No Significant Impacts on Small Entities or the Economy.* Since the total 1980 sales of coal tar pitch were approximately $245.9 million, of which less than 10 percent was used in roofing, it is clear that the proposed action is not "major", as defined by Exective Order 12291. There also will be no significant impact on a substantial number of small entities because roofing contractors have the technology and equipment to apply either product with virtually no changeover costs.

Public Participation

Since this is a modification of an interpretation, notice and comment would not ordinarily be required under either the Administrative Procedure Act (APA) or section 6(b) of the Occupational Safety and Health Act. However, since this interpretation has been followed since 1972 and was published and codified in the CFR, OSHA has decided to give notice and to invite public comment on the proposed amendment. OSHA wishes to allow those who are familiar with 29 CFR 1910.1002 and have relied on OSHA's interpretation an opportunity to address the intended modification.

Interested persons are invited to submit written data, views and arguments concerning the issues raised in this notice. The comments must be received by August 26, 1982, and submitted in quadruplicate to the Docket Officer, Docket H-365, Room S-6212, Occupational Safety and Health Administration, U.S. Department of Labor, 3rd Street and Constitution Avenue, NW., Wahington, D.C. 20210.

The data, views, and arguments that are submitted will be available for public inspection and copying at the above address. All timely submissions as well as all prior petitions and requests will be reviewed and will be made part of the record of this proceeding.

List of Subjects in 29 CFR 1910

Chemicals, Coal tar, Health, Occupational safety and health.

PART 1910—OCCUPATIONAL SAFETY AND HEALTH STANDARDS

Accordingly, pursuant to section 8(g) of the Act, it is proposed to revise 29 CFR 1910.1002 to read as follows:

§ 1910.1002 Coal tar pitch volatiles; interpretation of term.

As used in § 1910.1000 (Table Z–1), coal tar pitch volatiles include the fused polycyclic hydrocarbons which volatilize from the distillation residues of coal.

Authority

This document was prepared under the direction of Thorne G. Auchter, Assistant Secretary of Labor for Occupational Safety and Health, 200 Constitution Avenue, NW., Washington, D.C. 20210.

(Sec. 8, 84 Stat. 1600, (29 U.S.C. 657); 5 U.S.C. 553; Secretary of Labor's Order No. 8–76 (41 FR 25059))

Signed at Washington, D.C. this 21st day of May 1982.

Thorne G. Auchter,

Assistant Secretary of Labor.

[FR Doc. 92–14288 Filed 5–27–82; 8:45 am]

BILLING CODE 4510–26–M

Mine Safety and Health Administration

30 CFR Parts 55 and 57

Review of Metal and Nonmetal Standards; Extension of Comment Period

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Notice to extend period for public comment.

SUMMARY: The Mine Safety and Health Administration (MSHA) is extending to June 30, 1982, the period for public comment on metal and nonmetal standards which were the subject of recent public conferences.

DATE: Comments must be received on or before June 30, 1982.

ADDRESS: Office of Standards, Regulations and Variances, MSHA, Room 631, 4015 Wilson Boulevard, Arlington, Virginia 22203.

FOR FURTHER INFORMATION CONTACT: Patricia W. Silvey, Acting Director, Office of Standards, Regulations and Variances, MSHA, (703) 235–1910.

SUPPLEMENTARY INFORMATION. On March 9, 1982 (47 FR 10190), MSHA announced a series of informal public conferences to discuss issues relating to certain standards in 30 CFR Parts 55 and 57 as part of a comprehensive review of safety and health standards that apply to the metal and nonmetal mining and milling industry. These standards address hazards concerning: ground control (section .3); fire prevention and control (section .4); air quality (section .5); explosives (section .6); loading, hauling, dumping (section .9); electricity (section .12); use of equipment (section .14); and gassy mines (section .21). MSHA established June 4, 1982 as the date for submission of additional written comments. However, due to requests from several interested parties, MSHA has decided to extend the post-conference comment period to June 30, 1982. All members of the mining community are encouraged to submit additional comments.

During these conferences, several participants urged MSHA to prepare and circulate a pre-proposal draft rule for each of the sections selected for review. In consideration of these

requests and in accordance with the Agency's stated policy of encouraging input into the rulemaking process from all segments of the mining community, MSHA will circulate a pre-proposal draft rule for each section under review. The availability of each draft will be announced in the **Federal Register.** Interested parties will be given an opportunity to comment on each of the draft rules. These comments will be considered when the Agency publishes its proposed rules under Section 101 of the Federal Mines Safety and Health Act of 1977.

Dated: May 25, 1982.

Ford B. Ford,

Assistant Secretary for Mine Safety and Health.

[FR Doc. 82-14657 Filed 5-27-82; 8:45 am]

BILLING CODE 4510-43-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-5-FRL 2123-2]

Approval of an Amendment to the Illinois State Implementation Plan for Total Suspended Particulates

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: This notice proposes rulemaking and solicits public comment on an amendment to the Illinois State Implementation Plan (SIP) for Total Suspended Particulates (TSP). The amendment adds Rule 203(q)(1)(E) to Illinois Pollution Control Board (IPCB) Regulations. Rule 203(q)(1)(E) grants existing coal-fired industrial boilers equipped with flue gas desulfurization (FGD) systems a permanent particulate emission limit of 0.25 lbs/MMBTU. According to the State, this emission limit represents reasonably available control technology (RACT) for these sources.

DATE: Comments on the proposed SIP revision and on proposed EPA action are due on or before June 28, 1982.

ADDRESSES: Submit Comments to: Gary Gulezian, Chief, Regulatory Analysis Section, Air Programs Branch, Region V, U.S. Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604. Copies of the proposed SIP revision, EPA's evaluation and public comments received are available for inspection at the following address: U.S. Environmental Protection Agency, Air Programs Branch, Region V, 230 South Dearborn Street, Chicago, Illinois 60604.

In addition, copies of the proposed SIP revision are available for inspection at the following address: Illinois Environmental Protection Agency, 2200 Churchill Road, Springfield, Illinois 62706.

FOR FURTHER INFORMATION CONTACT: Randolph O. Cano, Region V, USEPA, Telephone: (312) 886-6035.

SUPPLEMENTARY INFORMATION: On December 7, 1981, the Illinois Environmental Protection Agency (IEPA) submitted to EPA a proposed revision to the Illinois SIP for TSP in the form of an October 8, 1981, Final Order of the IPCB (R79-11). This order amends Rule 203(g)(1) which sets particulate emission standards and limitations for fuel combustion emission sources using solid fuel exclusively by adding the following subsection:

(E) *Existing Coal-Fired Industrial Boilers Equipped with Flue Gas Desulfurization Systems*

Notwithstanding sub-paragraphs (A)-(D) of Rule 203(q)(1), no person shall cause or allow the emission of particulate matter into the atmosphere from existing coal-fired industrial boilers equipped with flue gas desulfurization systems to exceed 0.25 pound of particulate matter per million BTU of actual heat input in any one-hour period. Nothing in this rule shall be construed to prevent compliance with applicable regulations in Part IX of this Chapter.

This subsection provides a technology based TSP emission limitation for coal burning industrial boilers with FGD systems. The IPCB has determined that a particulate matter emission limitation on industrial boilers of 0.25 lb/MMBTU is technologically feasible using either wet or dry (FGD) systems. The present emission limitation for the industrial boilers is 0.1 lb/MMBTU of actual heat input in any one hour period.

The IPCB determined that allowing the 0.25 lb/MMBTU emission limit is economically reasonable and that requiring compliance with anything other than a technology-based emission limitation for simultaneous compliance with particulate matter and sulfur dioxide limitations would be economically unreasonable.

In a June 29, 1981, notice (46 FR 33334), EPA proposed that a site specific TSP emission limitation of 0.25 lb/MMBTU constitutes RACT for 9 Caterpillar Tractor Company boilers equipped with FGD systems. The only source besides the Caterpillar facilities (East Peoria Boilers 19, 20, 21, 22; Joliet Boilers 2 and 3; Mossville Boilers 4 and 5; and Mapleton Boiler 1) affected by this rule is the Pfizer Chemical Company facility located in East St. Louis, Illinois. Based on information submitted to EPA, it is reasonable to consider this limit as RACT for these existing industrial boilers equipped with FGD systems.

Pursuant to Part D of the Clean Air Act, as amended, each state is required to revised its SIP in nonattainment areas to demonstrate attainment of the TSP National Ambient Air Quality Standards by December 31, 1982. An acceptable alternative to a rigorous attainment demonstration for a nonattainment area must include provisions for applying RACT to stationary sources and studying the nature and extent of nontraditional sources in the area. Since sources covered by this rule are located in TSP nonattainment areas, these requirements apply to this proposed SIP revision.

The State of Illinois has not submitted a rigourous attainment demonstration for this SIP revision. EPA, however, has reviewed the proposed SIP revision and finds it approvable for two reasons:

(1) The FGD systems which control particulates and sulfur dioxide satisfy and technical and economic requirements of RACT. (2) The State of Illinois has initiated an acceptable study of nontraditional sources of fugitive dust in nonattainment areas. EPA, therefore, proposes approval of this incorporation of IPCB Rule 203(g)(1)(E) into the Illinois SIP for TSP.

All interested parties are invited to comment on the proposed SIP revision and on EPA's proposed approval. Comments should be submitted to the address listed in the front of this notice. Public comments received on or before June 28, 1982 will be considered in EPA's final rulemaking action. All comments received will be available for inspection at Region V: Air Programs Branch, 230 South Dearborn Street, Chicago, Illinois 60604.

Pursuant to the provisions of 5 U.S.C. 605(b) the Administrator has certified on January 27, 1981, that the attached rule will not, if promulgated, have a significant economic impact on a substantial number of small entities. This action only approves State actions. It imposes no new requirements.

This action is exempt from Office of Management and Budget Review under Section 3 of Executive Order 12291.

List of Subjects in 40 CFR Part 52

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

(Secs. 110, 172, and 301(a) of the Clean Air Act, as amended)

Dated: April 28, 1982.

Valdas V. Amamkus,

Regional Administrator.

[FR Doc. 82-14619 Filed 5-27-82; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

[Docket No. FEMA-6327]

Proposed Base Flood Elevations and Zone Designations for the Town of Springerville, Apache County, Arizona, Under National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations and zone designations as described below.

The proposed base flood elevations and zone designations 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 the newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the floodprone areas and the proposed base flood elevations and zone designations are available for review at the Office of the Town Manager, Springerville Town Hall, South Papago Street, Springerville, Arizona.

Send comments to: Honorable Dennis Silva, Mayor, Town of Springerville, P.O. Drawer 390, Springerville, Arizona 85938.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, P.E., Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287-0230

SUPPLEMENTARY INFORMATION: The Associate Director, State and Local Programs and Support, gives notice of the proposed base flood elevations and zone designations for the Town of Springerville, Arizona 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 Part 67.

These base flood elevations and zone designations, together with the flood plain management measures required by § 60.3 of the program regulations, are the minimum that are required. It 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. The proposed base flood elevations and zone designations 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.

The proposed base flood elevations and zone designations, are as follows:

Source of flooding and Location	Elevation (feet) national geodetic vertical datum	Zone designation
Little Colorado River:		
At the northernmost corporate limits.	6939	A2.
Just upstream of Airport Road.	6958	A2.
At the southernmost corporate limits.	6981	A2.

Also, along the Tributary to Nutrioso Creek, the proposed special flood hazard area, identified as Zone A, is being added. In addition, all the remaining annexed areas are identified as Zone C. The proposed floodway delineation is being added along the Little Colorado River.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 67

Flood insurance, Flood plains.

(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, State and Local Programs and Support)

Issued: May 19, 1982.

Lee M. Thomas,

Associate Director State and Local Programs and Support.

[FR Doc. 82-14602 Filed 5-27-82; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 67

[Docket No. FEMA-6328]

Proposed Base Flood Elevations and Zone Designation for San Joaquin County, California, Under National Flood Insurance Program

AGENCY: Federal Emergency Management Agency.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations and zone designation as described below.

The proposed base flood elevations and zone designation 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 the newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations and zone designation are available for review at the Planning Department, 1810 East Hazelton Avenue, Stockton, California.

Send comments to: Mr. C. E. Dixon, San Joaquin County Administrator, 222 East Weber Avenue, Room 703, Stockton, California 95202.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, P.E., Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287-0230.

SUPPLEMENTARY INFORMATION: The Associate Director, State and Local Programs and Support, gives notice of the proposed base flood elevations and zone designation for San Joaquin County 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 Part 67.

These base flood elevations and zone

designation, together with the flood plain management measures required by § 60.3 of the program regulations, are the minimum that are required. It 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. The proposed base flood elevations and zone designation 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.

The proposed base flood elevations and zone designation are as follows:

Source of flooding and location	Elevation (feet) national geodetic vertical datum	Zone designation
Dry Creek:		
At a point located approximately 8,000 feet downstream of the Southern Pacific Railroad.	36	A8.
At the Southern Pacific Railroad.	40	A8.
At Route 99	44	A8.
At a point located approximately 2,600 feet upstream of Route 99.	47	A8.

The proposed floodway delineation is being added along the aforementioned reach of Dry Creek.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 67

Flood insurance, Flood plains.

(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, State and Local Programs and Support)

Issued: May 19, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-14603 Filed 5-27-82; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 67

[Docket No. FEMA 6329]

National Flood Insurance Program Proposed Base Flood Elevation and Zone Designation Determinations, for the City of Lauderhill, Broward County, Florida

AGENCY: Federal Emergency Management Agency, FEMA.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations and zone designation as described below.

The proposed base flood elevations and zone designation 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 the newspaper of local circulation in the above-named community.

ADDRESSES: Information regarding the proposed base flood elevations is available for review at the Office of the Mayor, 5454 NW 19th Street, Lauderhill, Florida.

SEND COMMENTS TO: Honorable Eugene Cipolloni, Mayor, City of Lauderhill, 5454 N.W. 19th Street, Lauderhill, Florida 33313.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, Chief, Engineering Branch, Natural Hazards Division, State and Local Programs and Support, Federal Emergency Management Agency, Room 514, Washington, D.C. 20472, (202) 287–0230.

SUPPLEMENTARY INFORMATION: The Associate Director, State and Local Programs and Support, gives notice of the proposed base flood elevations and zone designations (100 year flood) for the City of Lauderhill 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)).

The base flood elevations and zone designations, 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. The proposed base flood elevations and zone designations 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.

The proposed changes in base (100-year) flood elevations and zone designation on the City of Lauderhill Flood Insurance Rate Map are as follows:

Source of flooding and location	Elevation (feet) national geodetic vertical datum	Zone designation
Middle River Canal and local drainage: Area bounded on the east and west by the corporate limits and lying between a point approximately 150 feet south of the intersection of N.W. 44th Court and N.W. 76th Avenue and a point approximately 1,300 feet north of this intersection.	8	A2.
Middle River Canal and local drainage Area located between a point approximately 1,300 feet north of the intersection of N.W. 44th Court and N.W. 76th Avenue and a point approximately 3,300 feet north of this intersection, bounded on the east and west by the corporate limits.	9	A2.
Middle River Canal and local: Area lying north of a point approximately 3,300 feet north of the intersection of N.W. 44th Court and N.W. 76th Avenue and bounded on the north, east, and west by the corporate limits.	10	A2.

Pursuant to the provisions of 5 U.S.C. 605 (b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated Special Flood Hazard Areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 67

Flood insurance, Flood plains.

(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, 1969), as amended; 42 U.S.C. 4001–4028; Executive Order 12127, 44

FR 19367; and delegation of authority to Associate Director, State and Local Programs and Support)

Issued: May 19, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-14604 Filed 5-27-82; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 67

[Docket No. FEMA-6330]

National Flood Insurance Program Proposed Zone Designation and Base Flood Elevation Determinations for the City of Rolling Meadows, Cook County, Illinois

AGENCY: Federal Emergency Management Agency.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations and zone designations described below.

The proposed base flood elevations and zone designations 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).

DATE: The period for comment will be ninety-days following the second publication of this proposed rule in the newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations and zone designations are availabale for review at 3600 Kirchoff Road, Rolling Meadows, Illinois.

Send comments to: James Turi, City Manager, City of Rolling Meadows, 3600 Kirchoff Road, Rolling Meadows, Illinois 60008.

FOR FURTHER INFORMATION CONTACT: Robert G. Chappell, P.E., Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287-0230.

SUPPLEMENTARY INFORMATION: The Associate Director, State and Local Programs and Support gives notice of the proposed base flood elevations and zone designations for the City of Rolling Meadows, Cook County, Illinois, 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.

These zone designations and base (100-year) elevations, together with the flood plain management measures required by Section 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. The proposed base flood elevations and zone designations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents.

The proposed zone designations and base flood elevations are as follows:

Source of flooding and location	Elevation (feet) national geodetic vertical datum	Zone designation
Salt Creek:		
Portions of the community bounded on the east by Meacham Road and on the north, west and south by the corporate limits.	718	A2, B, C.
Portions of the community bounded on the east by a line parallel to and approximately 500 feet east of Meacham Road and on the north, south and west by the corporate limits.	715	A2.
Portions of the community bounded on the south by a line parallel to and approximately 200 feet south of Emerson Avenue and on the north, east and west by the corporate limits.	727	A2, C.
Tributary C of Salt Creek:		
Immediatealy upstream of the confluence with Salt Creek.	727	A3.
Immediately downstream of Quentin Road.	731	A3, C.
Immediately upstream of Quentin Road.	736	A3, B, C.
Approximately 2450 feet upstream of Quentin Road.	745	A3, C.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 67

Flood insurance; Flood plains.

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

Issued: May 19, 1982.

Lee M. Thomas,

Associate Director State and Local Programs and Support.

[FR Doc. 82-14605 Filed 5-27-82; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 67

[Docket No. FEMA-6331]

National Flood Insurance Program Proposed Zone Designation and Base Flood Elevation Determinations for the Town of Westfield, Hamilton County, Indiana

AGENCY: Federal Emergency Management Agency.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations and zone designations described below.

The proposed base flood elevations and zone designations 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-days following the second publication of this proposed rule in the newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations and zone designations are available for review at 130 Penn Street, Westfield, Indiana.

Send comments to: Mr. Joseph Edwards, President of Town Board, Town of Westfield, P.O. Box 322, Westfield, Indiana 46074.

FOR FURTHER INFORMATION CONTACT: Robert G. Chappell, P.E., Chief, Engineering Branch, Natural Hazards Division, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 287-0230.

SUPPLEMENTARY INFORMATION: The Associate Director, State and Local Programs and Support gives notice of the proposed base flood elevations and zone designations for the Town of Westfield, Indiana, 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.

These zone designations and base (100-year) flood elevations, together with the flood plain management measures required by Section 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. The proposed base flood elevations and zone designations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents.

The proposed zone designations and base flood elevations are as follows:

Source of flooding and location	Elevation (feet) national geodetic vertical datum	Zone designation
Finley Creek: East of Centenial Road.	.....	A.
Jones Ditch: North of State Highway 38.	.....	A, C.
Unnamed Tributary: Portions of the area bounded by East 216th Street, Hinkle Road, a line parallel to and approximately 1100 feet south of East 216th Street, and by a line parallel to and approximately 500 feet west of Hinkle Road.	.....	A, C.
East Fork Sly Run: East of State Highway 38.	.....	A, C.
Cool Creek: Approximately 350 feet downstream of East 186th Street.	870	A2.
The north branch of Little Eagle Creek: Between West 146th Street and Eagletown Road.	.....	A, C.
The east branch of Little Eagle Creek: Between its confluence with the north branch of Little Eagle Creek and Ditch Road.	.....	A, C.
Bear Creek: Entire reach within community.	.....	A, C.
Unnamed Tributary of Little Eagle Creek on either side of Joliet Road: Between its confluence with Little Eagle Creek and State Highway 32.	.....	A, C.
Two unnamed tributaries of Cool Creek: Portions of the area bounded by East 161st Street, U.S. Route 31, West 146th Street, and Oak Ridge Road.	.....	A.

Pursuant to the provisions of 5 U.S.C. 605(b), the Associate Director, State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 67

Flood insurance, Flood plains.

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

Issued: May 19, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-14606 Filed 5-27-82; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 67

[Docket No. FEMA-6299

Proposed Flood Elevation Determinations; Correction; Michigan

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 Charter Township of Waterford, Oakland County, Michigan, previously published at 45 FR 19562 on May 6, 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 Charter Township of Waterford, Oakland County, Michigan previously published at 45 FR 19562 on May 6, 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)).

Coles Bay and Gerundegut Bay have been added to the BFE notice because they are labeled as separate bays on the Flood Insurance Rate Map.

Pursuant to the provision 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 of 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)
Michigan	(Cht. Twp.) Waterford Oakland County	Coles Bay	Shoreline	932*
		Gerundegut Bay	Shoreline	932*

(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: May 19, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-14607 Filed 5-27-82; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 67

[Docket No. FEMA-6299]

Proposed Flood Elevation Determinations; Correction; Missouri

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 Plattsburg, Clinton County, Missouri, previously published at 45 FR 19562 on May 6, 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 Plattsburg, Clinton County, Missouri previously published at 45 FR 19562 on May 6, 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)).

The Base Flood Elevation determination for Concord Creek, located "Just upstream of Concord Drive", has been revised from 901 to 902 in order to more accurately depict the backwater effect present. This backwater effect is due to Concord Creek passing East Concord Drive through a culvert under inlet control conditions.

Pursuant to the provisions of 5 USC 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)
Missouri	(C) Plattsburg, Clinton County	Concord Creek	Just upstream of East Concord Drive	902*

(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: May 19, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-14608 Filed 5-27-82; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 67

[Docket No. FEMA-6262]

Proposed Flood Elevation Determinations; New York

AGENCY: Federal Emergency Management Agency.

ACTION: Proposed rule; correction.

SUMMARY: This document corrects a Notice of Proposed Determinations of base (100-year) flood elevations previously published at 47 FR 12821 on March 25, 1982. This correction notice provides a more accurate representation of the Flood Insurance Study and Flood Insurance Rate Map for the Town of Hunter, Greene County, New York.

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 correction to the Notice of Proposed Determinations of base (100-year) flood elevations for selected locations in the Town of Hunter, Greene County, New York, previously published at 47 FR 12821 on March 25, 1982, 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).

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 propsed 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 determination, 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 Notice of Proposed Base Flood Elevations should be amended to read as follows:

Source of flooding and location	Elevation in feet, national Geodetic vertical datum
Schoharie Creek:	
Confluenc eof Tributary to Schoharie Creek.	*1,672
Abandoned railroad abutments (upstream)..	*1,712
Stony Clove Creek: Wright Road (upstream).....	*1,403
Gooseberry Creek: Approximately 3,300' upstream Bloomer Road.	*1,820
Sawmill Creek: Approximately 350' downstreaam of upstream corporate limits.	*1,940

(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, 1,968), as amended; 42 U.S.C. 4001-4128; Executive Order 12127, 44 FR 19367; and delegation of authority to the Associate Director)

Issued: May 19, 1982.

Lee M. Thomas,

Associate Director, State and Local Programs and Support.

[FR Doc. 82-14609 Filed 5-27-82; 8:45 am]

BILLING CODE 6718-03-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 2

[General Docket No. 82-243; FCC 82-201]

Specific Frequency Allocation to the Government and Non-Government for Fixed Service Usage

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission proposes to allocate specific frequency bands for fixed services to be shared on a co-equal, co-primary basis between government and non-government users. This proposal is a consequence of a need for spectrum by the National Telecommunications and Information Agency (NTIA) to accommodate increasing numbers of users of low-capacity fixed systems. The proposed allocation will provide adequate spectrum to meet this need, as well as provide new spectrum for non-government users of similar fixed systems.

DATES: Comments must be received on or before June 24, 1982. Reply comments must be received on or before July 9, 1982.

ADDRESSES: Comments may be mailed to the Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Melvin Murray, Spectrum Utilization Branch, Office of Science and Technology, Federal Communications Commission, Washington, D.C. 20554, (202) 653-8168.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 2

Frequency allocation, Radio.

In the matter of amendment, of Part 2 of the Commission's Rules to provide for an allocation of 6 MHz to the government and the non-government for fixed service usage; Gen. Docket No. 82-243.

Adopted: April 29, 1982.

Released: May 10, 1982.

1. The National Telecommunications and Information Administration (NTIA), has advised the Commission of certain Federal Government frequency spectrum requirements.[1] NTIA incicates the Government utilizes small segments between 27.54-50 MHz and the bands 162.0125-173.2, 173.4-174.0 and 406.1-420.0 MHz to meet the requirements of its land mobile and low capacity, fixed systems. Assignment of frequencies in these bands to meet new requirements has become increasingly difficult and the NTIA anticipates that spectrum will not be available in the future to meet the Government's needs for these services. Specifically, NTIA requests access to approximately 6 MHz of spectrum in two 3 MHz bands separated by 4 to 5 MHz for low capacity, (6-12 channels), fixed systems. It is expected that the systems to be supported by this spectrum would utilize 100 F9/200 F9 emission with approximately 10 watts of power to be used as feeder links into larger capacity systems. also, stand-alone, low-capacity systems of from one to four hops would utilize this spectrum. NTIA suggests these requirements might be shared with non-Government users

[1] The frequency spectrum is managed jointly by the Federal Communications Commission (FCC) and the NTIA. Whereas, the FCC manages the non-government use of the spectrum, the NTIA manages the Federal Government's use of the spectrum through authority granted to the President under section 305(a) of the Communications Act of 1934, as amended, and delegated to the Secretary of Commerce by Reorganization Plan No. 1 of 1977 and Executive Order 12046 of March 26, 1978. In matters of frequency allocation, NTIA and the Commission have a joint responsibility for meeting national requirements for use of the radio spectrum regardless of whether such requirements arise from the private or government sectors.

assuming the amount of spectrum were adjusted to satisfy a combined requirement and that suitable coordination and interference resolution procedures can be developed and with recognition that Government and non-Government operations may differ with respect to essentiality.[2]

2. To support this request, NTIA references a Report prepared by its Spectrum Planning Subcommittee (SPS), which contains results of a working group analysis that considered current and future Government requirements for low-capacity, wideband, fixed operations.[3] These results, based on a statistical analysis of channel availability, indicated that by the early 1980's in high density major metropolitan areas, such as Washington, D.C. or Los Angeles, California, spectrum would be unavailable to meet the requirements for frequency assignment of the growing low-capacity, wideband fixed services. The working group calculated that approximately 6 MHz of spectrum in two 3 MHz bands separated by 4 to 5 MHz would satisfy the combined Government requirements for a wideband fixed service. A partial listing of the Government's applications for this spectrum is as follows:

- Control, protection, management and monitoring of electric power-generating and transmission systems by the Department of Energy and the Tennessee Valley Authority.
- Vessel traffic service and interconnection of Coast Guard facilities along rivers, coastal areas and the Great Lakes for port management, law enforcement, safety, search and rescue.
- Control, management and monitoring of water transmission and storage facilities for both irrigation and potable water supplies by the Department of Interior.
- Management and control of locks on navigable rivers by the Army Corps of Engineers.
- Natural resource management and environmental protection by the Department of Interior.
- Flood warning and flood water monitoring by the Army Corps of Engineers.
- Production, management, storage control and monitoring of national petroleum and natural gas reserves by the Department of Energy.
- Non-tactical data transmission and management communications at various Army test sites, ranges and bases.
- Control, management and communications with remotely located aeronautical navigation sites by the Federal Aviation Administration.
- Interconnection for law enforcement, protective, and custodial land mobile radio systems in metropolitan and rural areas.

As indicated above, many of these applications are very similar to the operational-fixed uses that are being satisfied in the band 952–960 MHz.

3. NTIA indicates that it surveyed all Government allocated bands in which this need could reasonably be met. As an example, NITA considers the 1710–1850 MHz band, presently allocated on a co-primary basis to Government fixed and mobile services with earth station transmissions for space command, control, range and rate systems permitted on a co-equal basis in the 1761–1842 MHz portion. The NTIA concluded that the band is very congested. Moreover, NTIA stated, "the fixed service in this band is intended to satisfy medium-capacity (24–300 channel) requirements. Satisfying 6/12 channel requirements with medium-capacity systems is spectrally inefficient and in congested portions of the U.S. may not be possible. The Government's intent is to maintain the 1710–1850 MHz band for medium-capacity fixed services, as well as sharing with other allocated services.

4. Another band examined by NTIA for possibile usage is the 902–928 MHz band, presently allocated to the government for radiolocation and shared with non-government users for industrial, scientific, and medical (ISM) purposes. Under the provisions of Footnote G11 in the Table of Frequency Allocations (*see* Manual of Regulations and Procedures for Federal Radio Frequency Management) government fixed radio services are permitted on a secondary basis in the 902–928 MHz band. Consequently, any such contemplated operations would have to accept any harmful interference that may be generated within this band.

5. Some of the various kinds of equipment operating in this band include industrial heating equipment, medical diathermy equipment, consumer microwave ovens, consumer video disc equipment, and field disturbance sensors. Also Automatic Vehicle Monitoring (AVM) systems operate in segments of this band to report the location of individual vehicles within a large fleet such as police cars, taxis, ambulances, etc. to a central control point. Moreover, the Commission recently adopted higher field strength limits for equipment which operates by remote control (e.g., garage door openers) which could operate in this band.[4]

6. NTIA indiciates that although these various non government users may be compatible to government radiolocation users, they would not be compatible with the fixed service required by the government. The commission agrees that the large number of equipments now operating in the band 902–928 MHz without individual licenses under the provisions of parts 15 and 18 of the Commission's Rules makes the band unsuitable for sharing with a fixed service that requires interference protection. Accordingly, we do believe further consideration of the 902–928 MHz band for NTIA's requirements is warranted.

7. As the FCC and NTIA are disposed to assist each other when new requirements cannot be satisfied in existing exclusive bands, and analysis was made of all non-government allocations in this general region of the spectrum to determine which, if any, might permit sharing with the Federal Government. The bands considered included: 806–902 MHz; 947–952 MHz; 952–960 MHz; 2110–2130 MHz and 2160–2180 MHz; and 2130–2150 MHz and 2180–2200 MHz. In each case, certain technical and administrative difficulties were brought to light. Briefly these are described as follows:

a. The 806–902 MHz band is currently allocated to nongovernment conventional, trunked, and cellular systems in the Land Mobile radio services. Because of the on-going development of these radio systems in the urban areas, the proposed Government fixed service could not practically be permitted to operate within 100 miles of these areas. Accordingly, 384 projected Government assignments designated for these urban areas, or 22% of the total Government requirement, would have to be accommodated in other frequency

[2] NTIA also estimated that the Government requires access to approximately 7½ MHz of spectrum in the 800–900 MHz area to meet its expanding land mobile requirements. It stated that emission and power to be utilized would be comparable with non-government land mobile currently utilizing 800–900 MHz frequencies. We are not now specifically proposing relief for this requirement; however, we feel that, if the proposed allocation herein were adopted, then eventually existing low-capacity fixed systems in the 400 MHz region could be transferred to this new spectrum thereby allowing additional land mobile requirements to be satisfied in the vacated spectrum.

[3] *Government Requirements for Fixed Wideband Frequency Spectrum*, SPS Working Group report SPS–2176/1–1.14.6, January 16, 1978.

[4] A Report and Order in Docket No. 20990 was adopted October 22, 1981 (46 FR 55520, November 10, 1981) which set an average field strength limit of 12,500 mV/m at 3m for the fundamental frequency at frequencies 470 MHz and above; for harmonics and spurious emissions the field strength limit was set at 1250 mV/m at 3m.

bands. This arrangement would not completely meet the Government's needs.

b. Under the second proposal, to share the 947–552 Mhz band, congestion exists in nearly all urban areas due to the operation of large numbers of aural broadcast studio-to-transmitter links (STL) and intercity relay stations which provide transmission of aural program material between a studio and the transmitter of a broadcasting station for simultaneous or delayed broadcast. Intercity relay stations perform the same aural transmission function between broadcasting stations. The band is divided into ten 500 kHz channels. A possible sharing scheme would be to locate the fixed channels between the existing ten channels. Using this approach, NTIA indicates that at least 7.7 MHz of contiguous spectrum is needed to satisfy their requirements. Additionally, a sequential ordering of transmit/receive frequency pairs would be necessary with a minimum frequency separation of 3.6 MHz. Thus, when using the entire 5 MHz, sharing 947–952 MHz would be 2.7 MHz less than required. Consequently this sharing proposal also would not completely meet the Government's needs.

c. The third alternative considered sharing in the 952–960 MHz band, currently allocated to non-Government operational-fixed microwave service. the Current channeling plan pairs frequencies at the high and low ends of the band with a 3.6 MHz separation between transmit and receive. Presently there are approximately 5000 licensed frequency assignments with predominate usage occurring in the East, Midwest, Texas, and California. Because of the large number of current assignments, it would be unwise to expect this band to accommodate approximately 1700 addtional Government assignments and still provide some capacity for future Government and non-Government growth. For this reason the 952–960 MHz band does not appear to be a suitable choice.

d. Both the 2110–2130 MHz and 2160–2180 MHz bands are allocated to the domestic public radio service. These bands are shared by common carriers operating in the point-to-point microwave service and those operating control and repeater stations in the domestic public land mobile radio service. Currently, there are approximately 1000 licensed assignments in each of the paired bands. These assignments are uniformly distributed primarily west of the Mississippi River without any areas of significant concentration. However, these bands are being used increasingly for control and repeater operations for land mobile base stations, whose licensees are emerging as carriers of other voice and data traffic. Because of such growth, sharing in the urban areas with an additional service now appears to be unsuitable.

e. The paired freqency bands 2130–2150 MHz and 2180–2200 MHz are allocated to the private operational-fixed microwave service. Each band currently supports approximately 1500 licensed frequency assignments. The assignments are clustered in the following regions: Middle-Atlantic states, Texas, Louisiana, Gulf of Mexico off-shore oil rigs and California. The high and low bans provide paired 24 channel groupings with 800 kHz spacing. Consideration is given on a case-by-case basis to assigning these frequency pairs to systems employing 1600 F9 emissions. Some sharing in these bands may be feasible although it appears that in many of the areas where the government requires spectrum, these bands are completely occupied. However, we do invite the public to comment whether limited sharing would be possible.

8. In summary we believe the analyses preformed to determine whether NITA's requirments could be satisfied by sharing with existing services in presently allocated Government and/or non-Government bands show the impracticality of considering these proposals further. Nevertheless, we invite public comment which address these options as well as any other alternatives that may be deserving of our consideration.

9. In view of these circumstances, NTIA reiterated its request for access to spectrum in the 900 MHz range, a portion of which is currently being held as a land mobile reserve. We note that the reserve bands in the 900 MHz range were set aside to accommodate new land mobile services or unexpected growth in existing services.[5] In as much as we would like to retain much of these bands for this express purpose, we must weigh this concern in light of our joint responsibility for meeting national spectrum requirements. With this in mind, and taking into account the aforementioned analyses of spectrum alternatives, we are persuaded that at the present time the 900 MHz range is the most suitable frequency band to propose for meeting this instant requirement.

10. In reviewing existing and future requirements for the 900 MHz band, we note that the 928–929 MHz segment was recently allocated in SS Docket 79–18 to the Fixed Service for use by operational fixed stations.[6] Frequencies in this band are paired with the band 952–953 MHz and are limited for use by multiple address remote stations. In another proceeding the 929–932 MHz segment has been proposed in General Docket No. 80–183 for allocation to the Domestic Public Land Mobile Radio Service and the Private Land Mobile Radio Services for use by one-way paging stations. With these proceedings in mind, then, we are proposing for the instant requirement an allocation of 6 MHz of spectrum in two 3 MHz bands at 932–935 MHz and 938–941 MHz to be shared on a co-equal and co-primary basis between government and non-government fixed services.

11. As was mentioned in paragraph 2 herein, NTIA indicated its requirements could be shared with non-Government users provided that suitable coordination and interference resolution procedures could be implemented. In this connection, we invite comments from the public as to what non-Government fixed services could most suitably share the proposed allocation. In particular, we have several pending petitions and rule makings[7] which request the allocation of spectrum for Aural Broadcast STL and Intercity Relay Stations. Although we have proposed an allocation of 20 MHz in the 18 GHz band[8] it would probably be several years before this band could be realistically used if the allocation is adopted as proposed.[9] Accordingly, we

[5] In Docket 18262 the FCC established 8 reserve bands totaling 45 MHz interspersed throughout the general 806–960 MHz land mobile allocation. See paragraph 19 of the Second Report and Order in Docket 18262 (FCC 74–470).

[6] 46 FR 9950 (January 30, 1981).

[7] At the current time there are three related items: (a) A Further Notice of Proposed Rule Making in Docket 19494, adopted April 19, 1972 (37 FR 8555 (April 28, 1972)) to permit aural broadcast STL and Intercity Relay stations operation in the 2110–2113 MHz band (b) a Petition for Rule Making from the National Association of Broadcasters (NAB), RM–2697, dated 1976, to allocate the 942–947 MHz band for aural broadcast STL and Intercity Relay stations and (c) another Petition for Rule Making (RM–3246) from Moseley Associates, Inc. a manufacturer of aural broadcast requirement, requesting that aural broadcast STL and Intercity Relay stations be permitted to operate in unassigned UHF–TV channels on a secondary basis.

[8] Further Notice of Proposed Rule Making in General Docket No. 79–188 adopted August 4, 1981, 46 FR 45635 (September 14, 1981).

[9] Due to the higher frequency band and corresponding lack of technical development therein, it is estimated that several years would lapse before operational equipment would be ready for this service at the 18 GHz range.

request comment on whether Aural Broadcast STL and Intercity Relay stations could compatibly share the spectrum being proposed at 900 MHz to meet the immediate need in a spectrally efficient manner. We are also receptive to other compatible requirements for access to fixed spectrum by prospective users in the civil sector.

12. In order to promulgate effective procedural and technical rules for this proposed shared fixed-service, we request the public in submitting their comments to address each of the following points:

(a) State in specific detail what interference protection should be promulgated.

(b) State in specific detail what technical standards should be promulgated. This includes:

1. Frequencies. (A listing of paired transmit and receive frequencies indicating maximum bandwidth).
2. Types of emission.
3. Emission and bandwidth limitations.
4. Power limitations.
5. Antenna limitations.
6. Type acceptance requirements.
7. Transmitter control requirements.
8. Transmitter measurements.
9. Other requirements deemed necessary.

(c) State in specific detail what procedural and operational requirements should be promulgated.

(d) State in specific detail what procedures should be promulgated for purposes of coordinating Government and non-Government applications for stations.

13. For purposes of this non-restricted notice and comment rulemaking proceeding, members of the public are advised that *ex parte* contacts are permitted from the time the Commission adopts a notice of proposed rulemaking until the time a public notice is issued stating that a substantive disposition of the matter is to be considered at a forthcoming meeting or until a final order disposing of the matter is adopted by the Commission, whichever is earlier. In general, an *ex parte* presentation is any written or oral communication (other than formal written comments/pleadings and formal oral arguments) between a person outside the Commission and a Commissioner or a member of the Commission's staff which addresses the merits of the proceedings. Any person who submits a written *ex parte* presentation must serve a copy of that presentation on the Commission's Secretary for inclusion in the public file. Any person who makes an oral *ex parte* presentation addressing matters not fully covered in any previously-filed written comments for the proceeding must prepare a written summary of that presentation; on the day of oral presentation, that written summary must be served on the Commission's Secretary for inclusion in the public file, with a copy to the Commission official receiving the oral presentation. Each *ex parte* presentation described above must state on its face that the Secretary has been served, and must also state by docket number the proceeding to which it relates. See generally, Section 1.1231 of the Commission's Rules.

14. Pursuant to section 605 of the Regulatory Flexibility Act of 1980, Pub. L. 96–354, we find that the proposed action herein would not have, if adopted, a significant economic impact on a substantial number of small businesses. It does not propose to displace anyone assigned to any of the bands being considered in this proposal. In fact the allocation herein would only provide additional spectrum for low-capacity, fixed systems. Moreover, since the bands proposed for allocation are presently being held in reserve for land mobile, the allocation, if adopted, would not have any impact on small businesses currently using mobile radio. However, the extent of impact in the future due to increased demand for spectrum from land mobile users is unknown.

15. Authority for issuance of this Notice is contained in sections 4(i) and 303(r) of the Communications Act of 1934, as amended. Pursuant to procedures set out in § 1.415 of the Rules, interested persons may file comments on or before June 24, 1982 and reply comments on or before July 9, 1982. All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding. In reaching its decision, the Commission may take into consideration information and ideas not contained in the comments, provided that such information or a writing indicating the nature and source of such information is placed in the public file, and provided that the fact of the Commission's reliance on such information is noted in the Report and Order.

16. In accordance with the provisions of § 1.419 of the Rules, formal participants shall file an original and 5 copies of their comments and other materials. Participants wishing each Commissioner to have a personal copy of their comments should file an original and 11 copies. Members of the general public who wish to express their interest by participating informally may do so by submitting 1 copy. All comments are given the same consideration regardless of the number of copies submitted. All documents will be available for public inspection during regular business hours in the Commission's Public Reference room at its headquarters, Room 239, 1919 "M" Street NW. in Washington, D.C.

17. For further information concerning this document, contact Mel Murray at (202) 653–8168.

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

Federal Communications Commission.

William J. Tricarico,

Secretary.

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

Part 2 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

§ 2.106 [Amended]

1. In § 2.106, the Table of Frequency Allocations is revised for the band 928–960 MHz as follows:

United States		Federal Communications Commission				
Band (MHz)	Allocation	Band (MHz)	Service	Class of station	Frequency (MHz)	Nature of services of stations
5	6	7	8	9	10	11
*	*	*	*	*	*	*
932–935	G, NG (US36) (US116) (US215)	932–935	Fixed	Operational fixed		
*	*	*	*	*	*	*
938–941	G, NG (US36) (US116) (US215)	938–941	Fixed	Operational fixed		
*	*	*	*	*	*	*

2. In the list of footnotes immediately following the table in § 2.106, footnote US116 is changed to read as follows:

* * * * * * *

US116—In the bands 890–902 MHz, 928–932 MHz, 935–938 MHz, and 941–947 MHz, no new assignment are to be made to Government radio stations after July 10, 1970, except, on a case-by-case basis, experimental stations and to additional stations of existing Networks in Alaska. Government assignments, existing prior to July 10, 1970, to stations in Alaska may be continued. All other existing Government assignments shall be on a secondary basis to stations in the non-Government land mobile service and shall be subject to adjustment or removal from the bands 890–902 MHz, 928–932 MHz, 935–938 MHz, and 941–947 MHz at the request of the FCC.

[FR Doc. 82-14635 Filed 5-27-82; 8:45 am]
BILLING CODE 6712-01-M

47 CFR Part 2

[Gen. Docket No. 82-243]

Special Frequency Allocation to the Government and Non-Government for Fixed Service Usage; Correction

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; correction.

SUMMARY: The Federal Communications Commission makes correction to its notice of proposed rule making in Gen. Docket No. 82-243 adopted April 29, 1982 and released May 10, 1982 and published elsewhere in this issue. The Errata corrects a typographical error in the text. Also, because of new information received when the Commission adopted the Proposed Rule, one of the frequency bands being proposed is changed.

DATES: Comments (June 24, 1982) and replies (July 9, 1982) remain unchanged.

ADDRESSES: Comments may be mailed to the Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Melvin J. Murray, Federal Communications Commission, Office of Science and Technology, Spectrum Management Division, Spectrum Utilization Branch, Washington, D.C. 20554, (202) 653-8168; Room 7312.

SUPPLEMENTARY INFORMATION: In the matter of amendment of Part 2 of the Commission's rules to provide for an allocation of 6 MHz to the government and the nongovernment for fixed service usage; Gen. Docket 82-243.

Released: May 18, 1982.

The Commission's notice of proposed rule making, FCC 82-201, released May 10, 1982 is corrected as follows:

(1) The last sentence of paragraph 6 is corrected to read as follows:

* * * * *

Accordingly, we do not believe further consideration of the 902–928 MHz band for NTIA's requirements is warranted.

* * * * *

(2) When the notice of proposed rule making in Gen. Docket No. 82–243 was adopted, new information was presented to the Commission concerning a need to change the proposed lower band from 932–935 MHz to 899–902 MHz. Accordingly, paragraph 10 of the text is corrected to reflect this information and read as follows:

* * * * *

10. In reviewing existing and future requirements for the 900 MHz band, we note that the 928–929 MHz segment was recently allocated in SS Docket 79–18 to the Fixed Service for use by operational fixed stations.[5] Frequencies in this band are paired with the band 952–953 MHz and are limited for use by multiple address remote stations. In another proceeding the 929–932 MHz segment has been allocated in General Docket No. 80–183 for allocation to the Domestic Public Land Mobile Radio Service and the Private Land Mobile Radio Services for use by one-way paging stations. Moreover, in recent technical coordination meetings with Canada, the Commission has learned of Canadian intentions to establish a General Radio Service in the 933–935.5 MHz band. Although we cannot predict now whether this mobile service will be implemented, we are concerned that any proposal by the Commission for a fixed service in this frequency range would be incompatible, particularly in the border areas. Accordingly, in light of this information the Commission is proposing for the instant requirement an allocation of 6 MHz of spectrum in two 3 MHz bands at 899–902 MHz and 938–941 MHz to be shared on a co-equal and co-primary basis between government and nongovernment fixed services.

(3) The appendix is corrected to read as set forth below.

Federal Communications Commission.

William J. Tricarico,

Secretary.

§ 2.106 [Amended]

Appendix

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

Part 2 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

1. In § 2.106, the Table of Frequency Allocations is revised for the band 899–941 MHz as follows:

United States			Federal Communications Commission			
Band (MHz)	Allocation	Band (MHz)	Service	Class of station	Frequency (MHz)	Nature of services of stations
5	6	7	8	9	10	11
*	*		*	*	*	*
899–902	G,NG. (US36) (US116) (US215)	899–902	FIXED	Operational fixed		
*	*		*	*	*	*
938–941	G,NG (US36) (US116) (US215)	938–941	FIXED	Operational fixed		
*	*		*	*	*	*

2. In the list of footnotes immediately following the table in § 2.106, footnote US116 is changed to read as follows:

US116—In the bands 890–899 MHz, 928–938 MHz, and 941–947 MHz, no new assignments are to be made to Government radio stations after July 10, 1970, except, on a case-by-case basis, to experimental stations and to additional stations of existing Networks in Alaska. Government assignments, existing prior to July 10, 1970, to stations in Alaska may be continued. All other existing Government assignments shall be on a secondary basis to stations in the non-Government land mobile service and shall be subject to adjustments or removal from the bands 890–899 MHz, 928–938 MHz and 941–947 MHz at the request of the FCC.

* * * * * * *

[FR Doc. 82-14636 Filed 5-27-82; 8:45 am]
BILLING CODE 6712-01-M

47 CFR Part 73

[BC Docket No. 82-143; RM-4018, RM-4108, RM-4109]

FM Broadcast Station in Brunswick and Kingsland Ga.; Order Extending Time for Filing Reply Comments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; extension for filing reply comments.

SUMMARY: Action taken herein extends the time for filing reply comments in a proceeding concerning the proposed assignment of an FM channel to Brunswick or Kingsland, Georgia. Casey Broadcasting Co., Inc. states that additional time is needed to respond to two recently filed counterproposals.

DATE: Reply comments must be filed on or before May 28, 1982.

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

FOR FURTHER INFORMATION CONTACT: Nancy V. Joyner, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Brunswick and Kingsland,[1] Georgia); order extending time for filing comments.

Adopted: May 13, 1982.

Released: May 17, 1982.

1. On March 5, 1982, the Commission adopted a Notice of Proposed Rule Making, 47 FR 11902, published March 19, 1982, in the above-referenced proceeding concerning RM-4018, which proposed the assignment of Channel 292 A to Brunswick, Georgia. The time for filing comments has expired and reply comments are due May 14, 1982.

2. On May 11, 1982, the Commission issued a Public Notice (Report No. 1351), announcing the filing of two counterproposals (RM-4108, RM-4109), both requesting the assignment of Channel 292A to Kingsland, Georgia. The Notice advised that those petitions would be treated in BC Docket No. 82-143 and that responsive statements thereto should be submitted by the date for filing reply comments.

3. On May 12, 1982, counsel for Casey Broadcasting Co., Inc. ("Casey"), filed a motion for extension of time for filing responsive statements and reply comments to and including May 28, 1982. Counsel states that additional time is needed to respond to the counterproposals since it was first apprised of those filings by the Commission's May 11, 1982, Public Notice.

4. Section 1.46(b) of the Commission's rules states that extension requests must be filed seven days in advance of the deadline. However, we are of the view that, under the circumstance mentioned, additional time is warranted. Therefore, we are waiving the requirements of § 1.46(b) since such extension will assure development of a sound and comprehensive record on which to base a decision in this proceeding.

5. Counsel for Casey states that counsel for the Petitioner and the two Counterproponents have been contacted and advised they will interpose no objection to this requested extension.

6. Accordingly, it is ordered, that the time for filing reply comments in BC Docket No. 82-143 (RMs-4018, 4108 and 4109) is extended to and including May 28, 1982.

7. This action is taken pursuant to authority contained in §§ 4(i), 5(d)(1), and 303(r) of the Communications Act of 1934, as amended, and §§ 0.204(b) and 0.281 of the Commission's rules.

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 82-14564 Filed 5-27-82; 8:45 am]

BILLING CODE 6712-01-M

[1] This community has been added to the caption.

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 652

Atlantic Surf Clam and Ocean Quahog Fisheries; Proposed Reopening of Closed Area

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

ACTION: Notice of extension of comment period.

SUMMARY: NOAA extends the comment period for a proposal to reopen portions of the area off Atlantic City, New Jersey, currently closed to surf clam fishing. The proposal was originally presented for public review and comment in a notice dated May 3, 1982. A supplemental public hearing will be conducted to present additional information about the proposal and to discuss comments and alternatives.

DATES: The comment period has been extended through June 25, 1982. A supplemental public hearing will be held from 7:00 to 9:00 p.m. on June 24, 1982.

ADDRESS: Comments should be sent to Management Division, Northeast Region, National Marine Fisheries Service, State Fish Pier, Gloucester, Massachusetts 01930-3097. The supplemental hearing will be held at the Holiday Inn, Route 13, Pocomoke City, Maryland.

FOR FURTHER INFORMATION CONTACT: Bruce Nicholls, Plan Coordinator, 617-281-3600.

SUPPLEMENTARY INFORMATION: Amendment 3 to the Fishery Management Plan for the Surf Clam and Ocean Quahog Fisheries was implemented by final regulations published on January 29, 1982 (47 FR 4268). One of the provisions of the amendment directs the Secretary to publish notice of any proposed action to reopen an area closed to surf clam fishing under the provisions of 50 CFR 652.23. A notice was published outlining proposals for reopening portions of an area currently closed off Atlantic City, New Jersey, on May 3, 1982 (47 FR 18939). That notice specified a hearing location in New Jersey, and a comment period ending June 11, 1982. At a meeting of the Mid-Atlantic Fishery Management Council on May 13, 1982, members of the Council requested that an additional hearing be held in the southern area of the surf clam fishery, and that the comment period be extended to accommodate that additional hearing. The Regional Director, therefore, extends the comment period and schedules an additional hearing in Pocomoke City, Maryland.

The notice published on May 3 identified an alternative sub-area for reopening as provided by the Regional Director. The published coordinates defining that subarea were not correct. The area is correctly defined and delineated by straight lines connecting the following coordinates:

39°11.60'N. latitude, 74°23.50'W. longitude.
39°21.10'N. latitude, 74°20.20'W. longitude.
39°19.90'N. latitude, 74°12.20'W. longitude.
39°17.60'N. latitude, 74°14.30'W. longitude.
39°11.60'N. latitude, 74°23.50'W. longitude.

Note that this alternate subarea is essentially a triangular shape within a portion of the original closed area. The shoreward boundary of the areas

remaining closed continues to be the limit of the territorial sea of the State of New Jersey.

Comments on this proposal are invited through June 25, 1982. The supplemental public hearing will be conducted from 7:00 to 9:00 p.m. on June 24, 1982, at the Holiday Inn on Route 13, Pocomoke City, Maryland. Charts showing alternative areas, and the latest resource survey information, will be available. The Regional Director will review the results of the hearings and any comments received during the comment period. The Secretary will then publish a final notice defining the area and any restrictions on harvest within the area.

Other Matters

This action is taken under the authority of 50 CFR 652.23 and is taken in compliance with Executive Order 12291. The action is covered by the certification for Amendment 3, under the Regulatory Flexibility Act, that the authorizing regulations do not have a significant impact on a substantial number of small entities.

List of Subjects in 50 CFR Part 652

Fish, Fisheries.

(16 U.S.C. 1801 et seq.)

Dated: May 25, 1982.

Robert K. Crowell,

Deputy Executive Director, National Marine Fisheries Service.

[FR Doc. 82-14675 Filed 5-27-82; 8:45 am]

BILLING CODE 3510-22-M

Notices

Federal Register
Vol. 47, No. 104
Friday, May 28, 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

Food and Nutrition Service

Special Supplemental Food Program for Women, Infants and Children; Income Poverty Guidelines

AGENCY: Food and Nutrition Service, USDA.

ACTION: Notice.

SUMMARY: The Department announces adjusted income poverty guidelines to be used by State agencies in determining the income eligibility of persons applying to participate in the Special Supplemental Food Program for Women, Infants and Children (WIC Program). These income poverty guidelines are to be used in conjunction with the WIC Regulations, 7 CFR Part 246, as amended in the final rule published on September 25, 1981, at 46 FR 47422.

DATES: Effective Date: The income poverty guidelines contained herein shall become effective on July 1, 1982. Implementation Date: State and local agencies shall begin applying the new income eligibility standards to all new applicants, as well as to all ongoing participants at the time of each participant's next regular certification on or after July 1, 1982.

FOR FURTHER INFORMATION CONTACT: Barbara Hallman, Branch Chief, Policy and Program Development Branch, Supplemental Food Programs Division, FNS, USDA, Park Office Center, Alexandria, Virginia, 22302, (703) 756–3730.

SUPPLEMENTARY INFORMATION: This notice has been reviewed under USDA procedures established in Secretary's Memorandum 1512–1 to implement Executive Order 12291, and has been determined to be nonmajor. The notice will not have an annual effect on the economy of $100 million or more, will not cause a majro increase in costs or prices, and will not have a significant economic impact on competition, employment, investment, productivity, innovation or on the ability of United States based enterprises to compete with foreign based enterprises in domestic or export markets. The notice has been reviewed with regard to the requirements of the Regulatory Flexibility Act and will not have a significant economic impact on a substantial number of small entities.

The Child Nutrition Act of 1966, as amended by Pub. L. 95–627, requires the Secretary to establish income criteria to be used with nutritional risk criteria in determining a person's eligibility for participation in the WIC Program. The law provides that persons will be eligible for the WIC Program only if they are members of families that satisfy the income standard prescribed for reduced-price school meals under section 9 of the National School Lunch Act. Under the Omnibus Budget Reconciliation Act of 1981, Pub. L. 97–35, enacted August 13, 1981, the income limit for reduced-price school meals is 185 percent of Office of Management and Budget nonfarm income poverty guidelines. No standard deduction or hardship deductions are allowed when calculating a family's income using 185 percent of the income poverty guidelines. These guidelines are to be adjusted annually for changes in the Consumer Price Index effective each July 1.

The Department published a final rule on September 25, 1981, at 46 FR 47422 inplementing the provisions of Public Laws 95–627 and 97–35, which require State agencies to set an income limit on eligibility to participate in the WIC Program. The rule specifies that State agencies establish income guidelines that are not less than the guidelines established for State or local free or reduced-price health care, except that the State agency's income standard may not be greater than the income criteria established under Section 9 of the National School Lunch Act for reduced-price school meals or less than 100 percent of the income poverty guidelines for each family size.

At this time the Department is publishing the maximum and minimum income limits by household size for the period of July 1, 1982 to June 30, 1983. The first table of this notice contains the income limits by household size for the 48 States, the District of Columbia and Territories excluding Guam. Because the income poverty guidelines for Alaska, Hawaii and Guam are higher than for the 48 States, separate tables have been included for the convenience of those State agencies.

List of Subjects in 7 CFR Part 246

Food assistance programs, Food donations, Grant programs—Social programs, Indians, Infants and children, Maternal and child health, Nutrition, Nutrition education, Public assistance programs, WIC, Women.

EFFECTIVE JULY 1, 1982—JUNE 30, 1983

[48 States, District of Columbia, Territories Excluding Guam]

Family size	OMB Non farm income poverty guidelines (100%—annual	FNS income guidelines for reduced-price lunches (185%—annual)
1	4,680	8,660
2	6,220	11,510
3	7,760	14,360
4	9,300	17,210
5	10,840	20,050
6	12,380	22,900
7	13,920	25,750
8	15,460	28,600
For each additional family member add	1,540	2,850
Alaska		
1	5,870	10,860
2	7,790	14,410
3	9,710	17,960
4	11,630	21,520
5	13,550	25,070
6	15,470	28,620
7	17,390	32,170
8	19,310	35,720
For each additional family member add	1,920	3,550
Hawaii and Guam		
1	5,390	9,970
2	7,160	13,250
3	8,930	16,520
4	10,700	19,800
5	12,470	23,070
6	14,240	26,340
7	16,010	29,620
8	17,780	32,890
For each additional family member add	1,770	3,270

(Child Nutrition Amendments of 1978, Public Law 95–627, Section 3, 92 Stat. 3614, and Omnibus Budget Reconciliation Act of 1981, Pub. L. 97–35, Section 803, 95 Stat. 524)

Dated: May 21, 1982.

Robert E. Leard,

Acting Administrator, Food and Nutrition Service.

[FR Doc. 82–14452 Filed 5–27–82; 8:45 am]

BILLING CODE 3410–30–M

Rural Electrification Administration

Delta-Montrose Electric Association, Inc.; Finding of No Significant Impact

The Rural Electrification Administration (REA) has made a Finding of No Significant Impact (FONSI) in connection with the proposed financing assistance to the Delta-Montrose Electric Association, Inc., (Delta-Montrose) for 31 km (19 miles) of 115 kV transmission line and associated substation facilities. The proposed construction would be located in Delta County, Colorado.

Delta-Montrose prepared a Borrower's Environmental Report (BER) and the Bureau of Land Management (BLM) prepared an Environmental Assessment Report (EAR) for the proposed project. Based on these documents REA prepared on Environmental Assessment which concludes that approval of the project does not represent a major Federal action that will significantly affect the quality of the human environment and, in accordance with REA Bulletin 20–21:320–21, has made a FONSI.

Alternatives discussed in the BER and BLM's EAR include no action, underground construction and alternate transmission line routes.

Copies of the FONSI, REA's Environmental Assessment and other support documents may be obtained from or reviewed at the office of Mr. William E. Davis, Director, Distribution Systems Division, Room 3304, South Agriculture Building, Rural Electrification Administration, Washington, D.C. 20250, or at the offices of Mr. C. Ward Armstrong, Manager, Delta-Montrose, 423 Main Street, Montrose, Colorado 81401, and 121 E. 12th Street, Delta, Colorado 81416.

This Program is listed in the Catalog of Federal Domestic Assistance as 10.850—Rural Electrification Loans and Loan Guarantees.

Dated at Washington, D.C., this 21st day of May 1982.

Harold V. Hunter,

Administrator.

[FR Doc. 82-14419 Filed 5-27-82; 8:45 am]

BILLING CODE 3410-15-M

Lower Valley Power and Light, Inc.; Finding of No Significant Impact

The Rural Electrification Administration (REA) has made a Finding of No Significant Impact with respect to proposed financing assistance to Lower Valley Power and Light, Inc., (LVPL) of Afton, Wyoming, to construct 63 km (39 mi) of 161 kV transmission line from the existing Tincup Substation to the proposed Valley Substation in Caribou County, Idaho.

The line will be constructed for 161 kV operation but will be operated initially at 115 kV. REA reviewed the Borrower's Environmental Report (BER) prepared by LVPL and determined that it represents an accurate assessment of the environmental impacts of the project. Based upon the BER and information from other sources, REA has prepared an Enviornmental Assessment which concluded that the proposed project will not affect, threatened or endangered species, prime farmland, archaeological or historic sites, or floodplains. The project is anticipated to affect some wetland areas in the Diamond Creek and Lanes Creek Valleys. There is no practical alternative but to place 10–12 wood pole structures within the above wetlands and riparian areas.

Various alternatives considered include no action, upgrading the existing facilities, alternate routes, and underground construction. REA has determined that the proposed construction is an acceptable alternative.

REA's Finding of No Significant Impact, the Environmental Assessment and the LVPL's BER may be reviewed in or requested from Mr. William E. Davis, Director, Distribution Systems Division, Room 3304, South Building, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250, telephone: 202–382–8848 or at the office of Lower Valley Power and Light, Inc., North of Afton, Wyoming, on Highway 89, telephone: 307–886–3175.

The program is listed in the Catalog of Federal Domestic Assistance as 10.850—Rural Electrification Loans and Loan Guarantees.

Dated at Washington, D.C., this 21st day of May, 1982.

Harold V. Hunter,

Administrator, Rural Electrification Administration.

[FR Doc 82-14420 Filed 5-27-82; 8:45 am]

BILLING CODE 3410-15-M

Statistical Reporting Service

Organization, Functions, and Availability of Information

Notice is hereby given for the guidance of the general public as to the organization, functions, and availability of information for the Statistical Reporting Service (SRS).

Part 1.—Organization and Functions

Section 1—*General.* The Statistical Reporting Service (SRS) was established on September 30, 1981, with Secretary's Memorandum No. 1000–1, June 17, 1981, "Reorganization of Department". This directive separated the functions previously performed by the Economics and Statistics Service into two new program agencies, the Statistical Reporting Service and the Economic Research Service.

The primary responsibilities of SRS are the development and dissemination of national and State agricultural statistics, statistical research, and coordination of the Department's statistical programs as authorized under the Agricultural Marketing Act of 1946 (7 U.S.C. 1621–1627).

Section 2—*Organization.* The headquarters organization consists of (1) the Administrator and Deputy Administrator with supporting staff; (2) four Divisions; State Statistical Division, Estimates Division, Survey Division, and Statistical Research Division; and (3) Crop Reporting Board. In the field, each of the 44 States Statistical Offices, serving the 50 States, is under a Statistican in Charge. All operating units report to the Administrator of the Service.

Section 3—*Authority to Act for the Administrator.* In the absence of the Administrator, the following officials are authorized to act in the order indicated.

Deputy Administrator
Director, State Statistical Division
Director, Estimates Division
Director, Survey Division
Director, Statistical Research Division

Section 4—*Functions.* SRS programs are conducted in the following major areas:

(a) *Crop and Livestock Estimates.* This area includes estimates of production, supply, price, and other aspects of the agricultural economy; conduct of enumerative and objective measurement surveys; preparation and issuance of the official national and State estimates and reports of the Department relating to acreages, types and production of farm crops, number of livestock on farms, livestock products, stocks of agricultural commodities, value and utilization of farm products, prices received and paid by farmers, and other subjects as required.

(b) *Statistical Research and Service.* This area includes review, clearance, coordination, and improvement of statistics in the Department, and research on and development of improved statistical techniques used in gathering and evaluating statistical data, including use of satellite data.

(c) *Work Performed for Others.* Services are performed for other Federal

and State agencies on a reimbursable or advance payment basis. These services consist primarily of conducting surveys and performing related statistical data collecting activities. They also include technical consultation and support and technical assistance programs abroad under participating agency service agreements.

Part II.—Availability of Information

Section 5—*General.* This part is issued in accordance with the regulations of the Secretary of Agriculture in part I, subpart A, of subtitle A of Title 7, CFR (7 CFR 1.1–1.16), and appendix A thereto, implementing the Freedom of Information Act (5 U.S.C. 552). The Secretary's regulations, as implemented by this part, govern the availability of records of SRS to the public.

Section 6—*Indexes.* 5 U.S.C. 552(a)(2) requires that certain materials be made available for public inspection and copying and that a current index of these materials likewise be made available. SRS does not maintain any materials within the scope of these requirements.

Section 7—*Requests for records.* Requests for records under 5 U.S.C. 552(a)(3) shall be made in accordance with 7 CFR 1.3(a) and addressed to: Chief, Records, Systems, and Analysis Branch, Administrative Services Division, Economics Management Staff, U.S. Department of Agriculture, Washington, D.C. 20250. Authority is hereby delegated to this official to make determination regarding such requests in accordance with 7 CFR 1.4(c).

Section 8—*Appeals.* Any person whose request for records is denied shall have the right to appeal that denial in accordance with 7 CFR 1.3(e) and 1.7. All appeals shall be addressed to: Administrator, Statistical Reporting Service, U.S. Department of Agriculture, Washington, D.C. 20250.

Section 9—*Requests* for published data and related information. In Washington, D.C., information on published data and subscription rates is available from the Secretary, Crop Reporting Board, Statistical Reporting Service, U.S. Department of Agriculture, Washington, D.C. 20250 or Deputy Director, Information Division, Economics Management Staff, U.S. Department of Agriculture, Washington, D.C. 20250.

In the field, published data and subscription order forms are available from the Statistician in Charge at each State Statistical Office. Addresses for these State Statistical Offices are:

Alabama: Box 1071, Montgomery 36192
Alaska: Box 799, Palmer 99645
Arizona: 3001 Federal Bldg., Phoenix 85025
Arkansas: Box 1417, Little Rock 72203
California: Box 1258, Sacramento 95806
Colorado: Box 17066, Denver 80217
Florida: 1222 Woodward St., Orlando 32803
Georgia: Stephens Federal Bldg., Suite 320, Athens 30613
Hawaii: Box 22159, Honolulu 96822
Idaho: Box 1699, Boise 83701
Illinois: Box 429, Springfield 62705
Indiana: Purdue University, West Lafayette 47907
Iowa: 210 Walnut Street, Des Moines 50309
Kansas: 444 S.E. Quincy St., Room 290, Topeka 66683
Kentucky: Box 1120, Louisville 40201
Louisiana: Box 5524, Alexandria 71301
Maryland-Delaware: Box AG, College Park, Md. 20740
Michigan: Box 20008, Lansing 48901
Minnesota: Box 70068, St. Paul 55107
Mississippi: Box 980, Jackson 39205
Missouri: Box L, Columbia 65205
Montana: Box 4369, Helena 59604
Nebraska: Box 81609, Lincoln 68501
Nevada: Box 8888, Reno 89507
New England—Maine, New Hampshire, Vermont, Connecticut, Rhode Island, Massachusetts: Box 1444, Concord, N.H. 03301
New Jersey: CN–330, New Warren St., Trenton 08625
New Mexico: Box 1809, Las Cruces 88004
New York: State Campus, Bldg. 8, Albany 12235
North Carolina: Box 27767, Raleigh 27611
North Dakota: Box 3166, Fargo 58120
Ohio: 200 N. High St., Columbus 43215
Oklahoma: Box 1095, Oklahoma City 73101
Oregon: 1220 S.W. 3rd Ave., Portland 97204
Pennsylvania: 2301 North Cameron St., Harrisburg 17110
South Carolina: Box 1911, Columbia 29202
South Dakota: Box B, Sioux Falls 57117
Tennessee: Box 1250, Nashville 37202
Texas: Box 70, Austin 78767
Utah: Box 11486, Salt Lake City 84147
Virginia: Box 1659, Richmond 23213
Washington: 909 First Ave., Seattle 98174
West Virginia: State Dept. of Agriculture, Charleston 25305
Wisconsin: Box 9160, Madison 53715
Wyoming: Box 1148, Cheyenne 82001

Dated: May 7, 1982.

William E. Kibler,

Administrator, Statistical Reporting Service.

[FR Doc. 82-14567 Filed 5-27-82; 8:45 am]

BILLING CODE 3410-20-M

CIVIL AERONAUTICS BOARD

[Order 82-5-108; Docket 32660, Agreement C.A.B. 28655 R-1 through R-13; Agreement C.A.B. 28665]

Agreements Adopted by the Tariff Coordinating Conferences of the International Air Transport Association Relating to Composite Passenger Fare Matters

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 20th day of May, 1982.

Agreements among various members of the International Air Transport Association (IATA) have been filed with us under section 412(a) of the Federal Aviation Act of 1958 and Part 261 of our Economic Regulations. Adopted at the Composite Meetings of Passenger Tariff Coordinating Conferences held in Cannes during October-November 1981, the agreements are proposed to become effective on April 1, 1982.

The agreements proposed a number of amendments to resolutions having application worldwide. Insofar as air transportation as defined by the Act is concerned, the more significant are to Resolutions 021, 021f and 021L which, as a group, govern most currency matters within IATA.[1] With regard to Resolution 021, the agreement condenses and simplifies a number of existing paragraphs to remove exceptions and to make their application clearer. This has the effect of removing a number of special restrictions applicable within TC1 (Western Hemisphere) and bringing practices in this area more into line with those in other world areas. The agreement also proposes changes to those portions of Resolutions 021f and/or 021L which govern the conversion of currencies tendered as payment for transportation originating either within or outside the country of payment. These changes require, with exceptions for soft and/or less freely convertible currencies, all conversions into the currency of payment to take place at the banker's buying rate of exchange. Other changes proposed to Resolution 021L specify the appropriate currency adjustment factors to apply to sales of round-the-world fares and to sales of

[1] Resolution 021 specifies those currencies which are acceptable for local publication and payment of international fares and/or charges. Resolution 021f establishes general procedures to use for currency conversions while Resolution 021L establishes much more specific and detailed currency conversion procedures. Many Resolution 021f provisions are redundant or overridden by those in Resolution 021L. However, some IATA members apparently want to retain Resolution 021f as a back-up measure in case the other currency provisions are nullified by government or carrier action.

fares within TC2 (Europe/Africa/Middle East) for transportation originating outside the country of sale and clarify procedures to follow when honoring MCO's (Miscellaneous Changes Order)/PTA's (Prepaid Ticket Advice) tendered as payment for international air transportation.

Finally, other changes proposed include increasing fares between Tunisia and TC1 by $1.00 and normal and special fares between Tunisia and Guam/American Samoa by 10 and 20 U.K. pence (about 19 and 38 U.S. cents) respectively; deletion of certain obsolete and unused currency adjustment factors; clarification and simplification of procedures under Resolution 014a (fare construction rules) for checking for higher intermediate points; and extension of the period during which members may operate inaugural flights at free and reduced fares to one year after the first scheduled operation of the new service.

We will approve the bulk of the agreements subject to our usual condition that implementation of the Tunisian fare increases be tied to conformance with our Standard Foreign Fare Level criteria.[2] However, we will disapprove the changes proposed to Resolution 014a, Resolution 151a (Fares for Circle Trip) and Resolution 014d (Special TC23/TC123 Construction Rule) consistent with actions taken in Order 81-7-96, July 16, 1981, which disapproved IATA's fare construction rules contained in Resolution 014a and related resolutions. In addition, there are certain provisions in Resolution 021L, as discussed below, which continue to trouble us and require a clarification and expansion of our existing condition on currency transactions.

We view adoption of the general principle which requires conversions to be made at the banker's buying rate of exchange as a positive development. However, it appears that the application of certain existing provisions contained in paragraph (8)(a) of Resolution 021L may cause a U.S. consumer who purchases transportation in the United States for travel solely between two foreign points to pay an amount that is higher than that he would pay if purchase and conversion of prices for that transportation occurred locally. This is because paragraph (8)(a) requires members to charge the higher of two amounts: either the published local currency fare converted into dollars at the banker's buying rate of exchange, or the FCU (Fare Construction Units) amount (including any applicable currency adjustment factor on transportation from U.S. points) converted into local currency at the IATA Resolution 021b exchange rate and thence into dollars at the banker's buying rate of exchange.[3] In essence, the provision considers two different local currency prices and requires the passenger buying outside the country to pay the higher of the two. Although ultimately both prices will be converted into the currency of payment at the banker's buying rate of exchange, the passenger buying outside the country will often pay an equivalent local currency amount that is more than that paid by the passenger buying within the country. Yet the air transportation that each passenger buys is essentially the same.

To illustrate, the one-way normal economy fare (NEF) from Frankfurt to Rome is DM562 or about $237 at the February 11, 1982, rate of exchange. This is the price in local currency or its equivalent that a passenger would pay at a ticket counter in Frankfurt. However, if this transportation is purchased in the United States, paragraph (8)(a) requires the buyer to pay the equivalent of about $326, $90 or about 38 percent more than he would if he bought this transportation in Germany.[4]

Another illustration of the self-serving aspect of this system is London-Rome. Here the local selling price is U.K. £159.50 or about $294 at February 11, 1982, exchange rates for a one-way NEF. However, under Resolution 021L, for purchase of this transportation in the U.S., the buyer must pay either the local currency price which converted into dollars equals about $294 or the FCU price which when calculated in accordance with paragraph (8)(a) of this resolution equals about $286, whichever is higher. In this case, the higher amount is the local selling price converted into dollars at the market rate. In this example, the U.S. purchaser pays the same equivalent amount as the U.K. purchaser even though the FCU calculated price is about 3 percent less.

In the past, we have been concerned with a number of IATA practices which we felt treated consumers unfairly. Because of this we have conditioned the IATA mechanism to permit access to certain promotional fares (the so-called "hidden fares") outside of foreign air transportation which through means of advertising, sales and combinability restrictions were not available to U.S. passengers, and to allow the sales of multiple tickets in instances where the purchase of two or more separate tickets would undercut a specified IATA through fare.[5] We have also conditioned an earlier approval of Resolution 021L to require conversion of fares, rates and charges for sales of foreign originating transportation to the United States to take place at local market rates of exchange.[6]

As in the above instances, we feel that the present IATA procedures for conversions of prices for transportation between two foreign points purchased in the United States are just one more situation where current IATA practices result in unfair and inequitable treatment of consumers. There is simply no reason why a purchaser in the United States of transportation between two foreign points should pay more than he would if he purchased the same transportation locally. If a carrier is willing to accept an amount specified in national currency for transportation purchased locally, it should be willing to accept its equivalent value in dollars converted at market rates from a purchaser located outside the country. Accordingly we will attach to our earlier condition to Resolution 021L, noted above, additional language requiring its application to sales in the United States of fares, rates and charges between foreign points.

Acting under the Federal Aviation Act of 1958, as amended, and particularly sections 102, 204(a), 404, 412 and 414:

1. We do not find the following resolutions, which are incorporated in

[2] SFFL consists of base fare levels which are either the lowest unrestricted economy (or "unbundled") fare first filed by a direct service carrier in a given city pair market and approved for effectiveness on or after October 1, 1979, or, in city pair markets where no "unbundled" fares have been introduced, the normal economy fare of the predominant carrier in effect on October 1, 1979. These base fares are adjusted every 60 days for cost changes. Under the International Air Transportation Competition Act, a statutory no suspend zone extends from 5 percent above to 50 percent below such adjusted fare levels; we may generally not suspend a fare within this zone on grounds of unreasonableness. We are applying these criteria only to normal economy fares while permitting carriers the widest possible latitude in pricing their other fares.

[3] Resolution 021b rates generally reflect exchange values in existence prior to the February 1973 dollar devaluation. Fares generally are established by IATA in FCU's which represent pre-February 1973 dollars. After application of various currency adjustment factors to adjust FCU-specified levels to present monetary relationships, the resultant FCU amount is converted to local currencies at the Resolution 021b rates.

[4] Paragraph (8)(a) requires charging the higher of two prices: (1) local price, DM 562 at 2.3690 exchange rate for February 11, 1982 = $237; or (2) FCU 224.10 FRA-ROM) × 1.06 (currency adjustment factor ex U.S.) converted into DM at Resolution 021b rate (1USD = DM 3.250) = DM 774 at February 11, 1982, exchange rate = $327.

[5] See Orders 78-7-113, July 21, 1978, and 72-10-1, October 2, 1972.

[6] See Order 78-11-79, April 14, 1978.

Agreement C.A.B. 28655 as indicated and which have direct application in foreign air transportation as defined by the Act, to be adverse to the public interest or in violation of the Act provided approval is subject, where applicable, to conditions previously imposed by us:

Agreement C.A.B. 28655	IATA No.	Title	Application
R-1	002xx	Special Amending Resolution	2; 1/2; 2/3; 1/2/3.
R-4	021	Conversion of Passenger Fares and Excess Baggage Rates (Amending).	1; 2; 3;. 1/2; 2/3; 3/1; 1/2/3.
R-5	021f	Special Conversion Rates (Amending)	1; 2; 3;. 1/2; 2/3; 3/1; 1/2/3.
R-7	023a	Rounding-Off Passenger Fares (Amending)	1; 2; 3;. 1/2; 2/3; 3/1; 1/2/3.
R-8	047b	Provisions for Inclusive Tours Initiated in the Federal Republic of Germany/Berlin (West) (Amending).	2; 1/2; 2/3; 1/2/3.
R-10	092	Student Fares	1; 2; 3; 1/2.
R-12	200h	Free and Reduced Fare Transportation for Inaugural Flights (Amending).	1; 2; 3; 1/2; 2/3; 3/1; 1/2/3.
R-13	201	Children's Fares	2/3; 3/1; 1/2/3.

2. We do not find the following resolutions, which are incorporated in Agreement C.A.B. 28655 as indicated and which have direct application in foreign air transportation as defined by the Act, to be adverse to the public interest or in violation of the Act provided approval is subject, where applicable, to conditions previously imposed by us or imposed here:

Agreement C.A.B. 28655	IATA No.	Title	Application
R-2	003g	General Increase in Fares to/from Tunisia	2; 1/2; 2/3; 1/2/3.

Provided with respect to Resolution 003g:

(a) Normal economy fares for direct service points filed by each IATA carrier in tariffs with the Board pursuant to this resolution shall not exceed the maximum levels permitted by the Standard Foreign Level (SFFL) in effect at the time of filing; and

(b) Each IATA carrier must submit, at the time of filing and for comparative purposes, its SFFL base fares, proposed normal economy fares, and the percentages by which its proposed normal economy fares exceed the SFFL base levels for each city-pair market for which it files revised normal economy fares.

Agreement C.A.B. 28655	IATA No.	Title	Application
R-6	021L	Special Rules for Fares Currency Adjustments (Amending)	1; 2; 3; 1/2; 2/3; 3/1; 1/2/3.

Provided that with respect to Resolution 021L:

When payment is offered in a currency other than that of the country where transportation originates, the published fares, rates or charges in the currency of the country of transportation origination shall be converted to the currency of payment at the banker's buying rate of exchange.

3. We do not find the following resolution, which is incorporated in Agreement C.A.B. 28655 as indicated and which has indirect application in foreign air transportation as defined by the Act, to be adverse to the public interest or in violation of the Act:

Agreement C.A.B. 28655	IATA No.	Title	Application
R-9	049d	Changes in Fares—Canada	1; 1/2; 3/1; 1/2/3.

4. We find the following resolutions, incorporated in the agreements indicated, to be adverse to the public interest and in violation of the Act:

Agreement C.A.B. 28655	IATA No.	Title	Application
R-3	014d	Special TC23/TC123 Construction Rule (Amending)	2/3; 1/2/3.
R-11	151a	Fares for Circle Trip (Amending)	1; 2; 3; 1/2; 2/3; 3/1; 1/2/3.
	014a	Construction Rule for Passenger Fares (Amending)	2; 3; 1/2; 2/3; 3/1; 1/2/3.

5. We will grant antitrust immunity to those portions of Agreement C.A.B. 28655 set forth and conditioned in finding paragraphs one and two above and that portion of Agreement C.A.B. 28655 set forth in finding paragraph three above. These agreements are a product of the IATA conference machinery which the Board conditionally approved and immunized for a period of two years on Order 81-5-27, May 6, 1981, Docket 32851. In keeping with that order, we will continue to grant antitrust immunity to those IATA agreements found not to be adverse to the public interest or in violation of the Act.

Accordingly,

1. We approve those portions of Agreement C.A.B. 28655 set forth in finding paragraphs one, two and three above subject, where applicable, to conditions previously imposed by us or imposed there; and

2. We disapprove Agreement C.A.B. 28665 and those portions of Agreement C.A.B. 28655 set forth in finding paragraph four above.

A notice of this order will be published in the **Federal Register.**

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary

[FR Doc. 82-14655 Filed 5-27-82; 8:45 am]

BILLING CODE 6320-01-M

Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q of the Board's Procedural Regulations (See, 14 CFR 302.1701 et seq.); Week Ended May 21, 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.

Date filed	Docket No.	Description
May 17, 1982	40709	Trans World Airlines, Inc., 605 Third Avenue, New York, New York 10158. Application of Trans World Airlines, Inc., pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations, applies for an amendment of its certificate of public convenience and necessity to add Dallas/Fort Worth, Texas as a coterminal point on its Route 147. Specifically, TWA requests that its certificate for Route 147 be revised by: Amending Segement I Paragraph A to read as follows: "I. A. Between the coterminal points Dallas-Fort Worth, Texas, Denver, Colo.; Kansas City and St. Louis, Missouri; Minneapolis-St. Paul, Minn.; Chicago, Ill.; Detroit, Mich.; Cleveland, Ohio; Pittsburgh, Pa.; Washington, D.C.-Baltimore, Md.; Philadelphia, Pa.; New York, N.Y.-Newark, N.J.; Boston, Mass.; McGuire Air Force Base, N.J.; Dover Air Force Base, Del.;" Amend the third paragraph following the list of conditions on page 4 of the certificate issued to Trans World by Order 78-10-134 to read as follows: "The remaining authority in this certificate, except with respect to Boston, MA; New York-Newark, NJ; Philadelphia, PA; Washington, DC-Baltimore, MD; Chicago, IL; Detroit, MI; Dallas-Fort Worth, TX; Los Angeles and San Francisco-Oakland-San Jose, CA; Dover Air Force Base, DE; McGuire Air Force Base, NJ (on segments I and II); the intermediate points Paris, France, and Rome, Italy (both on segment I); and the authority in the new segment awarded by Order 81-12-87 shall expire on January 26, 1983." Conforming Applications, motions to modify scope, and Answers may be filed by June 14, 1982.
May 21, 1982	40723	National Commuter Airlines, Inc., c/o Edwin O. Bailey, Kirkland & Ellis, 1776 K Street, N.W., Washington, D.C. 20006. Application of National Commuter Airlines, Inc. pursuant to Section 401(d)(1) 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 June 18, 1982.

Date filed	Docket No.	Description
May 21, 1982	40724	National Commuter Airlines, Inc., c/o Edwin O. Bailey, Kirkland & Ellis, 1776 K Street, N.W., Washington, D.C. 20006. Application of Nnational Commuter Airlines, 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 June 18, 1982.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 82-14654 Filed 5-27-82; 8:45 am]

[Order 82-5-127; Docket 40462]

Application of Harry R. Davis d.b.a. Sea Coast Airways, Inc. for a Certificate of Public Convenience and Necessity

AGENCY: Civil Aeronautics Board.

ACTION: Notice of order instituting a fitness investigation of Sea Coast Airways, Inc., 82-5-127, Docket 40462.

SUMMARY: The Board is issuing an order instituting a fitness investigation of Sea Coast Airways, Inc.

DATES: Persons wishing to file petitions to intervene in the Sea Coast Airways Fitness Investigation shall file their petitions in Docket 40462 by June 7, 1982 and serve such filings on all persons listed below.

ADDRESSES: Petitions to intervene should be filed in the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428, in Docket 40462, application of Harry R. Davis d/b/a Sea Coast Airways, Inc. for (1) a determination of fitness and (2) a certificate of public convenience and necessity.

In addition, copies of such filings should be served on: Sea Coast Airways, Inc.; the Mayors of Baltimore, Maryland; Norfolk, Virginia; Philadelphia, Pennsylvania and Washington, D.C., the managers of these cities' airports; the State Department of Transportation or Aeronautics Commission of Maryland, Virginia and Pennsylvania and the Federal Aviation Administration.

Service will also be required on any other person filing petitions.

FOR FURTHER INFORMATION CONTACT: T. E. Carmody, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428, (202) 673-5121.

SUPPLEMENTARY INFORMATION: The complete text of Order 82-5-127 is available from our Distribution Section, Room 100, 1825 Connecticut Avenue, NW., Washington, D.C. Persons outside the metropolitan area may send a postcard request for Order 82-5-127 to the Distribution Section, Civil Aeronautics Board, Washington, D.C. 20428.

By the Civil Aeronautics Board, May 24, 1982.

Phyllis, T. Kaylor,

Secretary.

[FR Doc. 82-14652 Filed 5-27-82; 8:45 am]

BILLING CODE 6320-01-M

[Order 82-5-128; Docket 40658]

Application of the Hawaii Express, Inc. for a Certificate of Public Convenience and Necessity

AGENCY: Civil Aeronautics Board.

ACTION: Notice of order instituting a fitness investigation of The Hawaii Express, Inc., 82-5-128, Docket 40658.

SUMMARY: The Board is issuing an order instituting a fitness investigation of The Hawaii Express, Inc.

DATES: Persons wishing to file requests for additional evidence or petitions to intervene in The Hawaii Express Fitness Investigation shall file their requests and petitions in Docket 40658 by June 7, 1982 and serve such filings on all persons listd below.

ADDRESSES: Requests for additional eividence and petitions to intervene should be filed in the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428, in Docket 40658.

In addition, copies of such filings should be served on: The Hawaii Express, Inc., American Airlines, Inc., Northwest Airlines, Inc., United Air Lines, Inc., Western Air Lines, Inc., World Airways, Inc., The Division of Aeronautics, California Department of Transportation, The Hawaii State Department of Transportation, The Airport Manager, Los Angeles Int'l. Airport, The Airport Manager, Honolulu International Airport and The Federal Aviation Administration.

Service will also be required on any other person filing petitions.

FOR FURTHER INFORMATION CONTACT: Ava Kleinman, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428, (202) 673-5345.

SUPPLEMENTARY INFORMATION: The complete text of Order 82-5-128 is available from our Distribution Section, Room 100, 1825 Connecticut Avenue, NW., Washington, D.C. Persons outside the metropolitan area may send a postcard request for Order 82-5-128 to the Distribution Section, Civil Aeronautics Board, Washington, D.C. 20428.

By the Civil Aeronautics Board, May 24, 1982.

Phyllis, T. Kaylor,

Secretary.

[FR Doc. 82-14650 Filed 5-27-82; 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 the aircraft used in this service conform to applicable safety standards.

Order	Applicant	Response date
82-5-87	Service Aviation, Inc	June 7, 1982.
82-5-112	Costal Airlines, Inc	June 7, 1982.
82-5-117	Air Irvine, Inc	June 8, 1982.
82-5-126	Air-Lift Associates, Inc	June 11, 1982.
82-5-136	Aero International Airlines, Inc	June 16, 1982.
82-5-137	Beaver Aviation Services, Inc. d/b/a BAS Airlines.	June 16, 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 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 82–5–112, –126, –136, and 137: Ms. Patti Szrom, (202) 673–5088, and for Orders 82–5–87 and –117: Ms. Anne Stockvis, (202) 673–5198; Bureau of Domestic Aviation, Civil Aeronautics' Board, 1825 Connecticut Avenue, Washington, D.C. 20428.

By the Civil Aeronautics Board: May 25, 1982.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 82–14649 Filed 5–27–82; 8:45 am]

BILLING CODE 6320–01–M

[Docket 40511]

North American Airlines, Inc. Fitness Investigation; Assignment of Proceeding

This proceeding has been assigned to Administrative Law Judge Ronnie A. Yoder. Future communications should be addressed to him.

Dated at Washington, D.C., May 25, 1982.

Elias C. Rodriguez,

Chief Administrative Law Judge.

[FR Doc. 82–14651 Filed 5–27–82; 8:45 am]

BILLING CODE 6320–01–M

Order Concerning Mail Rates

Order 82–5–104, May 20, 1982, Dockets 40597 and 40598, establishes temporary intra-Alaska service mail rates for Hermens Air, Inc. and Cape Smythe Air Service, Inc. at the same level as authorized for Wien Air Alaska, Inc. by Order 80–12–152.

Copies of this order are available from the C.A.B. Distribution Section, Room 100, 1825 Connecticut Avenue, NW., Washington, D.C. 20428. Persons outside the Washington metropolitan area may send a postcard request.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 82–14653 Filed 5–27–82; 8:45 am]

BILLING CODE 6320–01–M

[Order 82–5–124; Docket 37392]

Order Establishing Temporary Service Mail Rates

Order 82–5–124, May 24, 1982, Docket 37392 established temporary rates of compensation for the transportation of mail by aircraft by Eastern in Latin America pending establishment of final rates. The order also proposes to establish these temporary rates as final rates for Eastern.

Eastern is instituting service in certain Latin American markets as replacement for Braniff. Since Eastern will be providing the same service that Braniff formerly provided and requires a mail rate for its services, the Board concluded that the application of Braniff's rates will provide fair and reasonable compensation to Eastern.

Copies of the Board's order are available from the C.A.B. Distribution Section, Room 100, 1825 Connecticut Avenue, NW., Washington, D.C. 20428. Persons outside the metropolitan area may send a postcard request.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 82–14648 Filed 5–27–82; 8:45 am]

BILLING CODE 6320–01–M

DEPARTMENT OF COMMERCE

International Trade Administration

Frozen French Fried Potatoes from Canada; Initiation of Antidumping Investigation

AGENCY: International Trade Administration, Commerce.

ACTION: Initiation of antidumping investigation.

SUMMARY: On the basis of a petition filed in proper form with the United States Department of Commerce, we are initiating an antidumping investigation to determine whether frozen french fried potatoes are being or are likely to be, sold in the northeastern region of the United States at less than fair value. We are notifying the United States International Trade Commission ("ITC") of this action so that it may determine whether imports of this merchandise are materially injuring, or threatening to materially injure, a United States industry in the northeastern region of the United States. If the investigation proceeds normally, the ITC will make its preliminary determination on or before June 18, 1982, and we will make ours on or before October 12, 1982.

EFFECTIVE DATE: May 28, 1982.

FOR FURTHER INFORMATION CONTACT: Paul Nichols, Office of Investigation, Import Administration, International Trade Administration, United States Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230 (202) 337–1768.

SUPPLEMENTARY INFORMATION:

The Petition

On May 3, 1982, we received a petition from counsel for McCain Foods, a producer of frozen french fried potatoes in the northeastern region of the United States. In compliance with the filing requirements of § 353.36 of the Commerce Regulations (19 CFR 353.36), the petition alleges that imports of the subject merchandise from Canada are being, or are likely to be sold in the United States at less than fair value within the meaning of section 731 of the Act, and that these imports are materially injuring, or are threatening to materially injure, a United States industry in the northeastern United States. The allegation of sales at less than fair value is supported by comparisons of United States prices (developed from actual sales invoices and published price lists) on sales of the merchandise in the United States with Canadian home market prices (obtained from a published price list by the Canadian producer) on sales made in Canada.

Initiation of Investigation

Under section 732(c) of the Tariff Act of 1930, as amended (19 U.S.C. 1673a) ("the Act"), we must determine, within 20 days after the petition is filed, whether it sets forth the allegations necessary for the initiation of an antidumping investigation and whether it contains information reasonably available to the petitioner supporting the allegations. We have examined the petition filed by the industry, and we have found that it meets the requirements of section 732(b) of the Act. Therefore, we are initiating an antidumping investigation to determine whether frozen frenh fried potatoes from Canada are being, or are likely to be, sold at less than fair value in the northeastern region of the United States. If our investigation proceeds normally, we will make our preliminary determination by October 12, 1982.

Scope of Investigation

The merchandise covered by this investigation is frozen french fried potatoes from Canada, currently classifiable under item 141.86, *Tariff Schedules of the United States* ("TSUS"). The petitioner alleges that the product is primarily sold by producers of frozen frenh fried potatoes to the food service distributor market.

Notification to ITC

Section 731(d) of the Act requires us to notify the United States International Trade Commission of this action and to provide it with the information we used to arrive at this determination. We will notify the ITC and make available to it all nonprivileged and nonconfidential information. We will also allow the ITC access to all privileged and confidential

information in our files, provided it confirms that it will not disclose such information either publicly or under an administrative protective order without the written consent of the Deputy Assistant Secretary for Import Administration.

Preliminary Determination by ITC

The ITC will determine within 45 days whether there is a reasonable indication that imports of frozen french fried potatoes from Canada are materially injuring, or are threatening to materially injure, the industry in the northeastern region of the United States. If its determination is negative, this investigation will terminate; otherwise, it will proceed according to the statutory procedures.

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

May 21, 1982.

[FR Doc. 82-14513 Filed 5-27-82; 8:45 am]

BILLING CODE 3510-25-M

Cadmium From Japan; Final Results of Administrative Review of Antidumping Finding

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of final results of administrative review of antidumping finding.

SUMMARY: On March 11, 1982, the Department of Commerce published the preliminary results of its administrative review of the antidumping finding on cadmium from Japan. The review covered the seven known exporters of this merchandise and the period September 5, 1979 through July 31, 1981.

Interested parties were given an opportunity to submit oral or written comments on these preliminary results. The Department received comments from the petitioner. After analysis of those comments, the results remain unchanged.

EFFECTIVE DATE: May 28, 1982.

FOR FURTHER INFORMATION CONTACT: Arthur N. DuBois or John R. Kugelman, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230 (202-377-5289).

SUPPLEMENTARY INFORMATION:

Background

On August 4, 1972, a dumping finding with rspect to cadmium from Japan was published in the **Federal Register** as Treasury Decision 72-206 (37 FR 15670). On March 11, 1982, the Department of Commerce ("the Department") published in the **Federal Register** (47 FR 10613) a notice of the preliminary results of its administrative review of that finding. The Department has now completed that administrative review.

Scope of the Review

Imports covered by the review are shipments of cadmium, currently classifiable under items 632.1420 and 632.1440 of the Tariff Schedules of the United States Annotated (TSUSA). The Department knows of seven exporters of Japanese cadmium to the United States. The review covers all seven for the period September 5, 1979 through July 31, 1981. There were no known shipments to the United States by these seven firms during the period of review. One small shipment that could not be associated with any particular Japanese firm was imported in late 1979 but was inadvertently liquidated by the Customs Service. There are no known unliquidated entries.

Final Results of the Review

Interested parties were invited to comment on the preliminary results. We received comments from the petitioner noting that, although we indicated in our preliminary results that there were no known shipments (except the one inadvertently liquidated by Customs), there was two other shipments in the period. However, we had previously found that these 2 shipments were of non-Japanese origin and had noted this in the final results of our last review of this case.

Therefore, the final results of our review are the same as those presented in the preliminary results of review.

As provided for in § 353.48(b) of the Commerce Regulations, a cash deposit of estimated antidumping duties of zero shall be required on all shipments of cadmium from Japan entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice. This deposit requirement shall remain in effect until publication of the final results of the next administrative review. The Department intends to conduct the next administrative review by the end of August 1983. The Department encourages interested parties to review the public record and submit applications for protective orders, if desired, as early as possible in the next administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act of 1930 (19 U.S.C. 1675(a)(1)) and § 353.53 of the Commerce Regulations (19 CFR 353.53).

Gary N. Horlick,

Deputy Assistant Secretary Import Administration.

May 20, 1982.

[FR Doc 82-14679 Filed 5-27-82; 8:45 am]

BILLING CODE 3510-25-M

Calcium Pantothenate From Japan; Final Results of Administrative Review of Antidumping Finding

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of final results of administrative review of antidumping finding.

SUMMARY: On February 19, 1982, the Department of Commerce published the preliminary results of its administrative review of the antidumping finding on calcium pantothenate from Japan. The review covered the 21 manufacturers or exporters and 10 of the 12 third-country shippers of Japanese calcium pantothenate to the United States presently covered by the finding, generally for the period January 1, 1980 through December 31, 1980.

Interested parties were given an opportunity to submit written comments or request a hearing on these preliminary results. Based on comments from one third-country shipper the Department has made adjustments which result in a new weighted-average margin for that firm. The margins in the preliminary results of review remain unchanged for the remaining firms.

EFFECTIVE DATE: May 28, 1982.

FOR FURTHER INFORMATION CONTACT: Susan Crawford or Sheila E. Forbes, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230 (202-377-2209/5255).

SUPPLEMENTARY INFORMATION:

Background

On January 17, 1974, an antidumping finding with respect to calcium pantothenate from Japan was published in the **Federal Register** as Treasury Decision 74-34 (39 FR 2086). On February 19, 1982, the Department of Commerce ("the Department") published in the **Federal Register** (47 FR 7476-78) the preliminary results of its administrative review of the findings. The Department has now completed that administrative review.

Scope of the Review

Imports covered by the review are shipments of calcium pantothenate, a

member of the B-complex vitamin family which is produced in two grades: D-Cal Pan (USP grade, which is used for human nutrition in the form of multi-vitamin tablets) and DL-Cal Pan (feed grade, which is used as a food supplement for swine and poultry). Both grades of calcium pantothenate are currently classifiable under item 437.8225 of the Tariff Schedules of the United States Annotated (TSUSA).

This review covered the 21 Japanese firms and 10 of the 12 third-country shippers engaged in the manufacture or exportation of calcium pantothenate to the United States currently covered by the finding. Two new third-country shippers, Kompanie Ultramar Sievers and Co. GmbH (W. Germany) and Peak International Products (Netherlands), were covered in a separate notice. Six additional firms, Fuji Chemical Industries Ltd., Daiichi Seiyaku Co., Ltd., Takeda Chemical Industries Ltd., Mitsubishi Corporation, Tanabe Seiyaku Co., and Chugai Boyeki, were previously excluded or exempted from the finding. The review covered the period January 1, 1980 through December 31, 1980. In addition it covered shipments in other periods by nine of the reviewed firms.

Analysis of Comments Received

Interested parties were invited to comment on the preliminary results. One third-country shipper, Karl O. Helm, commented that in one instance the Department's choice of the sale for calculating the foreign market value was incorrect. The firm demonstrated that its response contained a sale in West Germany which provided a better basis of comparison. We agreed with the firm's comment and made the appropriate adjustments. We received no other comments.

Final Results of the Review

As a result of adjustments made based on the comment received, we determine that the following weighted-average margins exist:

Manufacturer/Exporter	Time period	Margin (percent)
Agropol Limited	01/01/80–12/31/80	[1]4.27
Alps Pharmaceutical Ind. Co	01/01/80–12/31/80	0
Byron Chemical Co	01/01/80–12/31/80	[1]6.6
Eisai Co., Ltd	07/01/76–12/31/80	-0
First Enterprise Inc	01/01/74–12/31/80	6.89
Helm Japan	07/01/76–12/31/80	0
Isho Inc. Corp	01/01/80–12/31/80	0.49
Iwaki & Co	01/01/80–12/31/80	[1]0
Kamisagi Chemical Co., Ltd	01/01/80–12/31/80	0
Kamiyama Corp	01/01/80–12/31/80	[1]18.87
Kanematsu-Gosho Ltd	01/01/80–12/31/80	6.89
Marubeni Corp	01/01/80–12/31/80	[1]3.98
Maruzen Chemicals Co	01/01/80–12/31/80	[1]9.57
Mitsui & Co	01/01/80–12/31/80	[1]18.87
Nagase & Co	06/01/74–12/31/80	0
Nippon Roche, K.K	10/01/77–12/31/80	0
Sankei Pharmaceutical Co	01/01/80–12/31/80	[1]18.87
Sankyo Company	01/01/80–12/31/80	[1]3.98
Toho Bussan Co	01/01/80–12/31/80	[1]18.87
Toyo Menka Kaisha	01/01/80–12/31/80	[1]1.87
Yamanouchi Pharmaceutical Co., Ltd	01/01/77–12/31/80	0

[1] No shipments during period.

Third-country shipper (country)	Time period	Margin
Blembel Gebruder (W. Germany)	01/01/81–06/30/81	0
Chemeta BV (Netherlands)	01/01/80–12/31/80	1.4
Chemical & Feeds Ltd. (U.K.)	01/01/80–12/31/80	[1]18.87
Deutsch-Norwegische Vitamin Gesellschaft G.m.b.H. (W. Germany)	01/01/74–12/31/79	3.88
	01/01/80–12/31/80	2.42
M. Gurvey & Berry Co., Inc. (Canada)	01/01/80–12/31/80	3.30
Karl O. Helm (W. Germany)	01/01/74–12/31/77	5.00
	01/01/78–12/31/80	0
Lenk Chemical Corp. (Netherlands)	01/01/80–12/31/80	[1]18.87
Marsing & Co., Ltd. (Denmark)	01/01/80–12/31/80	[1]18.87
Siemsgluss A.G. (Switzerland)	01/01/80–12/31/80	18.87
Siemsgluss & Sohn (W. Germany)	01/01/80–12/31/80	18.87

[1] No shipments during period.

The Department shall determine, and the U.S. Customs Service shall assess, duties on all appropriate entries with purchase or export dates during the periods involved. Individual differences between United States price and foreign market value may vary from the percentages stated above. The Department will issue appraisement instructions on each firm directly to the Customs Service.

Further, as provided for by § 353.48(b) of the Commerce Regulations, a cash deposit based on the most recent of the margins calculated above shall be required on all shipments by these firms entered, or withdrawn from warehouse, for consumption on or after the date of publication of these final results. Because the weighted average margin for Isho Inc. Corp. is *de minimis*, the Department waives the deposit requirement for shipments by Isho. For any shipment from a new exporter not covered in this review, unrelated to any covered firm, a cash deposit shall be required at the highest rate for responding firms with shipments during the most recent period in which shipments occurred. These deposit requirements and waiver for Isho shall remain in effect until publication of the final results of the next administrative review. The Department intends to conduct the next administrative review by the end of January 1983. The Department encourages interested parties to review the public record and submit applications for protective orders, if desired, as early as possible during the next administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act of 1930 (19 U.S.C. 1675(a)(1)) and § 353.53 of the Commerce Regulations (19 CFR 353.53).

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

May 24, 1982

[FR Doc. 82-14681 Filed 5-27-82; 8:45 am]

BILLING CODE 3510-25-M

Melamine in Crystal Form From Japan; Final Results of Administrative Review of Antidumping Finding

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of final results of administrative review of antidumping finding.

SUMMARY: On March 18, 1982, the Department of Commerce published the preliminary results of its administrative review of the antidumping finding on melamine in crystal form from Japan. The review covered the five known exporters of this merchandise to the United States and the time period February 1, 1980 through January 31, 1981. There were no known shipments of this merchandise to the United States during the period and there are no known unliquidated entries for the period covered by this review.

Interested parties were given an opportunity to submit oral or written comments on these preliminary results. We received no comments.

EFFECTIVE DATE: May 28, 1982.

FOR FURTHER INFORMATION CONTACT: Al Jemmott or Robert Marenick, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230 (202–377–4794/2496).

SUPPLEMENTARY INFORMATION:

Background

On February 2, 1977, a dumping finding with respect to melamine in crystal form from Japan was published in the **Federal Register** as Treasury Decision 77–54 (42 FR 6866). On March 18, 1982, the Department of Commerce ("the Department") published in the **Federal Register** a notice of the preliminary results of the administrative review of the antidumping finding (47 FR 11741–42). The Department has now completed that administrative review.

Scope of the Review

The review covers imports of melamine in crystal form, a fine white crystalline powder used to manufacture melamine formaldehyde resins. Melamine in crystal form is currently classifiable under item 425.1020 of the Tariff Schedules of the United States Annotated (TSUSA).

The review covers the period February 1, 1980 through January 31, 1981 and the five known exporters of Japanese melamine in crystal form to the United States. The exporters are: C. Itoh & Co., Ltd., Mitsui Toatsu Chemicals, Inc., Nichimen Co., Ltd., Nissan Chemical Industries, Ltd. and Nosawa & Co., Ltd. There were no known shipments to the United States during the period and there are no known unliquidated entries for the period.

Final Results of the Review

Interested parties were invited to comment on the preliminary results. The Department received no written comments or requests for disclosure or a hearing. Therefore, the final results are the same as the preliminary results of review, and we determine that the following weighted-average margins exist:

Firm	Time period	Margin (percent)
C. Itoh & Co., Ltd	2/01/80-1/31/81	[1]60.00
Mitsui Toatsu Chemicals, Inc.	2/01/80-1/31/81	[1]70.22
Nichimen Co., Ltd	2/01/80-1/31/81	[1]60.00
Nissan Chemical Industries, Ltd	2/01/80-1/31/81	[1]60.00
Nosawa & Co., Ltd	2/01/80-1/31/81	[1]60.00

[1] No shipments during this period.

As provided for by § 353.48(b) of the Commerce Regulations, a cash deposit of estimated antidumping duties based upon the margin for each exporter shown above shall be required on all shipments of melamine in crystal form from Japan entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice. For any shipment from a new exporter not covered in this administrative review, unrelated to any covered firm, a cash deposit shall be required at the highest rate for responding firms with shipments during the most recent period in which shipments occurred. These deposit requirements shall remain in effect until publication of the final results of the next administrative review. The Department intends to conduct the next review by the end of February 1983. The Department encourages interested parties to review the public record and submit applications for protective orders, if desired, as early as possible during the next administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act of 1930 (19 U.S.C. 1675(a)(1)) and § 353.53 of the Commerce Regulations (19 CFR 353.53).

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

May 25, 1982.

[FR Doc. 82-14680 Filed 5-27-82; 8:45 am]

BILLING CODE 3510-25-M

Certain Steel Products from Belgium, the Federal Republic of German, France, Italy, Luxembourg, and the Netherlands; Postponement of Antidumping Duty Preliminary Determinations

AGENCY: International Trade Administration, Commerce.

ACTION: Postponement of antidumping duty preliminary determinations.

SUMMARY: The antidumping duty preliminary determinations involving certain steel products (See Appendix A) from Belgium, the Federal Republic of German, France, Italy, Luxembourg, and the Netherlands (hereinafter, "the countries involved") are being postponed because the investigations have been determined to be extraordinarily complicated. We intend to issue the antidumping duty preliminary determinations not later than August 9, 1982.

EFFECTIVE DATE: May 28, 1982.

FOR FURTHER INFORMATION CONTACT: David L. Binder, Office of Investigations, Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, D.C. 20230, (202) 377-1273.

Postponement

On February 1, 1982, we announced the initiation of antidumping duty investigations to determine whether certain steel products from the countries involved are being, or are likely to be, sold in the United States at less than fair value. The notices of initiation of antidumping duty investigations state that if the investigations proceed normally we will issue preliminary determinations on or before June 21, 1982.

As detailed in the notices of initiation of antidumping duty investigations, the petitions allege that certain steel products from the countries involved are being, or are likely to be, sold in the United States at less than fair value. The number and complexity of the transactions to be investigated and adjustments to be considered are considerable. In addition, the petitioners' allegations raise novel issues, and in certain countries involved there are numerous firms whose activities must be investigated. We have determined that the parties concerned are cooperating, and that additional time is necessary to make the antidumping duty preliminary determinations. For these reasons we find that these cases are extraordinarily complicated in accordance with section 733(c)(1)(B) of the Tariff Act of 1930, as amended (the "Act"), and we postpone the antidumping duty preliminary determinations to not later than August 9, 1982. This notice is published pursuant to section 733(c)(2) of the Act.

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

May 24, 1982.

Appendix A.—Certain Steel Products

Country and Products

Belgium—Carbon steel structural shapes, hot-rolled carbon steel plate, and hot-rolled carbon steel sheet and strip.

Federal Republic of Germany—Carbon steel structural shapes, hot-rolled carbon steel plate, hot-rolled carbon steel sheet and strip, and cold-rolled carbon steel sheet and strip.

France—Carbon steel structural shapes, hot-rolled carbon steel sheet and strip, and cold-rolled carbon steel sheet and strip.

Italy—Hot-rolled carbon steel sheet and strip and cold-rolled carbon steel sheet and strip.

Luxembourg—Carbon steel structural shapes.

The Netherlands—Hot-rolled carbon steel sheet and strip and cold-rolled carbon steel sheet.

[FR Doc. 82-14645 Filed 5-27-82; 8:45 am]

BILLING CODE 3510-25-M

Certain Steel Products From the United Kingdom; Postponement of Antidumping Duty Preliminary Determinations

AGENCY: International Trade Administrations, Commerce.

ACTION: Postponement of antidumping duty preliminary determinations.

SUMMARY: The antidumping duty preliminary determinations involving certain steel products (see Appendix A) from the United Kingdom are being postponed because the investigations have been determined to be extraordinarily complicated. We intend to issue the antidumping duty preliminary determinations not later than August 9, 1982.

EFFECTIVE DATE: May 28, 1982.

FOR FURTHER INFORMATION CONTACT:

David L. Binder, Office of Investigations, Import Administration, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C. 20230 (202) 377–1273.

Postponement

On February 1, 1982, we announced the initiation of antidumping duty investigations to determine whether certain steel products from the United Kingdom are being, or are likely to be, sold in the United States at less than fair value. The notice of initiation of antidumping duty investigations states that if the investigations proceed normally, we will issue preliminary determinations on or before June 21, 1982.

As detailed in the notice of initiation of the antidumping duty investigations, the petitions allege that certain steel products from the United Kingdom are being, or are likely to be, sold in the United States at less then fair value. The number and complexity of the transactions and adjustments to be investigated are considerable. In addition, the petitioners' allegations raise novel issues. We have determined that the parties concerned are cooperating and that additional time is necessary to make the antidumping duty preliminary determinations. For these reasons we find that these cases are extraordinarily complicated in accordance with section 773(c)(1)(B) of the Tariff Act of 1930, as amended (the "Act"), and we postpone the antidumping duty preliminary determinations to not later than August 9, 1982.

This notice is published pursuant to section 733(c)(2) of the Act.

J. Bello,

Deputy to the Deputy Assistant Secretary for Import Administration.

May 24, 1982.

Appendix A.—Certain Steel Products

Country and Products

United Kindgom—Carbon steel structural shapes and hot-rolled carbon steel plate

[FR Doc. 82-14646 Filed 5-27-82; 8:45 am]

BILLING CODE 3510-25-M

Hot-Rolled Carbon Steel Plate From Romania; Postponement of Antidumping Duty Preliminary Determination

AGENCY: International Trade Administration, Commerce.

ACTION: Postponement of antidumping duty preliminary determination.

SUMMARY: The antidumping duty preliminary determination involving hot-rolled carbon steel plate from Romania is being postponed because the investigation has been determined to be extraordinarily complicated. We intend to issue the antidumping duty preliminary determination not later than August 9, 1982.

EFFECTIVE DATE: May 28, 1982.

FOR FURTHER INFORMATION CONTACT:

David L. Binder, Office of Investigations, Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230, (202) 377–1273.

On February 1, 1982, we announced the initiation of an antidumping duty investigation to determine whether hot-rolled carbon steel plate from Romania is being, or is likely to be, sold in the United States at less than fair value. The notice of initiation of antidumping duty investigations states that we will issue a preliminary determination on or before June 21, 1982.

As detailed in the notice of initiation of the antidumping duty investigation, the petitions allege that hot-rolled carbon steel plate from Romania is being, or is likely to be, sold in the United States at less than fair value. The petitioners' allegations raise novel issues. Moreover, there are a significant number of complex adjustments to be considered. We have determined that the parties concerned are cooperating and that additional time is necessary to make the antidumping duty preliminary determination. For these reasons we find that this case is extraordinarily complicated in accordance with section 733(c)(1)(B) of the Tariff Act of 1930, as amended (the "Act"), and we postpone the preliminary antidumping duty determination to not later than August 9, 1982.

This notice is published pursuant to section 733(c)(2) of the Act.

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

May 24, 1982.

[FR Doc. 82-14644 Filed 5-27-82; 8:45 am]

BILLING CODE 3510-25-M

National Bureau of Standards

National Voluntary Laboratory Accrediation Program (NVLAP); Discontinuation of the Laboratory Accrediation Program for Windows and Doors

AGENCY: National Bureau of Standards, Commerce.

ACTION: Withdrawal of request to develop a laboratory accrediation program (LAP) for windows and doors.

SUMMARY: On January 21, 1982, the Department of Commerce published a notice in the **Federal Register** (47 FR 3025–26) under provisions of 15 CFR Part 7b describing a request from the Department of Housing and Urban Development (HUD) to develop a LAP to accredit laboratories that test windows and doors. Public comment received by HUD has led it to the conclusion stated in a letter dated May 12, 1982, that the request should be withdrawn so that other interested parties could act as proponents of the proposed program. Accordingly, the National Bureau of Standards hereby announces the withdrawal of HUD's request to develop that LAP.

ADDRESS: Any interested party who feels there is a need to accredit laboratories that test windows and doors may provide information that would support a preliminary finding of need under the provisions of 15 CFR Part 7a.4. Such information, in the form of a request to develop a LAP, should be addressed to the Director, National Bureau of Standards, Washington, D.C. 20234.

FOR FURTHER INFORMATION CONTACT:

John W. Locke, Manager, Laboratory Accrediation, National Bureau of Standards, Technology Building, Room B06, Washington, D.C. 20234, (301) 921–2368.

SUPPLEMENTAL INFORMATION: The referenced Federal Register Notice of January 21 contains a request from HUD to establish a LAP for accrediting laboratories which test windows and doors (aluminum, plastic, steel and wood) in accordance with "Use of Materials Bulletins (UM's 39, 59 and Materials Release (MR) 1010." Eleven nationally recognized test methods were referenced in the request, which indicated that a LAP in this product area would eliminate the duplication of approvals by HUD Certification Program administrators, each of whom is responsible for the approval of the laboratories they use, thereby minimizing the cost to both industry and government.

The notice also invited anyone wishing to comment on this LAP to write to HUD. A total of nine comments were received. Five comments from members of the independent laboratory community objected to the LAP primarily on the basis that it was too narrow in the scope of the tests being considered and would not provide the benefits claimed. Two laboratories supported the development of the LAP. Two comments were received from a trade association representing

manufacturers of aluminum windows and doors, requesting that a number of additional standards be added to the program.

Upon review of these comments, HUD concluded that at this time there was not a consensus of public opinion supporting the continued development of this LAP, and that their request for the LAP should be withdrawn.

NVLAP is, by design, responsive to requests for development of LAPs and as such, is responsive to HUD in this matter. Thus HUD's request to withdraw its request to develop this LAP for windows and doors is granted. As this proposed LAP was offered in response to HUD's request under the optional procedures open to Federal agencies (15 CFR Part 7b) proponents of the LAP may not have chosen to indicate their interest in or support for the program. Should such proponents wish to request a LAP under the general NVLAP procedures which are open to interested parties in the private sector (15 CFR Part 7a), information in support of a preliminary finding of need would be required. Such a preliminary finding of need would then be published in the **Federal Register** and comments, requested to ascertain the overall support for the program.

Dated: May 25, 1982.

Ernest Ambler,

Director, National Bureau of Standards.

[FR Doc. 82-14628 Filed 5-27-82; 8:45 am]

BILLING CODE 3510-13-M

Proposed Revision to Federal Information Processing Standard 63 Operational Specifications for Rotating Mass Storage Subsystems

Under the provisions of Pub. L. 89-306 (79 Stat 1127; 40 U.S.C. 759(f)) and Executive Order 11717 (38 FR 12315, dated May 11, 1973), the Secretary of Commerce (Secretary) is authorized to establish uniform automatic data processing standards. On February 16, 1979, notice was given in the **Federal Register** (44 FR 10098-10101) announcing that the Secretary had approved three input/output (I/O) Federal Information Processing Standards (FIPS): (1) I/O Channel Interface, (2) Channel Level Power Control Interface, and (3) Operational Specifications for Magnetic Tape Subsystems, designated Federal Information Processing Standards Publication (FIPS PUB) 60 (which has been redesignated 60-1). FIPS PUB 61, and FIPS PUB 62, respectively. On August 27, 1979, notice was given in the Federal Register (44 FR 50078-50079) announcing that the Secretary has approved a fourth I/O channel level interface standard, Operational Specifications for Rotating Mass Storage Subsystems, designated FIPS PUB 63.

These standards were the subject of corrections and revisions announced in the **Federal Register** on August 27, 1979 (44 FR 50079-50080), August 31, 1979 (44 FR 51294), and December 3, 1979 (44 FR 69317).

These standards require review by NBS within three years after their effective date, taking into account technological trends and other factors, to determine whether the standards should be affirmed, revised, or withdrawn. This review process is now underway. This notice is one of a series addressing components of the standards. It is contemplated that all revisions will be issued together when this review period is completed.

FIPS 63 provides device dependent operational interface specifications for connecting rotating mass storage equipment as a part of automatic data processing (ADP) systems by means of the I/O channel interface prescribed by FIPS 60-1. The body of the FIPS 63 document specifies the repertoire and encoding conventions for command and status information applying to all subsystems employing the variable length recording format known as Count, Key, Data. The format for a third kind of information, sense information, must vary as certain characteristics of subsytems vary.

FIPS 63 also includes documents which (1) define various classes of rotating mass storage subsystems, based upon storage capacity and logical structure and (2) specify the sense information format for each class. The three classes of rotating mass storage subsystems presently specified by FIPS 63 are: Class A with 100 to 200 megabytes per logical device address; Class B with 317.5 megabytes per logical device address; Class C with 37 or 70 megabytesper logical device address.

Experience acquired since issuance of FIPS 63 indicates that while the presently appended A, B, and C device classifications have served a useful purpose, there is sufficiently rapid change in the technology to make it advisable to consider removing them from FIPS 63.

This announcement solicits comment on the following alternatives with regard to the publication and use of these and other device classifications:

(a) Should these device classifications continue to be maintained by the Institute for Computer Sciences and Technology as an integral part of FIPS 63, requiring mandatory attention by Federal agencies in the acquisition of rotating mass storage subsytems conforming to FIPS 60 or

(b) If these device classifications should not be so maintained, should they be reissued as an information service to Federal agencies by the Institute for Computer Sciences and Technology in a separate publication series which is more easily revised and updated (agencies being free to reference these classifications or any other device classifications, including those from the private sector, in specifying rotating mass storage subsystems conforming to FIPS 60)?

Interested parties may submit their written comments to: Director, Institute for Computer Sciences and Technology, National Burea of Standards, Washington, D.C. 20234, Attention: Proposed FIPS 63 Revision. Comments to be considered must be received on or before August 26, 1982.

Persons desiring further information about this proposed revision to FIPS 63 may contact Mr. Steve Recicar, System Components Division, Center for Computer Systems Engineering, Institute for Computer Sciences and Technology, National Bureau of Standards, Washington, D.C. 20234, telephone: 301/921-3723.

Dated:
May 25, 1982.

Ernest Ambler,

Director.

[FR Doc. 82-14626 Filed 5-27-82; 8:45 am]

BILLING CODE 3510-CN-M

DEPARTMENT OF DEFENSE

Department of the Army

Privacy Act of 1974; Addition of a Notice for a System of Records

AGENCY: Department of the Army, DOD.

ACTION: Addition of a notice for a system of records.

SUMMARY: The Department of the Army proposes to add a system notice for a system of records to be added to its inventory of records subject to the Privacy Act of 1974. The system notice is set forth below.

DATE: Unless comments are received which result in a contrary decision, this system notice will become effective on June 28, 1982.

ADDRESS: Submit comments to Headquarters, Department of the Army, The Judge Advocate General's Office, The Pentagon, Washington, D.C. 20310.

FOR FURTHER INFORMATION CONTACT: Mrs. Dorothy Karkanen, Office of the Adjutant General, Headquarters,

Department of the Army, 2461 Eisenhower Avenue, Alexandria, VA 22331. Telephone: 703/325–6163.

SUPPLEMENTARY INFORMATION: The Department of the Army's inventory of system notices for systems of records subject to the Privacy Act of 1974, Title 5, United States Code, section 552a (Pub. L. 93–579; 44 Stat. 1896, *et seq.)* has appeared at:

FR Doc. 82–674 (47 FR 2544) January 16, 1982

FR Doc. 82–5277 (47 FR 8610) March 1, 1982

FR Doc. 82–11002 (47 FR 17324) April 22, 1982.

A notice of the proposed addition of this system notice to the Army was submitted in accordance with 5 U.S.C. 552a(o) on April 7, 1982.

May 24, 1982.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

A0404.02DAJA

SYSTEM NAME:

Courts-Martial Files

SYSTEM LOCATION:

US Army Legal Services Agency, Falls Church, VA 22041; Washington National Records Center, Suitland, MD 20409; National Personnel Records Center, St. Louis, MO 63132; and offices of Staff Judge Advocates, Judge Advocates, and Legal Counsel of subordinate commands and installations.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All individuals tried by courts-martial.

CATEGORIES OF RECORDS IN THE SYSTEM:

General and special (BCD) court-martial records of trial include a verbatim transcript of the trail and all allied papers relating to the charged offenses and legal review of the case. Special (non-BCD) and summary court-martial records of trial include a summarized transcript of the trial and all allied papers relating to the charged offenses, but ordinarily do not include all records of review pursuant to Articles 69 and/or 73, Uniform Code of Military Justice (UCMJ). (See "Retention and disposal" below.)

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title 10 U.S.C. 801–940 (Uniform Code of Military Justice).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Courts-martial records are transcribed and used to provide an accurate account of the proceedings for legal review. As such records reflect criminal proceedings ordinarily open to the public, they are normally releasable to the public pursuant to the Freedom of Information Act. They are also used to formulate responses to inquiries from Members of Congress, the White House Staff, the individual concerned, or other agencies or individuals interested in the case.

Courts-martial records may be transferred within the Department of Defense, to the Department of Justice, the Veterans Administration, and Federal, state, and local law enforcement agencies for determination of rights and entitlements of the individuals concerned or use in the enforcement of criminal or civil law. If a conviction results, portions of the record in every case are transmitted to Army personnel authorities for use in evaluating the individual's overall performance and for inclusion in his military personnel records. A record of a conviction may be introduced at a subsequent court-martial involving the same individual, or in any other case in which it is relevant. Statistical data obtained from orders of trial are used in determining jurisdictional and Armywide trends of disciplinary infractions in the Armed Forces, and serve as a guide for officials responsible for making policy decisions regarding military justice activities.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Papers stored in file folders; index cards, computer diskpacks, and courts-martial coding sheets.

RETRIEVABILITY:

Records are retrieved by reference to the name and social security number of the individual and through the court-martial number assigned to the case.

SAFEGUARDS:

Those portions of the system maintained by the US Army Legal Services Agency and the National Personnel Records Center are contained in file cabinets and are safeguarded by systems of personnel screening and hand receipts. During non-duty hours, guards assure that the areas where records are located are accessible only to authorized personnel. Decentralized segments of the system are maintained in locked file cabinets and/or locked offices in buildings employing security guards and/or located on military installations with military police or contract guard patrols and protection.

RETENTION AND DISPOSAL:

With respect to each court-martial, there is an original record and between one and four copies. One copy is given to the accused and the remaining copies are used in the review of the case for legal sufficiency. The original record is disposed of as follows: All records of trial by general courts-martial and those special courts-matrial records in which a bad conduct discharge (BCD) was approved are retained in the Office of the Clerk of Court, US Army Judiciary, for 1–2 years after completion of appellate review. Thereafter, the records are fowarded to the Washington National Records Center, Suitland, MD 20409 for permanent storage. Records of trial by special courts-martial (non-BCD) and summary courts-martial are retained in the staff judge advocate office of the general courts-martial authority for one year after completion of supervisory review and thereafter for two years in the records holding area or overseas records center. Records are then sent to the National Personnel Records Center (Military Records), 9700 Page Boulevard, St. Louis, MO 63132 where they are retained for seven years. Thereafter, the records are destroyed and the remaining evidence of conviction are the special (non-BCD) and summary courts-martial promulgating orders maintained in the individual's permament records and any review(s) of the cases conducted pursuant to Article(s) 69 and/or 73, UCMJ. The original review of special (non-BCD) and summary courts-material cases and a copy of all other reviews pursuant to Articles 69 or 73, UCMJ, are maintained for three years in the office of the Chief, Examination and New Trials, US Army Judiciary, Falls Church, VA 22041. They are retained an additional seven years at the Washington National Records Center, Suitland, MD 20409, and destroyed. Statistical data obtained from general and special (BCD) courts-martial records are maintained permanently on master index cards which serve as a means of listing records of trial sent to storage.

SYSTEM MANAGER(S) AND ADDRESS:

The Judge Advocate General, Department of the Army, The Pentagon, Washington, DC 20310.

NOTIFICATION PROCEDURES:

Requests from individuals as to whether there are any general or special (BCD) courts-martial records in the system pertaining to them should be addressed to the Clerk of Court (JALS–CC), US Army Judiciary, Nassif Building, Falls Church, VA 22041. Requests for

information as to special (non-BCD) and summary courts-martial records should be addressed to the staff judge advocate of the command where the record was reviewed or, if no longer there, to the National Personnel Records Center (Military Records), 9700 Page Boulevard, St. Louis, MO 63132. Official mailing address of subordinate commands and installations is in the DOD Directory in the appendix to the Army's inventory of system notices.

Requests for information concerning reviews pursuant to Articles 69 or 73, UCMJ, should be addressed to the Chief, Examination and New Trials, US Army Judiciary, Nassif Building, Falls Church, VA 22041. Written requests for information should include the full name of the individual, social security number (SSN), the record file number if available, and any other personal information which would assist in locating the records.

Personal visits may be made to the office of the Clerk of Court or Chief, Examination and New Trials, during normal business hours. The individual should provide identification such as a valid driver's license, or verbal information sufficient to permit locating the record.

RECORD ACCESS PROCEDURE:

Requests for access should be submitted as specified under "Notification procedure" above. Requests should be directed to the Clerk of Court (JALS–CC), US Army Judiciary, Nassif Building, Falls Church, VA 22041 if the type of courts-martial or reviewing command is unknown.

CONTESTING RECORD PROCEDURES:

The Army's rules for access to records and for contesting contents and appealing initial determinations are contained in Army Regulation 340–21 (32 CFR Part 505).

RECORD SOURCE CATEGORIES:

Information from almost any source may be included in the record if it is relevant and material to courts-martial proceedings.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

All portions of this system of records which fall within 5 U.S.C. 552a(j)(2) are exempt from the following provisions of 5 U.S.C. 552a: (d)(2), (d)(3), (d)(4), (e)(2), (e)(3), (e)(4)(H), and (g). The rules exempting this system are set forth in 32 CFR Part 505.

[FR Doc. 82–14621 Filed 5–27–82; 8:45 am]

BILLING CODE 3710–08–M

Office of the Secretary

Public Information Collection Requirement Submitted to OMB for Review

The Department of Defense has submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Each entry contains the following information: (1) Type of Submission; (2) Title of Information Collection and Form Number if applicable; (3) Abstract statement of the need for the uses to be made of the information collected; (4) Type of Respondent; (5) An estimate of the number of responses; (6) An estimate of the total number of hours needed to provide the information; (7) To whom comments regarding the information collection are to be forwarded; and (8) The point of contact from whom a copy of the information proposal may be obtained.

Revision

Police Record Check

Per Sections 504 and 505 of Title 10, U.S. Code, applicants for enlistment must be screened to identify any discreditable involvement with police or other legal officials. Form is sent to FBI as part of entrance national agency check. Results are used to determine general enlistment eligibility and job skill placement.

State and Local Governments (Law Enforcement Agencies); 1,503,000 responses; 50,100 hours.

Forward comments to Mr. Edward Springer, OMB Desk Officer, Room 3235, NEOB, Washington, DC 20503, and Mr. John V. Wenderoth, DOD Clearance Officer, OASD(C), DIRMS, IRAD, Room 4B929, Pentagon, Washington, DC 20301, telephone (202) 697–1195.

A copy of the information collection proposal may be obtained from Mr. Robert L. Newhart, OASD, MRA&L(PI), Room 3C800, Pentagon, Washington, DC 20301, telephone (202) 695–0643.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 82–14682 Filed 5–27–82; 8:45 am]

BILLING CODE 3810–01–M

DEPARTMENT OF ENERGY

Bonneville Power Administration

Malin-Warner 230-kV Transmission Line Project; Availability of Environmental Assessment and Proposed Findings of No Significant Impact; Notice of Cancellation of Intent To Prepare a Draft Environmental Impact Statement

AGENCY: Bonneville Power Administration, DOE.

ACTION: Notice of availability of environmental assessment and proposed findings of no significant impact; notice of cancellation of intent to prepare a draft environmental impact statement (EIS).

SUMMARY: Bonneville Power Administration (BPA) hereby announces the availability of an Environmental Assessment (EA) and a Proposed Finding of No Significant Impact (FONSI) on the Malin-Warner 230-kV Transmission Line Project. This project is proposed to be located in Klamath County, Oregon, and Modoc County, California. BPA published a notice of intent to prepare an EIS for this project (under the name of Surprise Valley Area Service) in the **Federal Register** on January 31, 1980. However, consultation with government agencies and local interests, as well as BPA's environmental analysis, indicated that possible environmental impact would not be of a significant or controversial nature. Therefore, BPA cancelled its plan to prepare an EIS and, instead, prepared the EA and the proposed FONSI. These have been distributed for review to governmental agencies and affected landowners. Following this review, the Department of Energy will make its final determination whether to prepare an EIS.

FOR FURTHER INFORMATION CONTACT:

For copies of the EA and proposed FONSI or for further information, contact the Environmental Manager, Bonneville Power Administration, P.O. Box 3621–SJ, Portland, Oregon 97208; telephone (503) 230–5136.

Issued in Portland, Oregon, March 30, 1982.

Marvin Klinger,

Acting Administrator.

[FR Doc. 82–14514 Filed 5–27–82; 8:45 am]

BILLING CODE 6450–01–M

Economic Regulatory Administration

[ERA Docket No. 82-CERT-008]

Public Service Electric & Gas Co.; Certification of Eligible Use of Natural Gas To Displace Fuel Oil

On April 22, 1982, Public Service Electric and Gas Company (Public Service), 80 Park Plaza, T5E, Newark, New Jersey 07101, filed with the Administrator of the Economic Regulatory Administration (ERA) pursuant to 10 CFR Part 595 an application for certification of an eligible use of approximately three billion cubic feet of natural gas which is expected to displace the use of approximately 438,000 barrels of No. 6 fuel oil (0.3 percent sulfur) and approximately 12,000 barrels of No. 2 fuel oil (0.2 percent sulfur) or kerosene (0.1 percent sulfur) per year at eight of its electric generating stations located in New Jersey. The eight stations are: Bergen in Ridgefield; Essex in Newark; Hudson in Jersey City; Kearny in Kearny; Linden in Linden; Sewaren in Sewaren; Edison in Edison; and Mercer in Trenton. The eligible seller of the natural gas is the Alabama-Tennessee Natural Gas Company, P.O. Box 918, Florence, Alabama 35637. The gas will be transported by the Texas Eastern Transmission Corporation, P.O. Box 2521, Houston, Texas 77001; and North Alabama Gas District, 1100 Woodward Avenue, Muscle Shoals, Alabama 35660. Notice of that application was published in the **Federal Register** (47 FR 20661, May 13, 1982) and an opportunity for public comment was provided for a period of ten (10) calendar days from the date of publication. No comments were received.

The ERA has carefully reviewed Public Service's application in accordance with 10 CFR Part 595 and the policy considerations expressed in the Final Rulemaking Regarding Procedures for Certification of the Use of Natural Gas to Displace Fuel Oil (44 FR 47920, August 16, 1979). The ERA has determined that Public Service's application satisfies the criteria enumerated in 10 CFR Part 595, and, therefore, has granted the certification and transmitted that certification to the Federal Energy Regulatory Commission. More detailed information, including a copy of the application, transmittal letter, and the actual certification is available for public inspection at the ERA, Natural Gas Branch Docket Room, Room 6144, RG-631, 12th & Pennsylvania Avenue, NW., Washington, D.C. 20461, from 8:00 a.m to 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, D.C., May 24, 1982.

F. Scott Bush,

Director, Oil and Gas Imports Division, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 82-14515 Filed 5-27-82; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket Nos. ER82-155-001 and ER81-188-000]

Central Maine Power Co.; Order Accepting Compliance Filing

Issued: May 21, 1982.

On February 12, 1982, the Commission accepted for filing and suspended for one day from sixty days after filing revised rates filed by Central Maine Power Company (Central Maine) for firm power service to three wholesale customers. The Commission also summarily disposed of certain matters, including two resale restrictions which the Commission rejected as *per se* unlawful and Central Maine's treatment of its investment in and earnings from the "Yankee" nuclear generating companies.

On March 5, 1982, Central Maine, in response to the Commission's order, filed revised rates, terms, and conditions as well as supporting data. On March 29, 1982, Central Maine's three wholesale customers (Customers) filed a protest and motion seeking rejection of the compliance filing. The Customers object to the substitution for the stricken resale restrictions of a fixed capacity limitation on embedded cost power, the updating of Central Maine's capital structure and the continued inclusion in rate base of investments in associated companies other than the Yankee companies. On April 13, 1982, Central Maine filed a response contending that the compliance filing comports with the Commission's order and is not otherwise inappropriate.

As to the Customers' objection to be substitution of revised language in place of the stricken resale restrictions, we have addressed that matter in our order denying rehearing in these dockets; we have accepted the substituted language for filing subject to the outcome of the hearing to be held in this proceeding.[1]

The Customers also object to Central Maine's submittal of a revised capital structure in response to the Commission's February 12, 1982 order. We agree that the earlier order neither required nor contemplated such an adjustment to the capitalization and rates. However, it appears that the net rate effect of this adjustment is *de minimis*. Morever, we note that the Customers' original protest argued that Central Maine's failure to include its recent issue of long-term debt in the capital structure was improper. Central Maine, in response, now has simply done what the Customers originally desired. Given the minimal effect of Central Maine's revised capitalization, we are not inclined at this time to require Central Maine to incur the cost of preparing and submitting a revised compliance filing on the basis of this issue alone.

Finally, with regard to Central Maine's investment in associated companies, our order of February 12, 1982, addressed only Central Maine's treatment of the Yankee nuclear generating companies. Whether investments in other subsidiaries should be treated in a similar manner is a matter which presents questions of law and fact most appropriately resolved on the basis an of evidentiary hearing. Accordingly, we shall deny the Customers' motion to reject the compliance filing and we shall, instead, accept for filing Central Maine's compliance filing.

Commission orders:

(A) The Customers' motion to reject the compliance filing is hereby denied.

(B) The compliance filing submitted by Central Maine Power Company is hereby accepted for filing to become effective, subject to refund, on February 16, 1982.

(C) The Secretary shall promptly publish this order in the **Federal Register.**

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-14543 Filed 5-27-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6127-000]

Energenics Systems, Inc., Application for Preliminary Permit

May 24, 1982.

Take notice that ENERGENICS SYSTEMS, INC. (Applicant) filed on March 25, 1982, an application for preliminary permit (pursuant to the Federal Power Act, 16 U.S.C. 791(a)-825(r)) for Project No. 6127 to be known as the Union City Dam Project located on French Creek in Erie County, Pennsylvania. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed

[1] *Central Maine Power Co.*, Docket Nos. ER82-155-000 and ER81-188-000, Order Denying Rehearing, 19 FERC 61,041 (April 13, 1982).

to: Mr. Granville J. Smith II, Energenics Systems, Inc., 1717 K Street, NW., Washington, D.C. 20006.

Project Description—The proposed project would utilize the existing U.S. Army Corps of Engineers' Union City Dam and Reservoir and would consist of: (1) A proposed 200-foot long penstock; (2) a proposed powerhouse containing two turbine/generator units each with a rated capacity of 2,740-kW; (3) a proposed 70-foot long tailrace; (4) a proposed 1,000-foot long, 115-kV transmission line; and (5) appurtenant facilities. Applicant estimates that average annual energy output would be 21,800,000 kWh and plans to sell the power to Pennsylvania Electric Company.

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 Applicant would investigate project design alternatives, financial feasibility, environmental effects of project construction and operation, and project power potential. Depending upon the outcome of the studies, the Applicant would decide whether to proceed with an application for FERC license. Applicant estimates that the cost of the studies under permit would be $40,000.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before September 7, 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 August 5, 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 5, 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. 82-14529 Filed 5-27-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6117-000]

Ephraim City, Utah; Application for Exemption for Small Hydroelectric Power Project Under 5 MW Capacity

May 24, 1982.

Take notice that on March 23, 1982, Ephraim City, Utah (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. 6117) would be located on New Canyon Creek, Cottonwood Creek, Ridley Ridge Springs, Sawmill Springs, Twin Springs, Big Spring, Little Spring, Left Hand Fork Spring, Black Stump Spring, and an unnamed spring, in the vicinity of Ephraim City, Sanpete County, Utah. Correspondence with the Applicant should be directed to: Hon. Halbert K. Jensen, Mayor, City of Ephraim, 5 South Main Street, Ephraim, Utah 84627, and Mr. Jay R. Bingham, P.E., Water Power Company, P.O. Box 22208, Salt Lake City, Utah 84122.

Project Description—The project would be operated in run-of-river mode and would consist of: (1) New diversion structures on New Canyon Creek and Cottonwood Creek and new collection facilities at the various springs; (2) two separate conveyance systems consisting of channels and conduits, one transporting culinary water and the other irrigation water, leading to (3) a powerhouse containing two turbine-generator units having rated capacities of 650 kW (culinary water system) and 1,550 kW (irrigation water system) for a total rated capacity of 2,200 kW; (4) two tailraces, one leading to a covered channel and city water supply, and the other to an open channel and irrigation distribution; (5) an upgraded transmission line, 1.7 miles long, connecting to the Ephraim City power distribution system; and (6) appurtenant facilities. The Applicant estimates that the average annual energy output would be 10,980,000 kWh. Project energy would be utilized by Ephraim City.

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 Utah State Division of Wildlife Resources 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 July 12, 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 July 12, 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. 82-14530 Filed 5-27-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6106-000]

Evergreen Metropolitan District; Application for Preliminary Permit

May 24, 1982.

Take notice that Evergreen Metropolitan District (Applicant) filed on March 19, 1982, an application for preliminary permit (pursuant to the Federal Power Act, 16 U.S.C. 791(a)-825(r)) for Project No. 6106 to be known as the Evergreen Dam Project located on Bear Creek in Jefferson 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. Gerald C. Schulte, Manager, Evergreen Metropolitan District, P.O. Box 545, 4685 Highway 73, Evergreen, Colorado 80439.

Project Description—The proposed project would consist of: (1) An existing 380-foot long and 50-foot high concrete dam owned by the City and County of Denver and operated by the Evergreen Metropolitan District, having a crest elevation of 7071 feet M.S.L.; (2) an existing recreation and water supply reservoir impounding 540 acre-feet with a surface area of 24 acres; (3) a proposed 25-foot long, 36-inch diameter penstock; (4) a proposed 1000-square foot powerhouse containing one 250-kW turbine-generator unit; (5) a proposed 100-foot long tailrace; (6) a proposed 100-foot long 25-kV transmission line; and (7) appurtenant facilities. Applicant estimates that the average annual energy output of 1.05 million kWh would be exchanged with the Public Service Company of Colorado.

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 Applicant would investigate project design alternatives, financial feasibility, environmental effect of project construction and operation, and project power potential. Depending upon the outcome of the studies, the Applicant would decide whether to proceed with an application for FERC license. Applicant estimates that the cost of the studies under permit would be $50,000.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before September 7, 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 exemptioin must be submitted to the Commission on or before August 5, 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 agnecy does not file comments within the time set below, it will be presumed to have no comments.

Comments, Protests, or Petitions To Intervene—Anyone may submit comments, a protest, or a petition to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a petition to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protest, or petitions to intervene must be received on or before August 5, 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 Capital 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. 82-14531 Filed 5-27-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5914-000]

Glacier Lodge; Application for Preliminary Permit

May 24, 1982.

Take notice that Glacier Lodge (Applicant) filed on January 22A, 1982 an applicataion for preliminary permit (pursuant to the Federal Power Act, 16 U.S.C. 791(a) 825 (r)) for Project No. 5914 to be known as the Big Pine Creek located on the Big Pine Creek in Inyo County, California. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Robert Vilardi, Glacier Lodge P. O. Box 327, Big Pine, California 93513.

Project Description—The proposed project would consist of: (1) a proposed powerhouse containing a generating unit rated at 500 kW; (2) a proposed 24 inch diameter penstock approximately 6,000 feet long; (3) a proposed 12,000 volt transmission line; and (4) appurtenant facilities. The estimated average annual energy output would be 8.76 MWh. The project would occupy portions of lands owned by the U.S. Forest Service.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a prelimiary permit for a period of 36 months. During this time engineering, economic, and environmental studies would be performed to determine the feasibility of the project. In addition, Federal, State, and local agencies would be consulted to determine the environmental effects of the project. Applicant estimates the cost of the studies would be $90,000.

Competing Applications—This application was filed as a competing application to Eastern Sierra Energy Development's application for Project No. 5277 filed on August 24, 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 acation 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 5, 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 Capital 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. 82-14532 Filed 5-27-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 3236-001]

Gordon Falls Hydro Associates; Surrender of Preliminary Permit

May 24, 1982.

Take notice that Gordon Falls Hydro Associates, Permittee for the proposed Gordon Falls Project No. 3236, has requested that its preliminary permit be terminated. The preliminary permit was issued on December 12, 1980, and would have expired on December 1, 1983. The project would have been located on the Mattawamkeag River in Penobscot County, Maine. Permittee states that it is studying an alternative site under Project No. 5472 downstream and does not wish to pursue Project No. 3236 because of excessive land requirements.

Permittee filed its request on April 22, 1982, and the surrender of its permit for Project No. 3236 is deemed effective as of the date of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-14533 Filed 5-27-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP79-68-006]

North Penn Gas Co.; Proposed Change in FERC Gas Tariff

May 24, 1982.

Take notice that on May 13, 1982, North Penn Gas Company (North Penn) tendered for filing the following revised tariff sheets with the stated effective dates:

Tariff Sheet and Effective Date

Second Rev. Sixty-First Revised Sheet No. PGA-1, November 1, 1979
Rev. Sub. Sixty-Third Revised Sheet No. PGA-1, January 21, 1980
Second Rev. Sub. Sixty-Fourth Revised Sheet No. PGA-1, March 1, 1980
Rev. Sub. Sixty-Fifth Revised Sheet No. PGA-1, September 1, 1980
Substitute Sixty-Sixth Revised sheet No. PGA-1, March 1, 1981
Substitute Sixty-Seventh Revised Sheet No. PGA-1, September 1, 1981
Substitute Sixty-Eight Revised Sheet No. PGA-1, March 1, 1982

North Penn states that this filing is made pursuant to a request from Mr. Ron Ford of the Federal Energy Regulatory Commission.

Furthermore, North Penn states that the reservations set forth in their April 28, 1982 letter submitting the revised tariff sheet pursuant to the Commission order dated March 29, 1982, in Docket No. RP79-68 apply in full force and effect to this present filing.

Copies of the revised tariff sheets have been served on all parties.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of

Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before June 7, 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. 82-14534 Filed 5-27-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6266-000]

Quincy-Columbia Basin Irrigation District, East Columbia Basin Irrigation District, South Columbia Basin Irrigation District; Application for Preliminary Permit

May 21, 1982.

Take notice that the Columbia Basin Irrigation Districts (Applicant) filed on April 26, 1982, an application for preliminary permit (pursuant to the Federal Power Act, 16 U.S.C. 791(a)-825(r)) for Project No. 6266 to be known as the Royal Lake Hydroelectric Project located on the Crab Creek Lateral Wasteway in Adams County near the Town of Othello, Washington. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Tom Cotton, Manager, Quincy-Columbia Basin Irrigation District, P.O. Box 188, Quincy, Washington 98848.

Project Description—The proposed project would be within the Columbia National Wildlife Refuge and would consist of: (1) A diversion and intake structure on the Bureau of Reclamation's Crab Creek Lateral Wasteway at elevation 900 feet; (2) a 42-inch-diameter, 700-foot-long steel penstock; (3) a powerhouse at elevation 825 feet containing a single 320-kW generating unit; and (4) a 1.5-mile-long, 13.2-kV, wood-pole transmission line. Applicant estimates that the project would have an average annual output of 1,700 MWh.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. During the term of the permit Applicant would conduct studies to determine the engineering, environmental, economic, and financial feasibility of the project. Applicant estimates that its studies and preparation of an application for exemption from licensing would cost approximately $37,000.

Competing Applications—Anyone desiring to file a competing application for preliminary permit must submit to the Commission, on or before September 7, 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 August 9, 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 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, 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 82-14535 Filed 5-27-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6255-000]

Renewable Energy Ventures of Maryland, Application for Preliminary Permit

May 21, 1982.

Take notice that Renewable Energy Ventures of Maryland (Applicant) filed on April 26, 1982, an application for preliminary permit (pursuant to the Federal Power Act, 16 U.S.C. 791(a)-825(r)) for Project No. 6255 to be known as the Duckett Project located on the Patuxent River near the town of Laurel in Howard and Prince George's Counties, Maryland. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. James A. Federline, Renewable Energy Ventures of Maryland, 26 West Diamond Avenue, Box 6004, Gaithersburg, Maryland 20877.

Project Description—The proposed project would consist of: (1) The constructed Duckett Reservoir Dam, owned and operated by the Washington Suburban Sanitary Commission, an Ambursen dam 136 feet high and 840 feet wide; (2) a reservoir with a gross storage of 17,200 acre-feet at an elevation of 283 feet m.s.l.; (3) an existing pipeline to be used as a penstock, approximatelyy 3 feet in diameter and 1,500 feet long; (4) an existing concrete pump house, approximately 30 by 50 feet, housing one 400-kW turbine/generator unit operating under a head of 110 feet; (5) an existing short 33-kV transmission line; and (6) appurtenant facilities. The average annual generation of 2.3 million kWh would be sold to the Washington Suburban Sanitary Commission or to the Baltimore Gas and Electric Company.

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 18 months, during which 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—Anyone desiring to file a competing application for preliminary permit must submit to the Commisison, on or before September 7, 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 August 9, 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 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, 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. 82-14536 Filed 5-27-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6229-000]

Reynolds Irrigation District; Application for Exemption for Small Hydroelectric Power Project Under 5 MW Capacity

May 24, 1982.

Take notice that on April 19, 1982, the Reynolds Irrigation District (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. 6229) would be located on the Reynolds Irrigation District Main Canal near the town of Melba in Canyon and Owyhee Counties, Idaho. Correspondence with the Applicant should be directed to: Mr. Sam Pitman, Director, c/o Reynolds Irrigation District, Star Route, Melba, Idaho 83641.

Project Description—The proposed project would consist of: (1) A lined canal replacing an existing 1300-foot-long, 36-inch-diameter siphon, (2) a concrete inlet structure with 12-foot-wide 8-foot-deep steel gates; (3) a 42-inch diameter, 1,450-foot penstock; (4) a powerhouse with a total installed capacity of 350 kW; (5) a tailrace discharging into a riprapped portion of the Snake River; and (6) a 100-foot-long, 12.5-kV transmission line interconnecting with an existing Idaho Power Company transformer. The Applicant estimates that the average annual output would be 12.8 million kWh.

Purpose of Exemption—An exemption, if issued, gives the Exemptee priority of control, development, and operation of the project under the terms of the exemption from licensing, and protects the Exemptee from permit or license applicants that would seek to take or develop the project.

Agency Comments—The U.S. Fish and Wildlife Service, The National Marine Fisheries Service, and the Idaho 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 July 15, 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 July 15, 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 interven must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc 82-14537 Filed 5-27-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6249-000]

Seattle Oil Service, Inc.; Application for Preliminary Permit

May 21, 1982.

Take notice that Seattle Oil Service, Inc. (Applicant) filed on April 23, 1982, an application for preliminary permit (pursuant to the Federal Power Act, 16 U.S.C. 791(a) 825(r)) for Project No. 6248 to be known as the Waste Waterway 68D, Dike No. 10 Hydroelectric Project located on Waste Waterway 68D near the the town of Othello in Adams County, Washington. The proposed project would affect the U.S. land administered by the U.S. Bureau of Reclamation. 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 U.S. Bureau of Reclamation Waste Waterway 63D; (2) a 4-foot diameter penstock; (3) a powerhouse with a total installed capacity of 225 kW; (4) a tailrace conveying the efffluent to the Waste Waterway; and (5) a 500-foot-long, 12.4-kV transmission line interconnecting with an existing 12.4-kV Washington Water Power Company 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 August 9, 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 August 9, 1982, ans should specify the type oif application forthcoming. Any application for license or exemption from liecensing must be filed in accofdance 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 late than October 8, 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, of 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 procedding. Any comments, protests, or petitions to intervene must be received on or before August 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, 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. 82-14538 Filed 5-27-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6263-000]

Seattle Oil Service, Inc., Application for Preliminary Permit

May 21, 1982.

Take notice that Seattle Oil Service, Inc. (Applicant) filed on April 23, 1982, an application for preliminary permit (pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)) for Project No. 6263 to be known as the Waste Waterway 68D, Dike No. 8 Hydroelectric Project located on Waste Waterway 68D near the town of Othello in Adams County, Washington. The proposed project would affect the U.S. land administered by the U.S. Bureau of Reclamation. 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 U.S. Bureau of Reclamation Waste Waterway 68D; (2) a 5-foot diameter penstock; (3) a powerhouse with a total installed capacity of 190 kW; (4) a tailrace conveying the effuent to the Waste Waterway; and (5) a 600-foot long, 12-kV Washington Water Power Company transmission line. The applicant estimates that the average annual output would be 820 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 woiuld 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 August 9, 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 August 9, 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 not later than October 8, 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 commens 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 9, 1982.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS" "NOTICE OR 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 82-14539 Filed 5-27-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6264-000]

Seattle Oil Service, Inc.; Application for Preliminary Permit

May 21, 1982.

Take notice that Seattle Oil Service, Inc. (Applicant) filed on April 27, 1982, an application for preliminary permit (pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)) for Project No. 6264 to be known as the Waste Waterway 68D, Dike No. 6 Hydroelectric Project located on Waste Waterway 68D near the town of Othello in Adams County, Washington. The proposed project would affect U.S. land administered by the U.S. Bureau of Reclamation. 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, SW., Seattle, Washington 98136.

Project Description—The proposed project would consist of: (1) A 5-foot high concrete intake structure diverting water from the existing U.S. Bureau of Reclamation Waste Waterway 68D; (2) a capacity of 220 kW; (4) a tailrace conveying the effuent to the Waste Waterway; and (5) a 800-foot long, 12-kV Washington Water Power Company transmission line. The applicant estimates that the average annual output would be 950 MWh.

Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. Applicant is seeks issuance of a preliminary permit for a period of 18 months during which it would conduct engineering, economic, hydrological, and environmenal 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 August 9, 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 August 9, 1982, and should specify the type of application forthcoming. An 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 October 8, 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 August 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, 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 82-14540 Filed 5-27-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 1390-001]

Southern California Edison Co.; Application for License (5 MW or Less)

May 24, 1982.

Take notice that Southern California Edison Company (Applicant) filed on December 1, 1981, an application for license (pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)) for continued operation of a water power project to be known as the Lundy Project No. 1390. The project would be located on Mill Creek, near Lee Vining, in Mono County, California. Correspondence with the Applicant should be directed to: Mr. John R. Bury, General Counsel, Southern California Edison Company, 2244 Walnut Grove Avenue, Rosemead, California 91770.

Project Description—The project would consist of: (1) The existing 33-foot-high and 690-foot-long earth and rockfill Lundy Dam, impounding a 132-acre reservoir; (2) a 270-foot-long concrete intake structure; (3) a 12,000-foot-long, 48-inch-diameter pipeline; (4) a 3,000-foot-long, varying diameter riveted steel penstock; (5) a powerhouse containing two generating units, each rated at 1,500 kW; (6) a 7.1-mile-long transmission line; and appurtenant facilities. The average annual energy generation is estimated to be 9.3 million kWh.

Purpose of Project—The energy generated by the project helps meet the demands of Applicant's customers in the southern part of the State of California.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are requested to provide comments pursuant to the Federal Power Act, the Fish and Wildlife Coordination Act, the Endangered Species Act, the National Historic Preservation Act, the Historical and Archeological Preservation Act, the National Environmental Policy Act, Pub. L. No. 88–29, and other applicable statutes. Agencies are also requested to provide recomendations pursuant to Section 14 of the Federal Power Act on takeover of the project by the United States. No other formal requests for comments will be made.

Comments should be confined to substantive issues relevant to the issuance of a license. A copy of the application may be obtained directly from the Applicant. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before August 2, 1982, either the competing application itself (See 18 CFR 4.33(a) and (d)) or a notice of intent (See 18 CFR 4.33(b) and (c)) to file a competing application. Submission of a timely notice of intent allows an interested person to file an acceptable competing application no later than the time specified in § 4.33(c) or § 4.101 et seq. (1981).

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. 82-14541 Filed 5-27-82; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6243-000]

State of New Jersey Department of Environmental Protection; Application for Exemption for Small Hydroelectric Power Project Under 5 MW Capacity

May 21, 1982.

Take notice that on April 22, 1982, the State of New Jersey Department of Environmental Protection (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 the proposed Columbia hydroelectric project from licensing under Part I of the Federal Power Act. The proposed small hydroelectric project (Project No. 6243) would be located on the Paulins Kill River, in Knowlton Township, Warren County, New Jersey. Correspondence with the Applicant should be directed to: Mr. Paul Arbesman, State of New Jersey, Department of Environmental Protection, P.O. Box CN–402, Trenton, New Jersey 08625.

Project Description—The proposed project would consist of: (1) An existing 20-foot high, 330-foot long concrete dam with 2-foot high flashboards; (2) an existing 43-acre reservoir with a total storage capacity of 275 acre-feet at elevation 288.3 feet M.S.L.; (3) an existing powerhouse containing two new turbine-generators with a total rated capacity of 450 kW; (4) a 25-foot long transmission line; (5) an existing tailrace channel; and (6) appurtenant facilities. The project would generate up to 2,300,000 kWh annually. The dam is owned by the State of New Jersey.

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 Jersey Department of Environmental Protection, Fish, Game and Wildlife Division are requested, for the purposes

set forth in Section 408 of the Act, to submit within 60 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or to otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none.

Other Federal, State, and local agencies are requested to provide any comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 60 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Competing Applications—Any qualified license applicant desiring to file a competing application must submit to the Commission, on or before July 16, 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 July 16, 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. 82-14542 Filed 5-27-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP81-85-000]

Trunkline LNG Co., Settlement Conference

May 21, 1982

Take notice that on May 27, 1982, at 10:00 a.m., a settlement conference of all interested parties will be convened concerning the above-captioned matter. The conference will be held at the offices of the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426.

Customers and other interested persons will be permitted to attend the informal conference, but if such persons have not previously been permitted to intervene by order of the Commission, attendance will not be deemed to authorize intervention.

All parties will be expected to appear fully prepared to discuss any procedural matters and explore or make commitments with respect to any or all of the issues discussed at the conference.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-14547 Filed 5-27-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-404-000]

Upper Peninsula Power Co., Order Accepting for Filing and Suspending Revised Rates, Granting Interventions, and Establishing Hearing Procedures

Issued May 21, 1982.

On March 26, 1982, Upper Peninsula Power Company (UPPCO) tendered for filing a proposed increase in its firm service rates applicable to seven wholesale customers[1] Based on a calendar year 1980 test period, the proposed rates would increase jurisdictional revenues by approximately $198,000 (4.7%).[2] UPPCO proposes an effective date of May 30, 1982. In addition, the company requests that the Commission issue an order authorizing the use of normalization for cost of service purposes in order that it may qualify for the Accelerated Cost Recovery System (ACRS) tax depreciation deductions afforded by the Economic Recovery Tax Act of 1981 (ERTA).

Notice of UPPCO's filing was issued on April 2, 1982, with responses due on or before April 20, 1982. Timely petitions to intervene were filed by Wisconsin Electric Power Company (WEP) and jointly by the Alger Delta Cooperative Electric Association and the Ontonagon County Rural Electrification Association (Cooperatives). While WEP requests intervenor status, it neither seeks a hearing nor raises any specific issues in its pleading. The Cooperatives request that the Commission suspend UPPCO's filing for five months and initiate a hearing. In support of their requests, the Cooperatives contend that the company's proposed rate of return on equity is excessive and they oppose UPPCO's proposed customer charge asserting that it is discriminatory.[3]

In addition to the petitions to intervene, protests to UPPCO's filing were received from the Cities of Gladstone and Neqaunee and the Village of L'Anse, Michigan, urging the Commission to deny the requested increase.

On May 4, 1982, UPPCO filed an answer to the Cooperatives' petition to intervene. The company disputes the allegations raised by the Cooperatives and requests that any suspension period imposed by limited to one day.

Discussion

Initially, we find that participation by each of the petitioners is in the public interest, and we shall therefore grant the petitions of WEP and the Cooperatives to intervene.

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[1] *See* Attachment A for rate schedule designations and affected customers.

[2] Because UPPCO's proposed increase is less than $22,000, it has made an abbreviated filing pursuant to § 35.13(a)(2) of the Commission's regulations.

[3] The Cooperatives also allege they have thus far been unable to undertake a detailed review of UPPCO's filing.

Our preliminary review of UPPCO's filing indicates that the proposed rates have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful. Accordingly, we shall accept UPPCO's rates for filing and suspend them as ordered below.

We recently addressed the Commission's suspension policy in *West Texas Utilities Company,* Docket No. ER82-23-000 (February 26, 1982). In that order, we stated that rate filings generally would be suspended for five months where preliminary review indicates that the proposed increase may be unjust and unreasonable and may generate substantially excessive revenues, as defined in *West Texas.* In the instant proceeding, our examination suggests that UPPCO's rates may yield substantially excessive revenues. Accordingly, we shall suspend those rates for five months, to become effective, subject to refund, on October 30, 1982.

Finally, we note that UPCO's cost of service reflects the company's use of the ACRS for tax depreciation under ERTA. While we can conclude that the instant filing reflects a normalization method of accounting, further information will be required in order to determine whether UPPCO has properly calculated the effects of normalization in its jurisdictional cost of service.

The Commission Orders

(A) UPPCO's proposed rates are hereby accepted for filing and suspended for five months from the proposed effective date, to become effective on October 30, 1982, subject to refund.

(B) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(a) of the Department of Energy Organization Act and by the Federal Power Act, particularly sections 205 and 206 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act [18 CFR, Chapter I], a public hearing shall be held concerning the justness and reasonableness of UPPCO's rates.

(C) The petitions to intervene filed by WEP and the Cooperatives are hereby granted subject to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act; *Provided, however,* That participation by such intervenors shall be limited to the matters set forth in their petitions to intervene; and *Provided, further,* That the admission of such intervenors shall not be construed as recognition by the Commission that they might be aggrieved by any order or orders entered by the Commission in this proceeding.

(D) The Commission staff shall serve top sheets in this proceeding on or before June 9, 1982.

(E) A presiding administrative law judge, to be designated by the Chief Administrative Law Judge, shall convene a conference in this proceeding to be held within approximately fifteen (15) days after service of top sheets in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. The presiding judge is authorized to establish procedural dates and to rule on all motions (except motions to consolidate or sever and motions to dismiss) as provided in the Commission's Rules of Practice and Procedure.

(F) The Secretary shall promptly publish this order in the **Federal Register.**

By the Commission.

Kenneth F. Plumb,

Secretary.

ATTACHMENT A—UPPER PENINSULA POWER CO., RATE SCHEDULE DESIGNATION

[Docket No. ER82-404-000]

Other party	Rate schedule No.	Supplement No.	Supersedes supplement No.
Wisconsin Electric Power Co.	2	19	16 as supplemented.
		20	17.
Do	3	20	17 as supplemented.
		21	18.
Village of Baraga	6	19	16 as supplemented.
		20	17.
Village of L'Anse	7	19	16 as supplemented.
		20	17.
City of Negaunee	11	17	14 as supplemented.
		18	15.
City of Gladstone	23	6	3 as supplemented.
		7	4.
Alger-Delta Cooperative Electric Association.	14	19	16 as supplemented.
		20	17.
Ontonagon County REA	15	19	16 as supplemented.
		20	17.

[FR Doc. 82-14544 Filed 5-27-82; 8:45 am]

BILLING CODE 6717-01-M

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: May 21, 1982.

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
********** TEXAS RAILROAD COMMISSION **********									
-ABRAXAS PETROLEUM CORP				RECEIVED:	04/29/82	JA: TX			
8229625	F-04-047583	4240931492		102-4	103	ALTON MILLER #1	MILLER RANCH (FRIO 33	200.0	UNITED GAS PIPELI
-AEN ENERGY INC				RECEIVED:	04/29/82	JA: TX			
8229684	F-7B-049063	4205933178		102-4		ISENHOWER JAMES R #1	ISENHOWER SE (DUFFER)	230.0	DELHI GAS PIPELIN
-ALLEGRO INVESTMENTS INC				RECEIVED:	04/29/82	JA: TX			
8229520	F-02-035020	4217531288		102-4		KARNEI HEIRS #1	GOLIAD N (3250)	0.0	DELHI GAS PIPELIN
-ALLEN PETROLEUM INC				RECEIVED:	04/29/82	JA: TX			
8229598	F-05-045736	4228930445		102-2	107-TF	WALKER #1	BEAR GRASS (TRAVIS PE	365.0	DELHI GAS PIPELIN
-AMERICAN QUASAR PETROLEUM CO				RECEIVED:	04/29/82	JA: TX			
8229572	F-8A-042186	4244530934		102-4		BEVERS 1-U	BROWNFIELD S (STRAWN)	0.0	
-AMERIND OIL CO				RECEIVED:	04/29/82	JA: TX			
8229706	F-08-049546	4200332949		103		COWDEN "F" #2	GOLDSMITH N (SILURIAN	40.0	PIONEER CORP
8229707	F-08-049547	4200333037		103		COWDEN "F" #3	GOLDSMITH N (SILURIAN	40.0	PIONEER CORP
-AMMEX PETROLEUM INC				RECEIVED:	04/29/82	JA: TX			
8229680	F-03-048963	4205132018		102-2	103	ROBERT UNIT #1	BIG A (TAYLOR)	106.0	CLAJON GAS CO
-AMOCO PRODUCTION CO				RECEIVED:	04/29/82	JA: TX			
8229677	F-06-048841	4220330891		102-4	107-TF	AURELIA VANN GAS UNIT #1	BLOCKER/COTTON VALLEY	354.0	UNITED GAS PIPELI
8229714	F-7C-049597	4243531168		108		BERTHA T GLASSOCK "B" #2	ALDWELL RANCH (CANYON	16.8	LONE STAR GAS CO
8229676	F-08-048838	4213533459		103		DAVID FASKEN "BG" #4	FASKEN SOUTH (WOLFCAM	12.0	AMOCO PRODUCTION
8229709	F-7C-049587	4243531266		108		EDWIN S MAYER JR "D" #11	SAWYER (CANYON)	17.3	LONE STAR GAS CO
8229708	F-7C-049586	4241330284		108		EDWIN S MAYER JR "G" #11	SAWYER (CANYON)	20.7	LONE STAR GAS CO
8229711	F-7C-049594	4243530671		108		MIERS - 78 #3	SAWYER (CANYON)	5.5	LONE STAR GAS CO
8229712	F-7C-049595	4243530964		108		MRS MAY M RAY "B" #3	ALDWELL RANCH (CANYON	13.4	LONE STAR GAS CO
8229713	F-7C-049596	4243531074		108		MRS MAY M RAY "C" #2	ALDWELL RANCH (CANYON	26.2	LONE STAR GAS CO
8229715	F-7C-049598	4243530877		108		RANDEE FAWCETT TRUST #5	SAWYER (CANYON)	17.3	LONE STAR GAS CO
8229710	F-7C-049588	4243530384		108		RANDEE FAWCETT TRUST "B" #1	SAWYER (CANYON)	10.0	LONE STAR GAS CO
*8229642	F-03-048071	4203931685		103		S A PENNOCK EST #11	HASTINGS WEST	16.8	AMOCO GAS CO
-ANDERSON PETROLEUM INC				RECEIVED:	04/29/82	JA: TX			
8229594	F-7C-045540	4210533600		103	107-TF	AUSTIN C MILLSPAUGH "B" 1-17	OZONA (CANYON SAND)	50.0	ANDERSON PIPELINE
8229513	F-7C-027455	4210532329		103	107-TF	BILL CLEGG "B" 4-55	OZONA (CANYON SAND)	10.0	ANDERSON PIPELINE
8229704	F-7C-049419	4243532248		107-TF		PAULINE FRIESS "A" 1-101	SAWYER (CANYON)	55.0	SUTTON COUNTY PIP
-ARCO OIL AND GAS COMPANY				RECEIVED:	04/29/82	JA: TX			
8229801	F-08-049932	4210332801		103		EVAN B JONES "A" #2	Y SOUTH TUBB	11.7	WARREN PETROLEUM
8229800	F-7C-049929	4232931028		103		JUNE TIPPETT #44	PEGASUS (SAN ANDRES)	2.5	EL PASO NATURAL G
-ART MACHIN & ASSOCIATES INC				RECEIVED:	04/29/82	JA: TX			
8229703	F-06-049391	4220330840		103		MANVILLE FOREST PRODUCTS CO #1	NORTH WASKOM (HILL)	180.0	MISSISSIPPI RIVER
-BAR C WELL SERVICE CO				RECEIVED:	04/29/82	JA: TX			
8229678	F-7B-048884	4208332151		102-4		WALLACE #1	PROLER (BRENEKE)	5.0	LONE STAR GAS CO
-BASIN OPERATING CO LTD				RECEIVED:	04/29/82	JA: TX			
8229514	F-06-030509	4234730438		107-TF		TOM JACK LUCAS #1	DOUGLASS (COTTON VALL	180.0	TEXAS UTILITIES F
-BEAL OPERATING				RECEIVED:	04/29/82	JA: TX			

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8229569	F-7B-041841	4208331961		102-4		CARL STOUP #1 (097822)	STOUP (CAMP COLORADO)	18.0	ODESSA NATURAL CO
8229568	F-7B-041843	4208332159		102-4		CARL STOUP #2 (097823)	STOUP (CAMP COLORADO)	60.0	ODESSA NATURAL CO
8229667	F-7B-048655	4208300000		102-4		CARL STOUP #4	STOUP (CAMP COLORADO)	12.0	ODESSA NATURAL CO
-BONRAY ENERGY CORP				RECEIVED:	04/29/82	JA: TX			
8229758	F-08-049824	4222324780		103		READ 20-1	COAHOMA N (FUSSEL)	16.0	GETTY OIL CO
-BROCK HYDROCARBONS INC				RECEIVED:	04/29/82	JA: TX			
8229545	F-10-040382	4219530759		103		RAFFERTY #1-259	HANSFORD MORROW	300.0	TRANSWESTERN PIPE
-CHEVRON U S A INC				RECEIVED:	04/29/82	JA: TX			
8229717	F-08-049606	4222732587		103		A M BELL #49	IATAN-EAST HOWARD	13.0	GETTY OIL CO
8229719	F-08-049608	4200332975		103		COLUMBUS GRAY #22-21	FUHRMAN-MASCHO	51.0	PHILLIPS PETROLEU
8229718	F-08-049607	4222732588		103		G M DODGE #62	IATAN-EAST HOWARD	5.0	GETTY OIL CO
8229720	F-08-049609	4249531300		103		W E BAIRD #13-77C	W E BAIRD	13.0	TRANSWESTERN PIPE
8229716	F-08-049605	4233532159		103		W L FOSTER #71	IATAN-EAST HOWARD	5.0	GETTY OIL CO
-CIMA EXPLORATION INC				RECEIVED:	04/29/82	JA: TX			
8229672	F-08-048787	4231732459		103		BLOCKER #1	SPRABERRY	36.0	ADOBE OIL & GAS C
-CINCO OIL & GAS INC & NRM				RECEIVED:	04/29/82	JA: TX			
8229666	F-01-048638	4217700000		102-2		FLOYD-STULTING UNIT #1	PEACH CREEK (AUSTIN C	39.0	TIPPERARY CORP
-CLAYTON W WILLIAMS JR				RECEIVED:	04/29/82	JA: TX			
8229605	F-03-046114	4205100000		102-2		ALWINE PETERS #1	GIDDINGS (AUSTIN CHAL	0.0	VALERO TRANSMISSI
8229536	F-03-040015	4205100000		102-2		KACER-UBERNOSKY UNIT #1	GIDDINGS (AUSTIN CHAL	0.0	VALERO TRANSMISSI
8229604	F-03-046112	4205100000		102-2		MATCEK-GOLD UNIT #1	GIDDINGS (AUSTIN CHAL	0.0	VALERO TRANSMISSI
8229599	F-03-045766	4205100000		102-2		RYAN-HOVARAK UNIT #1	GIDDINGS (AUSTIN CHAL	0.0	VALERO TRANSMISSI
8229581	F-03-043138	4205100000		102-2		W H RYAN A #1	GIDDINGS (AUSTIN CHAL	0.0	VALERO TRANSMISSI
-CNG PRODUCING COMPANY				RECEIVED:	04/29/82	JA: TX			
8229646	F-04-048203	4221531159		102-4		BOYT #1	TEXAS GARDENS N FIELD	89.0	TENNESSEE GAS TRA
-COMMAND ENERGY CORP				RECEIVED:	04/29/82	JA: TX			
8229669	F-7B-048696	4213300000		102-4		PRICE #1 RRC #	SHOAF-MERGNER (MISS)	0.0	NORTHERN GAS PROD
-CONOCO INC				RECEIVED:	04/29/82	JA: TX			
8229784	F-7B-049867	4226900000		108		A H ORSBORN #4 ID #02841	KATZ	1.0	CITIES SERVICE CO
8229776	F-7B-049849	4226900000		108		A H ORSBORN #6 ID #02841	KATZ	0.9	CITIES SERVICE CO
8229786	F-08-049869	4238900000		108		FORD GERALDINE UNIT #162 ID #21021	GERALDINE FORD	2.5	EL PASO NATURAL G
8229787	F-08-049870	4238900000		108		FORD GERALDINE UNIT #163 ID #21021	GERALDINE FORD	0.9	EL PASO NATURAL G
8229777	F-08-049850	4238900000		108		FORD GERALDINE UNIT #175 ID #21021	GERALDINE FORD	0.9	EL PASO NATURAL G
8229774	F-08-049847	4210900000		108		FORD GERALDINE UNIT #239 ID #21021	GERALDINE FORD	0.3	EL PASO NATURAL G
8229773	F-08-049846	4238900000		108		FORD GERALDINE UNIT #329 ID #21021	GERALDINE FORD	0.7	EL PASO NATURAL G
8229779	F-08-049852	4210900000		108		FORD GERALDINE UT #252 ID #21021	GERALDINE FORD	1.0	EL PASO NATURAL G
8229789	F-08-049872	4213500000		108		GIST UNIT #58 ID #A373	FOSTER	0.8	ODESSA NATURAL CO
8229788	F-08-049871	4200300000		108		J W BONER-B- #15 ID #01664	FUHRMAN-MASCHO	0.5	PHILLIPS PETROLEU
8229611	F-04-046683	4247933157		102-2	107-TF	ROSA V BENAVIDES "B" #8	CAPRICE (LOBO)	700.0	E I DUPONT DE NEM
8229597	F-04-045691	4247933158		102-2	107-TF	ROSA V BENAVIDES "D" #9	CONTRARY (LOBO)	700.0	E I DUPONT DE NEM
8229755	F-04-049807	4242700000		108		T B SLICK EST C-221 #65	RINCON (FRIO B)	21.0	TENNESSEE GAS PIP
8229785	F-09-049868	4248500000		108		TJ & JL WAGGONER-ADE-#66 ID #18376	WICHITA COUNTY REGULA	0.1	EAGLE PETROLEUM C
8229778	F-08-049851	4213533644		103		TXL 44-5 #2 ID #27070	LAWSON (SAN ANDRES)	10.2	PHILLIPS PETROLEU
8229590	F-04-044821	4247933087		102-2	107-TF	VAQUILLAS RANCH "B" #13	VAQUILLAS RANCH (WILC	700.0	E I DUPONT DE NEM
8229783	F-08-049866	4200300000		108		W FUHRMAN MASCHO UT #52 ID #21220	FUHRMAN-MASCHO	0.3	PHILLIPS PETROLEU
8229775	F-08-049848	4213500000		108		WIGHT UNIT #11 ID #19654	COWDEN N	4.3	AMOCO PRODUCTION
-CORDOVA RESOURCES INC				RECEIVED:	04/29/82	JA: TX			
8229585	F-7B-044499	4213300000		102-4	103	SOOTER #3	NORTH PIONEER (CADDO)	365.0	ODESSA NATURAL CO
8229665	F-7B-048622	4213333039		102-4		SOOTER #4	NORTH PIONEER (CADDO)	59.3	ODESSA NATURAL CO
-CORPUS CHRISTI OIL AND GAS CO				RECEIVED:	04/29/82	JA: TX			
8229799	F-04-049922	4224731303		102-4		HOLBEIN #5-T	LOS CUATES RANCH (665	0.0	VALERO INTERSTATE
-COTTON PETROLEUM CORPORATION				RECEIVED:	04/29/82	JA: TX			
8229606	F-10-046193	4219530786		103		RENNER #1	SHAPELY SO (MORROW UP	145.0	PHILLIPS PETROLEU

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-DAMSON OIL CORPORATION				RECEIVED:	04/29/82	JA: TX			
8229577	F-03-042720	4219931503		102-4		KIRBY SANTA FE #1	LONG STATION (10170)	300.0	HOUSTON PIPELINE
-DELTA OIL & GAS CO				RECEIVED:	04/29/82	JA: TX			
8229681	F-7B-049026	4242900000		103		CALDWELL-ROGERS RRC 96300	CADDO (ELLENBURGER MI	0.0	LONE STAR GAS CO
-DYCO PETROLEUM CORPORATION				RECEIVED:	04/29/82	JA: TX			
8229623	F-8A-047538	4221933278		103		BROWN #2	LEVELLAND (SAN ANDRES	6.0	CABOT PIPELINE CO
-E D ANDERSON				RECEIVED:	04/29/82	JA: TX			
8229670	F-7B-048706	4223700000		108		S W RALEY #1	GRAFORD (BEND CONGL)	0.0	LONE STAR GAS CO
-ENSERCH EXPLORATION INC				RECEIVED:	04/29/82	JA: TX			
8229573	F-06-042261	4220300000		103		J T GEORGE #3	WHELAN	401.0	TEXAS EASTERN TRA
-EXCELSIOR OIL CORP				RECEIVED:	04/29/82	JA: TX			
8229558	F-06-041424	4240100000		103		MATTIE SPELLINGS G U #1	DANVILLE EAST	60.0	WESTERN GAS CORP
-EXXON CORPORATION				RECEIVED:	04/29/82	JA: TX			
*8229637	F-03-047930	4207131175		103		BROUSSARD-HEBERT A/C 1 #36	ANAHUAC	73.0	ARMCO STEEL CORP
8229641	F-03-048068	4237330509		103		C B GRANBURY A/C 4 #81	LIVINGSTON (WILCOX)	15.0	UNITED TEXAS TRAN
*8229696	F-08-049288	4200332879		103		FULLERTON CLEARFORK UNIT #533	FULLERTON	15.0	PHILLIPS PETROLEU
*8229652	F-08-048464	4200332889		103		FULLERTON CLEARFORK UNIT #817	FULLERTON	15.0	PHILLIPS PETROLEU
8229682	F-08-049044	4210331991		103		J B TUBB A/C 1 #176U	SAND HILLS (JUDKINS)	71.0	ODESSA NATURAL GA
8229615	F-08-047298	4210332664		103		J C TUBB A/C 1 #253L	SAND HILLS (TUBB)	10.0	EL PASO NATURAL G
8229644	F-08-048148	4210332664		103		J C TUBB A/C 1 253U	SAND HILLS	4.0	EL PASO NATURAL G
*8229733	F-04-049636	4227331209		103		K R BORREGOS 541-D (97306)	BORREGOS (ZONE N-23 A	358.0	ARMCO STEEL CORP
*8229683	F-04-049050	4227331615		102-4		K R BORREGOS 567 (06544)	BORREGOS (S-7 SW)	40.0	ARMCO STEEL CORP
8229768	F-7C-049837	4223531792		103		MCAFEE-LINTHICUM #2	MERTZON (CANYON)	1.0	
8229792	F-04-049897	4226100000		108		SARITA FLD OIL & GAS U 123-F #06987	SARITA (15-M)	2.0	NATURAL GAS PIPEL
-FISHER-WEBB INC				RECEIVED:	04/29/82	JA: TX			
8229724	F-7B-049613	4244100000		103		RODE "C" #2	LAKE ABILENE (4000')	15.0	FORT CHADBOURNE C
8229753	F-7B-049755	4244132031		103		SAWYER #1	TAYLOR COUNTY REGULAR	20.0	UNION TEXAS PETRO
-FRAC INC				RECEIVED:	04/29/82	JA: TX			
8229723	F-08-049612	4200332899		103		LIMPIA #14-1 #26901	FUHRMAN-MASCHO	6.6	PHILLIPS PETROLEU
8229722	F-08-049611	4200333021		103		LIMPIA "14" #2 #26901	FUHRMAN-MASCHO	6.6	PHILLIPS PETROLEU
8229721	F-08-049610	4200333020		103		LIMPIA "14" #3 #26901	FURHMAN-MASCHO	7.7	PHILLIPS PETROLEU
-FRANK CASS				RECEIVED:	04/29/82	JA: TX			
8229759	F-7C-049828	4238332097		103		HOWARD 32B 1 RRC #09308	SPRABERRY (TREND AREA	0.0	EL PASO NATURAL G
-GETTY OIL COMPANY				RECEIVED:	04/29/82	JA: TX			
8229512	F-06-007314	4236500000		108-ER		AMBER KIRBY #2 ID #32016	CARTHAGE (PALUXY)	17.7	TEXAS GAS TRANSMI
8229548	F-8A-040978	4207931401		103		XIT UNIT #179-Y	LEVELLAND-SAN ANDRES	10.0	CITIES SERVICE CO
-GILLRING OIL CO				RECEIVED:	04/29/82	JA: TX			
8229587	F-04-044624	4204700000		102-4		D J SULLIVAN IV #2	ANN MAG (FRIO-VICKSBU	182.5	TENNESSEE GAS PIP
-GLENCO OIL & GAS CO				RECEIVED:	04/29/82	JA: TX			
8229643	F-01-048097	4201331333		102-4		MCDONALD WELL #1	DULCE (ESCONDIDO)	36.5	SOUTH TEXAS INSTR
8229660	F-01-048576	4212732191		102-2		STRAIT (07332) #1	PEARSALL (AUSTIN CHAL	547.5	ESPERANZA TRANSMI
8229662	F-01-048578	4228330744		102-2		WETHERBEE "A" (07306) #1	PEARSALL (AUSTIN-CHAL	1314.0	ESPERANZA TRANSMI
8229663	F-01-048579	4228330815		102-2		WETHERBEE "A" (07306) #2	PEARSALL (AUSTIN CHAL	1314.0	ESPERANZA TRANSMI
8229661	F-01-048577	4228330722		102-2		WETHERBEE TRUSTEE (07078) #1	PEARSALL (AUSTIN CHAL	657.0	ESPERANZA TRANSMI
-GO OIL CORP				RECEIVED:	04/29/82	JA: TX			
8229690	F-7B-049162	4236731966		102-4		WELLBORN #1	PEASTER SE (MARBLE FA	0.0	NATURAL GAS PIPEL
-GOLDSTON OIL CORP				RECEIVED:	04/29/82	JA: TX			
8229791	F-03-049886	4248132181		103		LISSIE GAS UNIT #2 #1 (96710)	LISSIE SOUTH (WILCOX	547.0	TENNESSEE GAS PIP
8229790	F-03-049885	4248132178		103		LISSIE GAS UNIT #3 #1 (96713)	LISSIE SOUTH (WILCOX	730.0	TENNESSEE GAS PIP
-GRACE PETROLEUM CORPORATION				RECEIVED:	04/29/82	JA: TX			
8229624	F-06-047580	4241930345		102-4		EMMIT STOCKMAN #1	GARRISON N	0.0	UNITED GAS PIPELI
8229640	F-08-048026	4210330788		108		MCELROY #1	GIB	0.0	PHILLIPS PETROLEU
-GULF OIL CORPORATION				RECEIVED:	04/29/82	JA: TX			

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
*8229772	F-08-049841	4210332464		103		W N WADDELL TR 3 #1123	UNIVERSITY WADDELL (D	9.0	
*8229608	F-01-046386	4201331296		103		W T HURT #5	FASHING (EDWARDS LIME	0.0	NATURAL GAS P/L C
-GULF SANDS OIL CO				RECEIVED:	04/29/82	JA: TX			
8229532	F-02-039909	4202531500		102-4		ALBERT WINSAUER #1	LITTLE JOHN (2900)	82.0	GULF STATES EQUIT
8229551	F-02-041312	4202531440		103		HARTZENDORF EST #1	TYNAN W (3600)	6.0	GULF STATES EQUIT
-HAMMAN OIL & REFINING CO				RECEIVED:	04/29/82	JA: TX			
8229562	F-03-041500	4220131178		102-4		E E LINDSAY #1	CYPRESS (COCKFIELD A)	450.0	TENNESSEE GAS PIP
8229561	F-03-041499	4220100000		102-4		LONGENBAUGH-SCHWARTZ #1	CYPRESS (COCKFIELD A)	450.0	TENNESSEE GAS PIP
-HARRISON INTERESTS LTD				RECEIVED:	04/29/82	JA: TX			
8229547	F-7C-046650	4210533500		103	107-TF	JOHN W HENDERSON III "F" #18	OZONA (CANYON SAND)	300.0	INTRATEX GAS CO
8229614	F-7C-046991	4210533757		103	107-TF	JOHN W HENDERSON III "K" #25	OZONA (CANYON SAND)	700.0	INTRATEX GAS CO
-HENDERSON CLAY PRODUCTS INC				RECEIVED:	04/29/82	JA: TX			
8229586	F-06-044599	4240131281		102-2	107-TF	DON LOVE #1	OAKHILL NW (COTTON VA	375.0	DELHI GAS PIPELIN
-HENRY PETROLEUM CORP				RECEIVED:	04/29/82	JA: TX			
8229557	F-02-041377	4249300000		102-2		KRUCIAK UNIT #1	PATTON (AUSTIN CHALK)	0.0	
-HNG OIL COMPANY				RECEIVED:	04/29/82	JA: TX			
8229626	F-7C-047584	4243500000		103	107-TF	ESPY "56" #5	SAWYER (CANYON)	0.0	INTRATEX GAS CO
8229798	F-02-049909	4217500000		108		ETTA TERRELL "A" #5	TERRELL POINT (3900)	47.9	TRUNKLINE GAS CO
8229748	F-02-049733	4246900000		108		R L MUSSLEMEN #1	SALEM (1500)	47.0	VALERO INTERSTATE
8229616	F-04-047361	4247900000		103	107-TF	VAQUILLAS RANCH "135" #1	CARR (LOBO)	0.0	HOUSTON PIPE LINE
-HOWELL DRILLING INC				RECEIVED:	04/29/82	JA: TX			
8229593	F-02-045395	4246900000		103		JOHN ZIMMER #13	COLETTO CREEK	0.0	HOUSTON PIPE LINE
-HUMBLE EXPLORATION CO INC				RECEIVED:	04/29/82	JA: TX			
8229534	F-03-039953	4214900000		102-2	103	LINDA ANN #1	GIDDINGS (AUSTIN CHAL	0.0	PHILLIPS PETROLEU
8229524	F-03-039468	4228700000		102-2	103	LORETTA GAEKE #1	GIDDINGS (AUSTIN CHAL	0.0	PHILLIPS PETROLEU
8229533	F-03-039952	4214900000		102-2	103	W L MORGAN #3	GIDDINGS (AUSTIN CHAL	0.0	PHILLIPS PETROLEU
-INDIAN WELLS OIL CO				RECEIVED:	04/29/82	JA: TX			
8229781	F-7C-049857	4223531722		103		PHILLIPS #4-6	IRION W (CANYON)	14.0	NORTHERN NATURAL
-J A LEONARD				RECEIVED:	04/29/82	JA: TX			
8229647	F-03-048205	4205100000		102-4		COFFIELD WINSTON "A" #3	INEZ JAMESON (NAVARRO	497.0	FERGUSON CROSSING
8229802	F-03-049939	4205100000		102-4		COFFIELD-SMITH "F" #2	INEZ JAMESON (NAVARRO	55.0	FERGUSON CROSSING
8229688	F-03-049117	4205132039		102-4		U P RODDY #2	INEZ JAMESON (NAVARRO	35.0	FERGUSON CROSSING
-J CLEO THOMPSON & JAMES CLEO THOMPS				RECEIVED:	04/29/82	JA: TX			
8229610	F-7C-046515	4210533647		102-4		UNIVERSITY 11-1	UNIVERSITY 31 (STRAWN	300.0	PHILLIPS PETROLEU
8229673	F-7C-048815	4210533719		103	107-TF	UNIVERSITY 30-22 #1	OZONA (CANYON SAND)	200.0	PHILLIPS PETROLEU
-JAMES K ANDERSON INC				RECEIVED:	04/29/82	JA: TX			
8229698	F-7B-049336	4244131999		102-4		ALEX SEARS "B" #1 RRC NO 17955	E J (EAST GRAY)	180.0	UNION TEXAS PETRO
-JOHN L COX				RECEIVED:	04/29/82	JA: TX			
8229531	F-8A-039892	4211531512		103		BROWN -SLAUGHTER #1	ACKERLEY (DEAN SAND)	10.0	
8229530	F-8A-039891	4211531498		103		SCHOOLER #3 RRC #11065	JO-MILL (SPRABERRY)	10.0	TEXACO INC
8229529	F-7C-039880	4238300000		103		SMITH #1	SPRABERRY (TREND AREA	10.0	
8229528	F-08-039879	4231700000		103		STIMSON-BURLEY "B" #1	SPRABERRY (TREND AREA	10.0	ALPINE OIL CO
8229527	F-08-039878	4231700000		103		STIMSON-BURLEY "B" #2	SPRABERRY (TREND AREA	10.0	ALPINE OIL CO
-KEAHEY EXPLORATION INC				RECEIVED:	04/29/82	JA: TX			
8229633	F-02-047747	4217500000		103		F A ARNOLD #1	GOTTSCHALT (PETTUS)	0.0	UNITED PIPELINE C
-KEITH D GRAHAM				RECEIVED:	04/29/82	JA: TX			
8229685	F-03-049089	4205131968		102-2		LYERLY "A" #1	GIDDINGS (AUSTIN CHAL	240.9	CLAJON GAS CO
-KEITH WELLS				RECEIVED:	04/29/82	JA: TX			
8229702	F-7B-049377	4205932850		103		WENDELL FOREMAN #1 16649	ELMDALE (PALO PINTO)	365.0	FORT CHADBOURNE C
-KENNETH R HAND				RECEIVED:	04/29/82	JA: TX			
8229689	F-04-049120	4242731539		103		CANALES #1 - 118411	BUENA VISTA (1700)	91.0	INTRASTATE GATHER
-KERR-MCGEE CORPORATION				RECEIVED:	04/29/82	JA: TX			
8229732	F-08-049626	4213533129		103		GIST "C" #10	FOSTER	61.0	ODESSA NATURAL CO

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8229731	F-08-049625	4213533515		103		GIST B-11	FOSTER	42.0	ODESSA NATURAL CO
-KILLAM & HURD LTD				RECEIVED:	04/29/82	JA: TX			
8229544	F-02-040352	4217531501		102-4		HATTENBACH #3-C	COLETOVILLE CREEK (CA	0.0	DELHI GAS PIPELIN
8229546	F-02-040419	4217531501		102-4		HATTENBACH #3-T	COLETOVILLE CREEK (VI	0.0	DELHI GAS PIPELIN
-KLH OIL & GAS INC				RECEIVED:	04/29/82	JA: TX			
8229574	F-7B-042272	4204932836		102-4		FOMBY O B #19 (96782)	DALE (FRY)	220.0	ODESSA NATURAL CO
8229543	F-7B-040316	4204932590		103		WELDON LEE #3	BBB & C BLK 3 (MARBLE	30.0	ODESSA NATURAL CO
-L M YOUNG				RECEIVED:	04/29/82	JA: TX			
8229645	F-7B-048176	4204932822		102-4		R J GOODALL "E" #12	CHAMBERS (CONGL)	138.0	ODESSA NATURAL CO
8229697	F-7B-049317	4204932823		102-4		R J GOODALL "I" #3	DALE (CADDO)	20.0	ODESSA NATURAL CO
-L TEXAS PETROLEUM INC				RECEIVED:	04/29/82	JA: TX			
8229522	F-04-037204	4224731276		102-4	103	MESTENA OIL & GAS CO #J-1	JARON (4900)	0.0	SUN GAS CO
-LADD PETROLEUM CORPORATION				RECEIVED:	04/29/82	JA: TX			
8229564	F-02-041587	4228531256		102-4		GUS TELTSCHICK #1	SPEAKS NW (WILCOX 128	207.5	UNITED TEXAS TRAN
-LAMBERT HOLLUB DRILLING CO				RECEIVED:	04/29/82	JA: TX			
8229780	F-03-049855	4205131601		103		F M POOLE #10-RRC #12416	WILLARD	0.3	
-LEONARD BRYANS				RECEIVED:	04/29/82	JA: TX			
8229516	F-7C-033010	4245130698		103		W L KELLERMEIER #2 (08593)	S S R	73.0	LONE STAR GAS CO
-LEWIS B BURLESON				RECEIVED:	04/29/82	JA: TX			
8229679	F-08-048958	4237132985		108		SIBLEY #1	FOUR C UPPER CLEARFOR	6.0	EL PASO NATURAL G
-LHG RESOURCES INC				RECEIVED:	04/29/82	JA: TX			
8229553	F-7B-041319	4242932886		103		BROWN #1	STEPHENS COUNTY REGUL	18.2	WARREN PETROLEUM
8229552	F-7B-041318	4242933007		103		BROWN "A" #1	STEPHENS COUNTY REGUL	0.0	WARREN PETROLEUM
-MAGNATEX CORP				RECEIVED:	04/29/82	JA: TX			
8229560	F-08-041490	4237133376		103		SULLIVAN #3	PECOS VALLEY (LOW GRA	6.6	
-MARINDA F ROBERTSON INC				RECEIVED:	04/29/82	JA: TX			
8229635	F-7B-047859	4213332155		103		CLINTON WILSON #1	FOSTER (MARBLE FALLS)	15.0	SIOUX PIPELINE CO
-MARSHALL EXPLORATION INC				RECEIVED:	04/29/82	JA: TX			
8229613	F-06-046879	4236531362		102-4		UNA BAGLEY #2	BELLE BOWER (PALUXY U	350.0	TENNESSEE GAS PIP
-MCFARLANE OIL CO INC				RECEIVED:	04/29/82	JA: TX			
8229519	F-02-034752	4246900000		103		MCFARLANE FEE #1	PLACEDO	0.0	TENNECO CHEMICALS
-MCZ INC				RECEIVED:	04/29/82	JA: TX			
8229795	F-03-049902	4204100000		102-2		COCKRELL OIL UNIT I #1	BRYAN N (GEORGETOWN)	170.0	FERGUSON CROSSING
-MEWBOURNE OIL COMPANY				RECEIVED:	04/29/82	JA: TX			
8229705	F-10-049524	4229530761		102-4		SOUTH BOOKER UNIT #1 RRC ID #05002	HARMON (MARMATON)	8.0	NORTHERN NATURAL
-MGF OIL CORP				RECEIVED:	04/29/82	JA: TX			
8229675	F-03-048817	4207131242		102-4		BARROW RANCH #1-U	BARROW RANCH (NOD 1)	313.9	WINNIE PIPELINE C
8229674	F-03-048816	4207131242		102-4		BARROW RANCH 1-L	BARROW RANCH (NOD 2)	125.2	WINNIE PIPELINE C
8229592	F-01-044973	4249330740		102-2		EMMETT NOLL UNIT #1	MARCELINA CREEK (AUST	11.2	
8229566	F-7C-041828	4238300000		103		UNIVERSITY "17-C" #1	SPRABERRY (TREND AREA	0.0	J L DAVIS
-MINERAL DEVELOPMENT INC				RECEIVED:	04/29/82	JA: TX			
8229734	F-08-049642	4237133485		103		SCHARFF-BLACKMON "A" #4 #26915	PECOS VALLEY (HIGH GR	16.0	PERRY PIPE LINE C
-MITCHELL ENERGY CORPORATION				RECEIVED:	04/29/82	JA: TX			
8229634	F-7B-047770	4236300000		108		KAYLER REESE #1 #93405	MINERAL WELLS (S CONG	9.5	SOUTHWESTERN GAS
8229609	F-09-046442	4249700000		108		L C WOMACK #1 28855	BOONSVILLE (BEND CONG	11.8	NATURAL GAS PIPEL
8229651	F-09-048445	4249732241		103		O H MCALISTER #4	BOONSVILLE (BEND CONG	312.0	NATURAL GAS PIPEL
8229571	F-09-042028	4249732145		103		T C W B #28-C	BOONSVILLE (CADDO LIM	59.0	NATURAL GAS PIPEL
-MONSANTO COMPANY				RECEIVED:	04/29/82	JA: TX			
8229751	F-8A-049751	4207931443		103		CALVIN #39-108	LEVELLAND	5.0	CITIES SERVICE CO
8229752	F-7C-049752	4245130883		103		HARVEY WILDE "A" #2	SUSAN PEAK NORTH (CAN	153.0	ARCO OIL & GAS CO
8229750	F-08-049749	4200332933		103		UNIVERSITY 14-25 #8	SHAFTER LAKE (SAN AND	3.0	PHILLIPS PETROLEU
8229632	F-8A-047701	4250132156		103		WEAVER "A" #2	BRAHANEY	3.0	
-MR OIL CO				RECEIVED:	04/29/82	JA: TX			

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8229756	F-08-049820	4247532495		103		HAWKINS #11 #26713	PAYTON	46.0	WARREN PETROLEUM
-NAPECO INC				RECEIVED:	04/29/82	JA: TX			
8229655	F-03-048536	4237330395		108		C L BRENT #1	HORTENSE (WOODBINE)	7.0	NATURAL GAS PIPEL
8229654	F-03-048535	4237330210		108		PARISH #1	HORTENSE (WOODBINE)	15.0	NATURAL GAS PIPEL
-NORMAN PAUTSKY				RECEIVED:	04/29/82	JA: TX			
8229627	F-7B-047602	4208300000		108		DAVID WATSON "B" 79715	NTR (MORRIS)	14.4	EL PASO HYDROCARB
8229629	F-7B-047604	4208300000		108		GREER "A" 92006	COLEMAN COUNTY REGULA	14.4	EL PASO HYDROCARB
8229628	F-7B-047603	4208300000		108		JIM WATSON "A" 65151	COLEMAN COUNTY REGULA	10.8	EL PASO HYDROCARB
8229630	F-7B-047605	4208300000		108		STRAWN 92769	COLEMAN COUNTY REGULA	6.1	EL PASO HYDROCARB
-NUGGET OIL CORP				RECEIVED:	04/29/82	JA: TX			
8229570	F-02-041998	4212331127		102-4		HELEN ENGLAND #2	WARMSLEY (10350)	273.0	VALERO TRANSMISSI
-OXOCO EXPLORATION CORP				RECEIVED:	04/29/82	JA: TX			
8229730	F-06-049621	4242330432		103		COBB #1 TEXAS #10348	CHAPEL HILL NE (TRAVI	10.0	EAST TEXAS GAS PR
-PANHANDLE PRODUCING COMPANY				RECEIVED:	04/29/82	JA: TX			
8229591	F-01-044973	4244100000		103		BLAND 4-A	BLAIR NORTH (ELLENBUR	82.0	LONE STAR GAS CO
-PARAMOUNT PETROLEUM CORPORATION				RECEIVED:	04/29/82	JA: TX			
8229588	F-06-044724	4220300000		108-ER		DAVID PILOT GAS UNIT	WOODLAWN FIELD	0.0	
-PCU INC OF TX				RECEIVED:	04/29/82	JA: TX			
8229582	F-03-043205	4220118100		102-4	103	BANNON UNIT #1	ROTHERWOOD (MIOCENE 1	90.0	TENNESSEE GAS PIP
-PEERLESS OIL CO INC				RECEIVED:	04/29/82	JA: TX			
8229612	F-7B-046849	4236732078		102-2		PIESTER #1-A	MOBY DICK (MARBLE FAL	95.0	SOUTHWESTERN GAS
-PENNZOIL PRODUCING COMPANY				RECEIVED:	04/29/82	JA: TX			
8229618	F-04-047440	4250531400		102-4		E GUTIERREZ #A-1	ESCOBAS (10650")	913.0	
8229668	F-04-048671	4221531196		102-4		KAWAHATA UNIT #4	HIDALGO (7,960")	329.0	VAL GAS CO
-PETRO-LEWIS CORPORATION				RECEIVED:	04/29/82	JA: TX			
8229575	F-08-042424	4210332428		103		J B TUBB STATE #19L	SAND HILLS (MCKNIGHT)	50.0	EL PASO NATURAL G
-PETROLERO EXPLORATIONS INC				RECEIVED:	04/29/82	JA: TX			
*8229794	F-7C-049901	4239932229		102-4		BRAGG #1 ID-09335	OUTLAW-BRAGG (FRY)	20.2	LONE STAR GAS CO
8229793	F-7C-049900	4208131064		103		DURHAM #5 ID-07798	BLOODWORTH NE (5750 C	82.1	SUN GAS CO
8229603	F-7C-046075	4230730595		103		W D CAYLOR #1 ID 95626	WALKER-GRANT (STRAWN)	15.3	SIOUX PIPELINE CO
-PHILLIPS PETROLEUM COMPANY				RECEIVED:	04/29/82	JA: TX			
8229687	F-08-049111	4213502435		108		ALMA #2	TXL (SILURIAN)	6.0	SHELL OIL CO
8229535	F-10-039970	4223331123		103		CHRISTIAN E #1	PANHANDLE HUTCHINSON	0.0	PANHANDLE EASTERN
8229766	F-08-049835	4237131734		108		COATES B #1	COATES (STRAWN)	1.0	
8229650	F-08-048289	4200330314		108		EMBAR B #39	GOLDSMITH NORTH (SAN	6.0	EL PASO NATURAL G
8229521	F-10-035105	4217900000		108		JOHNSON T #1	PANHANDLE GRAY	0.0	
8229767	F-08-049836	4249503458		108		MCCABE #11	EMPEROR (YATES)	6.0	NORTHERN NATURAL
8229686	F-08-049109	4209310501		108		UNIV ANDREWS #110	EMBAR (YATES)	0.0	EL PASO NATURAL G
-POLK & PATTON INC				RECEIVED:	04/29/82	JA: TX			
8229589	F-03-044730	4205131932		102-2		TAYLOR UNIT #1	GIDDINGS (AUSTIN CHAL	0.0	CLAJON GAS CO
-PREMIUM OIL & GAS INC				RECEIVED:	04/29/82	JA: TX			
8229550	F-7C-041127	4239900000		103		W O MIDDLETON #1	BALLINGER WEST (GARDN	0.0	LONE STAR GAS CO
-PRICE DRILLING & EXPLORATION CO				RECEIVED:	04/29/82	JA: TX			
8229555	F-04-041333	4247932597		102-4		A BENAVIDES #1-23	LAUREL N (2000)	118.0	VALERO TRANSMISSI
8229542	F-04-040274	4227931838		102-4		A BENAVIDES #1-269 (ID NO 76263)	LAUREL NO (1400 FRIO)	127.0	VALERO TRANSMISSI
8229549	F-04-041030	4247932425		102-4		A BENAVIDES #2-269	LAUREL N (1700)	109.0	VALERO TRANSMISSI
8229541	F-04-040273	4247931874		102-4		A BENAVIDES #2-270 (ID NO 74690)	LAUREL (1840)	146.0	VALERO TRANSMISSI
8229554	F-04-041327	4247932408		102-4		A BENAVIDES #2-271	LAUREL N (2700)	182.0	VALERO TRANSMISSI
8229556	F-04-041335	4227932921		102-4		A BENAVIDES #4-269	LAUREL N (1250)	91.0	VALERO TRANSMISSI
-R A W ENERGY CORP				RECEIVED:	04/29/82	JA: TX			
8229694	F-7B-049195	4236700000		102-4		BOYD BOUNDS #1	CABBAGE PATCH (ATOKA)	0.0	ALEDO GAS CO LTD
8229695	F-7B-049203	4236700000		102-4		CLARK #1	CABBAGE PATCH (BIG SA	0.0	ALEDO GAS CO LTD
8229691	F-7B-049190	4236700000		102-4		SHARPE UNIT #1-U	CABBAGE PATCH (ATOKA)	0.0	ALEDO GAS CO LTD

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8229693	F-78-049192	4236700000		102-4		SWEARINGIN-DILL UNIT #1	CABBAGE PATCH (BIG SA	0.0	ALEDO GAS CO LTD
8229692	F-78-049191	4236700000		102-4		WALLIS #1 RRC #79484	CABBAGE PATCH (BIG SA	0.0	ALEDO GAS CO LTD
-REALITOS IV EXPLORATORY PROGRAM				RECEIVED:		04/29/82 JA: TX			
8229578	F-02-043006	4246931748		102-4		W C BUCHHOLTZ #1	WILDCAT-PROPOSED COLO	160.0	TENNESSEE GAS PIP
-REO INDUSTRIES INC				RECEIVED:		04/29/82 JA: TX			
8229726	F-10-049617	4223300000		103		WHITTENBURG A 8-27	PANHANDLE HUTCHINSON	270.0	TRANS-PAN PIPELIN
8229725	F-10-049616	4223300000		103		WHITTENBURG A 8-29	PANHANDLE HUTCHINSON	270.0	TRANS-PAN PIPELIN
8229559	F-10-041473	4223300000		103		WHITTENBURG 1-7	PANHANDLE HUTCHINSON	95.0	TRANS-PAN GATHERI
8229729	F-10-049620	4223300000		103		WHITTENBURG 33-1	PANHANDLE HUTCHINSON	720.0	TRANS-PAN PIPELIN
8229728	F-10-049619	4223300000		103		WHITTENBURG 33-15	PANHANDLE HUTCHINSON	720.0	TRANS-PAN PIPELIN
8229747	F-10-049718	4223300000		103		WHITTENBURG 33-16	PANHANDLE HUTCHINSON	720.0	TRANS-PAN PIPELIN
8229796	F-10-049904	4223300000		103		WHITTENBURG 33-19	PANHANDLE HUTCHINSON	720.0	TRANS-PAN PIPELIN
8229727	F-10-049618	4223300000		103		WHITTENBURG 33-2	PANHANDLE HUTCHINSON	720.0	TRANS-PAN PIPELIN
8229797	F-10-049905	4223300000		103		WHITTENBURG 33-20	PANHANDLE HUTCHINSON	720.0	TRANS-PAN PIPELIN
-RICO OIL CO				RECEIVED:		04/29/82 JA: TX			
8229754	F-09-049780	4223734087		103		SMITH-EAST #21885	JACK COUNTY REGULAR	60.0	CITIES SERVICE GA
-SAGE DRILLING CO INC				RECEIVED:		04/29/82 JA: TX			
8229737	F-10-049656	4235731207		103		G BRILLHART #1	BARLOW (DES MOINES)	50.0	PHILLIPS PETROLEU
-SAGE ENERGY CO				RECEIVED:		04/29/82 JA: TX			
8229742	F-03-049685	4205131654		102-2		BROCK #2 RRC#14969	GIDDINGS (AUSTIN CHAL	286.0	PHILLIPS PETROLEU
8229741	F-03-049684	4205132088		102-2		BROCK #3 RRC#14969	GIDDINGS (AUSTIN CHAL	200.0	PHILLIPS PETROLEU
8229740	F-03-049682	4205131905		102-2		LAKEVIEW UNIT #1 RRC#14967	GIDDINGS (AUSTIN CHAL	301.0	PHILLIPS PETROLEU
8229739	F-03-049681	4214911614		102-2		LYONS #2 RRC #14968	GIDDINGS (AUSTIN CHAL	70.0	PHILLIPS PETROLEU
-SAMEDAN OIL CORPORATION				RECEIVED:		04/29/82 JA: TX			
8229596	F-33-045678	4222530377		102-4		HESTER A #1	FT TRINIDAD NE (GLEN	130.0	SOUTH TEXAS GATHE
8229576	F-03-042586	4222530342		102-4		ST REGIS PAPER CO #1-A	FT TRINIDAD NE (GLEN	165.0	SOUTH TEXAS GATHE
-SAMSON RESOURCES COMPANY				RECEIVED:		04/29/82 JA: TX			
8229600	F-03-045902	4208930352		108		ROSS BENNER #5	MUSTANG CREEK (2,000)	6.3	LONE STAR GAS CO
-SANDEFER OIL & GAS INC				RECEIVED:		04/29/82 JA: TX			
8229601	F-04-045990	4235531776		102-4		WILL E FRY #1	AGUA DULCE (8550*)	300.0	
-SANTA FE-WINDSOR PRODUCING CO				RECEIVED:		04/29/82 JA: TX			
8229657	F-03-048538	4228731113		103		ALFRED #1	GIDDINGS (AUSTIN CHAL	36.5	PERRY PIPELINE CO
8229656	F-03-048537	4228731036		103		GOINS UNIT #1	GIDDINGS (AUSTIN CHAL	36.5	PERRY PIPELINE CO
8229658	F-03-048540	4228731124		103		LEE UNIT #1	GIDDINGS (AUSTIN CHAL	219.0	PERRY PIPELINE CO
8229649	F-03-048285	4228731074		102-2	103	MARTHA UNIT #1	GIDDINGS (AUSTIN CHAL	36.5	PERRY PIPELINE CO
8229639	F-03-047955	4228731119		103		NITSCHE #1	GIDDINGS (BUDA)	36.5	PERRY PIPELINE CO
-SAXON OIL COMPANY				RECEIVED:		04/29/82 JA: TX			
8229617	F-7C-047372	4246131834		103		BRUSENHAN #1	SPRABERRY (TREND AREA	33.2	MOBIL PRODUCING T
8229537	F-08-040127	4231732172		103		GAY WADE "A" #1	BREEDLOVE EAST (SPRAB	22.3	PHILLIPS PETROLEU
8229540	F-08-040132	4231732344		103		GAY WADE 8 #1	BREEDLOVE EAST (SPRAB	28.5	PHILLIPS PETROLEU
8229539	F-7C-040131	4246131758		103		HANKS "A" #1	SPRABERRY (TREND AREA	26.3	MOBIL PRODUCING T
8229538	F-7C-040130	4246131628		103		LENA LEE "A" #1	SPRABERRY (TREND AREA	27.7	MOBIL PRODUCING T
-SEAGO OIL INC				RECEIVED:		04/29/82 JA: TX			
8229701	F-78-049352	4225331865		103		AL GRIFFITH #5	HUDDLESTON (STRAWN SA	160.0	PALO DURO PIPELIN
8229700	F-78-049351	4225300000		103		RAYMOND WILDER #1	HUDDLESTON (STRAWN SA	430.0	PALO DURO PIPELIN
8229699	F-78-049350	4225332000		103		RAYMOND WILDER #2	HUDDLESTON (STRAWN SA	32.0	PALO DURO PIPELIN
-SHELL OIL CO				RECEIVED:		04/29/82 JA: TX			
8229595	F-04-045545	4221531117		103		A A MCALLEN #72	MCALLEN RANCH (VICKSB	400.0	VALERO INTERSTATE
8229563	F-04-041573	4250531304		107-DP		H B ZACHRY CO #1	FANDANGO (WILCOX "U")	900.0	UNITED TEXAS TRAN
-SHIELD RESOURCES INC				RECEIVED:		04/29/82 JA: TX			
8229583	F-03-043553	4247130231		102-4		GIBBS BROS #1	HUNTSVILLE NE	500.0	
-SUN EXPLORATION & PRODUCTION CO				RECEIVED:		04/29/82 JA: TX			
8229621	F-04-047492	4242731354		102-4		D LAUREL #11	SUN NORTH	918.0	

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8229664	F-06-048602	4236531231		103		DAHLIA O CAUDLE UNIT #2	CARTHAGE	0.7	
8229620	F-10-047487	4219500000		108		H B HART "A" #1	HANSFORD UPPER MORROW	17.0	PANHANDLE EASTERN
8229622	F-10-047523	4221100000		108		L P HUMPHREYS #1	CANADIAN SE DOUGLAS	17.0	PANHANDLE EASTERN
8229619	F-09-047484	4249700000		108		O PAYNE #1	BOONSVILLE (BEND COMG	15.0	NATURAL GAS PIPEL
-T A D ENERGY				RECEIVED:	04/29/82	JA: TX			
8229565	F-09-041808	4223733349		103		T A D ENERGY CO D W TUCKER #1	PERRIN SW (CONGL 4850	0.0	LONE STAR GAS CO
-TAYLOR OPERATING COMPANY				RECEIVED:	04/29/82	JA: TX			
8229746	F-09-049712	4223700000		103		STRATA-LEWIS #2 (21263)	JACK COUNTY REGULAR	128.8	SOUTHWESTERN GAS
-TDC ENGINEERING INC				RECEIVED:	04/29/82	JA: TX			
8229653	F-04-048492	4250500000		103		FLORES #5	NEW ZAPATA (1800')	113.0	VALERO TRANSMISSI
-TDC EXPLORATION INC				RECEIVED:	04/29/82	JA: TX			
8229659	F-03-048546	4214931283		102-2		FLOYD #1	GIDDINGS (AUSTIN CHAL	25.0	SOUTH CEN-TEX GAS
8229736	F-06-049652	4200530110		102-2		W T CARTER #1	ZAVALLA	400.0	PERRY PIPELINE CO
8229735	F-06-049650	4200530120		102-2		W T CARTER #4	ZAVALLA	400.0	PERRY PIPELINE CO
8229745	F-06-049708	4200530125		102-2		W T CARTER #6	ZAVALLA	400.0	PERRY PIPELINE CO
-TEPCO ENGINEERING INC				RECEIVED:	04/29/82	JA: TX			
8229602	F-02-046069	4223931614		102-4	103	W T WESTHOFF #1	TEXANA N (FRIO 7200)	100.0	HOUSTON PIPE LINE
-TEXACO INC				RECEIVED:	04/29/82	JA: TX			
8229636	F-10-047868	4217900000		108		G H SAUNDERS NCT-3 #108	EAST PANHANDLE	19.7	COLTEXO CORP
8229749	F-8A-049739	4221933388		103		MONTGOMERY ESTATE DAVIES NCT-2 #86	LEVELLAND	15.7	AMOCO PRODUCTION
8229738	F-08-049657	4200300000		108		STATE OF TEXAS "S" #3	BLOCK 12 YATES	7.1	PHILLIPS PETROLEU
-TEXAS GENERAL PETROLEUM CORP				RECEIVED:	04/29/82	JA: TX			
*8229515	F-03-031980	4205131036		102-2		GEORGE #1	GIDDINGS (AUSTIN CHAL	350.0	CLAYJON GAS CO
-TOM F MARSH INC				RECEIVED:	04/29/82	JA: TX			
8229525	F-10-039567	4221131293		103		BROTHERTON #1-70	BUFFALO WALLOW (GRANI	73.0	
8229526	F-10-039568	4248330752		102-4		HEFLEY #1-34	SWEET SILVER (MISSISS	0.0	
-TXO PRODUCTION CORP				RECEIVED:	04/29/82	JA: TX			
8229607	F-7C-046219	4246130158		102-4		DAMRON "A" #1	HELUMA (CONNELL SD)	11.0	
8229518	F-65-034088	4216130638		103	107-TF	JONES "EE" #1	STEWARDS MILL (COTTON	0.0	DELHI GAS PIPELIN
-UNION OIL COMPANY OF CALIF				RECEIVED:	04/29/82	JA: TX			
8229744	F-08-049695	4200332952		103		FUHRMAN-MASCHO UNIT #407 BLK 10	FUHRMAN-MASCHO	10.0	PHILLIPS PETROLEU
8229782	F-08-049859	4200332953		103		FUHRMAN-MASCHO UNIT #506 BLK 10	FUHRMAN-MASCHO	5.0	PHILLIPS PETROLEU
8229743	F-10-049694	4221100000		108		MARGARET HODGSON #1-41	FELDMAN (TONKAWA)	18.0	TRANSWESTERN PIPE
-VANDERBILT RESOURCES CORPORATION				RECEIVED:	04/29/82	JA: TX			
8229638	F-01-047938	4217700000		102-4	103	DEBERRY #1	PEACH CREEK (AUSTIN C	87.5	VALERO TRANSMISSI
-VANGUARD EXPLORATION CO INC				RECEIVED:	04/29/82	JA: TX			
8229567	F-7B-041838	4222100000		103		MASSEY #1 GAS ID # NA	GRANBURY NE (ATOKA)	25.0	EMPIRE PIPELINE C
-VERNON E FAULCONER				RECEIVED:	04/29/82	JA: TX			
8229631	F-10-047691	4223330588		108		YAKE G #1-R RRC ID #83914	PANHANDLE WEST (RED C	0.0	PANHANDLE EASTERN
-VISTA RESOURCES INC				RECEIVED:	04/29/82	JA: TX			
8229517	F-7C-033049	4210532207		107-TF		W E WEST ESTATE #1	MIDWAY LANE SE (CANYO	108.0	EL PASO NATURAL G
-WAGNER & BROWN				RECEIVED:	04/29/82	JA: TX			
*8229584	F-08-044133	4243130825		103		HILDEBRAND #38-10	CONGER (PENN)	385.0	VALERO TRANSMISSI
-WALSH AND WATTS INC				RECEIVED:	04/29/82	JA: TX			
8229765	F-10-049834	4223300000		108		STATE -B- (LEASE NO 00804) #1	PANHANDLE HUTCHINSON	0.0	PHILLIPS PETROLEU
8229764	F-10-049833	4223300000		108		STATE -B- (LEASE NO 00804) #3	PANHANDLE HUTCHINSON	0.0	PHILLIPS PETROLEU
8229763	F-10-049832	4223300000		108		STATE -B- (LEASE NO 00804) #4	PANHANDLE HUTCHINSON	0.0	PHILLIPS PETROLEU
8229762	F-10-049831	4223300000		108		STATE -B- (LEASE NO 00804) #6	PANHANDLE HUTCHINSON	0.0	PHILLIPS PETROLEU
8229761	F-10-049830	4223300000		108		STATE -B- (LEASE NO 00804) #7	PANHANDLE HUTCHINSON	0.0	PHILLIPS PETROLEU
8229760	F-10-049829	4223300000		108		STATE -B- (LEASE NO 00804) #8	PANHANDLE HUTCHINSON	0.0	PHILLIPS PETROLEU
-WARREN PETR CO A DIV OF GULF OIL CO				RECEIVED:	04/29/82	JA: TX			
8229771	F-08-049840	4210332808		103		P J LEA #128	LEA (SAN ANDRES)	8.6	EL PASO NATURAL G
8229769	F-08-049838	4210332809		103		P J LEA #129	LEA (SAN ANDRES)	18.2	EL PASO NATURAL G

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8229770	F-08-049839	4210332804		103		P J LEA ET AL NO 127	LEA (SAN ANDRES)	26.8	EL PASO NATURAL G
8229671	F-08-048745	4210332725		103		P J LEA LO-115	LEA (SAN ANDRES)	4.7	EL PASO NATURAL G
8229648	F-08-048234	4210332613		103		W N WADDELL #1145	WADDELL (DEVONIAN)	67.5	EL PASO NATURAL G
-WOOD ENTERPRISES INC				RECEIVED:	04/29/82	JA: TX			
8229523	F-78-039269	4225331388		103		LEE SMITH #1 (16190)	NOODLE NW (CANYON SAN	13.0	PALO DURO PIPELIN
-WY-VEL CORP				RECEIVED:	04/29/82	JA: TX			
8229757	F-10-049821	4217930977		103		HOPKINS (05000) #1	PANHANDLE GRAY COUNTY	54.0	CABOT PIPELINE CO
-XB ENERGY SERVICES INC				RECEIVED:	04/29/82	JA: TX			
8229580	F-01-043057	4216331961		103		ARTHUR HURT JR 4-B	PEARSALL (AUSTIN CHAL	0.0	TGP INC
8229579	F-01-043056	4216331988		103		ARTHUR HURT JR 5-B	PEARSALL (AUSTIN CHAL	0.0	TGP INC

OTHER PURCHASERS VOLUME NO :651

8229515	PHILLIPS PETROLEUM CO
8229584	TEXAS UTILITIES FUEL CO
8229608	LONE STAR GAS CO
8229637	E I DUPONT DE NEMOURS & CO INC
8229642	TEXAS EASTERN TRANS CORP
8229652	AMOCO PRODUCTION CO
8229683	E I DUPONT DE*NEMOURS & CO INC
8229696	AMOCO PRODUCTION CO
8229733	E I DUPONT DE*NEMOURS & CO INC
8229772	EL PASO NATURAL GAS CO
8229794	UNION TEXAS PETROLEUM CORP

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 Nataural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production (PROD) is in million cubic feet (MMCF). An (*) before the Control (JD) number denotes addtional purchasers listed at the end of the notice.

The applications for determination are available for inspection except to the extent such material is confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol St., Washington, D.C. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission on or before June 14, 1982.

Categories within each NGPA section are indicated by the following codes:

Section 102–1: New ICS lease
102–2: New well (2.5 mile rule)
102–2: New well (1000 ft rule)
102–3:New onshore reservoir
102–5:New reservoir on old OCS lease
Section 107–DP: 15,000 feet or deeper
107–GB: Geopressured brine
107–CS: Coal seams
107–DV: Devonian shale
107–PE: Production enhancement
107–TF: New tight formation
107–RT: Recompletion tight formation
Section 108: Stripper well
108–SA: Seasonally affected
108–ER: Enhanced recovery
108–PB: Pressure buildup

Kenneth F. Plumb,

Secretary.

[FR Doc. 82–14545 Filed 5–27–82; 8:45 am]

BILLING CODE 6717–01–M

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: May 21, 1982.

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
LOUISIANA OFFICE OF CONSERVATION									
-TEXAS OIL & GAS CORP				RECEIVED:	04/29/82	JA: LA			
8229881	81-1330	1706120238		102-4		GOREE C #1	SIMSBORO	131.0	DELHI GAS PIPELIN
MICHIGAN DEPARTMENT OF NATURAL RESOURCES									
-GREAT LAKES NIAGARAN				RECEIVED:	04/30/82	JA: MI			
8229984		2110100000		103		RECKOW-HOWES 1-26A	BEAR LAKE 25-A	70.0	CONSUMERS POWER C
-REEF PETROLEUM CORP				RECEIVED:	04/30/82	JA: MI			
8229983		2102500000		102-4		GUISBERT #3-27	CLARENCE "27"	36.0	BATTLE CREEK GAS
8229982		2102500000		102-4		SCHMIDT #1-35	CLARENCE "35"	36.0	BATTLE CREEK GAS
-SHELL OIL CO				RECEIVED:	04/30/82	JA: MI			
8229985		2103100000		102-4		STATE FOREST 1-14	FOREST	92.3	MICHIGAN CONSOLID
NEW YORK DEPARTMENT OF ENVIRONMENTAL CONSERVATION									
-BOUNTY OIL & GAS INC				RECEIVED:	04/29/82	JA: NY			
8229806	1460	3101315462		107-TF		AHLSTROM ETAL #1	BUSTI	50.0	COLUMBIA GAS TRAN
8229807	1455	3101315627		107-TF		BARTON #1	BUSTI	20.0	COLUMBIA GAS TRAN
-ENVIROGAS INC				RECEIVED:	04/29/82	JA: NY			
8229818	1995	3101315890		107-TF		A NIXON #4	LAKESHORE	18.0	NATIONAL FUEL GAS
8229815	1988	3101315495		107-TF		B KIDDER #1	WILDCAT	18.0	NATIONAL FUEL GAS
8229831	1975	3101315184		107-TF		C WEATHERLOW #1	SUMMERDALE	0.0	COLUMBIA GAS TRAN
8229827	1974	3101315185		107-TF		C WEATHERLOW #2	SUMMERDALE	18.0	COLUMBIA GAS TRAN
8229825	1971	3101315474		107-TF		C WILLIAMS #1	SUMMERDALE	18.0	COLUMBIA GAS TRAN
8229820	1998	3101315632		107-TF		D HITTL #1-A	LAKESHORE	18.0	NATIONAL FUEL GAS
8229814	1989	3101314317		107-TF		D PIERSON #1	LAKESHORE	18.0	NATIONAL FUEL GAS
8229821	1997	3101315024		107-TF		E BERG #1	LAKESHORE	18.0	NATIONAL FUEL GAS
8229804	1986	3101315205		107-TF		E BERG #2	LAKESHORE	18.0	NATIONAL FUEL GAS
8229811	1992	3101315494		107-TF		E KIDDER #1	WILDCAT	18.0	NATIONAL FUEL GAS
8229823	2019	3101315236		107-TF		F BLACK #1	LAKESHORE	18.0	NATIONAL FUEL GAS
8229803	1987	3101315497		107-TF		F KAYSER #1	LAKESHORE	18.0	NATIONAL FUEL GAS
8229833	1977	3101315857		107-TF		F VROOMAN #1	SUMMERDALE	18.0	COLUMBIA GAS TRAN
8229852	1984	3101314809		107-TF		G SCHULTZ #2	WILDCAT	18.0	COLUMBIA GAS TRAS
8229850	1982	3101314810		107-TF		G SCHULTZ #3	WILDCAT	18.0	COLUMBIA GAS TRAN
8229834	1979	3101314808		107-TF		G SCHULTZ#1	WILDCAT	18.0	COLUMBIA GAS TRAN
8229824	2008	3101314480		107-TF		H BEAUJEAN #1	LAKESHORE	18.0	NATIONAL FUEL GAS
8229819	1969	3101315588		107-TF		H JOHNSON #1	STEBBINS CORNERS	18.0	COLUMBIA GAS TRAN
8229828	1973	3101315544		107-TF		J HIGGINBOTHAM #1	SUMMERDALE	18.0	COLUMBIA GAS TRAN
8229810	1993	3101314314		107-TF		J MOORE #1	LAKESHORE	18.0	NATIONAL FUEL GAS
8229851	1981	3101315338		107-TF		J SVENTEK #2	SUMMERDALE	18.0	COLUMBIA GAS TRAN
8229847	1980	3101315399		107-TF		J SVENTEK #3	SUMMERDALE	18.0	COLUMBIA GAS TRAN

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8229813	1990	3101315367		107-TF		L VERNON #1	LAKESHORE	18.0	NATIONAL FUEL GAS
8229812	1991	3101315368		107-TF		L VERNON #2	LAKESHORE	18.0	NATIONAL FUEL GAS
8229830	1976	3101315543		107-TF		N REED #2	STEBBINS CORNERS	18.0	COLUMBIA GAS TRAN
8229817	1996	3101315696		107-TF		P PERU #1	WILDCAT	18.0	NATIONAL FUEL GAS
8229822	2020	3101314318		107-TF		R STRONG #1	LAKESHORE	18.0	NATIONAL FUEL GAS
8229849	1983	3101315342		107-TF		R WILCOX #1	SUMMERDALE	18.0	COLUMBIA GAS TRAN
8229826	1970	3101315343		107-TF		R WILCOX #2	SUMMERDALE	18.0	COLUMBIA GAS TRAN
8229816	1994	3101315901		107-TF		V NELSON #2	WILDCAT	18.0	NATIONAL FUEL GAS
8229829	1972	3101315811		107-TF		W BAIN #1	STEBBINS CORNERS	18.0	COLUMBIA GAS TRAN
8229805	1985	3101315635		107-TF		W ESKELI #1	WILDCAT	18.0	NATIONAL FUEL GAS
8229832	1978	3101315371		107-TF		W TREJCHEL #1	SUMMERDALE	18.0	COLUMBIA GAS TRAN
-P & S DRILLING INC				RECEIVED:	04/29/82	JA: NY			
8229848	2005	3102915490		108		BUFFALO CREEK #1	BUFFALO CREEK	6.0	NATIONAL FUEL DIS
-TIMBERLAY PETROLEUM CO				RECEIVED:	04/29/82	JA: NY			
8229837	2549	3102916098		103		COOK #1			
8229835	2551	3102916099		103		DAWYDKO #1	ALDEN-LANCASTER	36.0	TENNESSEE GAS PIP
8229836	2550	3102916200		103		DAWYDKO #2	ALDEN-LANCASTER	18.0	TENNESSEE GAS PIP
8229838	2548	3102916316		103		NORMAN STOLL #1	ALDEN-LANCASTER	36.0	TENNESSEE GAS PIP
-TRAHAN PETROLEUM INC				RECEIVED:	04/29/82	JA: NY	ALDEN-LANCASTER	36.0	TENNESSEE GAS PIP
8229840	2099	3101315476		107-TF		DONALD WHITE #1 31-013-15476	BLOCKVILLE	36.0	NATIONAL FUEL GAS
8229808	1664	3101314302		107-TF		GAIL JOHNSON NY #60 31-013-14302	PANAMA	0.0	COLUMBIA GAS TRAN
8229841	2097	3101312543		107-TF		GREEN-WELLS-CRONER #3 31-013-12543	PANAMA	36.0	COLUMBIA GAS TRAN
8229853	1671	3101312537		107-TF		J & J HORTON NY #21 31-013-12537	CHERRY CREEK	36.0	COLUMBIA GAS TRAN
8229839	1669	3101312523		107-TF		J J MEREDITH NY #10	PANAMA	10.5	COLUMBIA GAS TRAN
8229845	1661	3101314820		107-TF		KLINE NY #71 31-013-14820	PANAMA	4.0	COLUMBIA GAS TRAN
8229842	1670	3101315519		107-TF		LEO ACKLEY #1 31-013-15519	ELLINGTON	1.4	COLUMBIA GAS TRAN
8229844	1668	3101312530		107-TF		MIKTUK NY #63 31-013-12530	PANAMA	12.0	COLUMBIA GAS TRAN
8229809	1651	3101315212		107-TF		RENDELL NY #8 31-013-15212	PANAMA	15.0	COLUMBIA GAS TRAN
8229843	1701	3101314862		107-TF		T WELLER NY #77 31-013-14862	PANAMA	36.0	COLUMBIA GAS TRAN
-TRISON PETROLEUM				RECEIVED:	04/29/82	JA: NY			
8229846	2699	3102915487		103		YATES #2	HAMBURG	12.0	NATIONAL FUEL DIS
**********									
OKLAHOMA CORPORATION COMMISSION									
**********									
-AMOCO PRODUCTION CO				RECEIVED:	04/29/82	JA: OK			
8230036	13701	3515321131		103		BELL UNIT #2	W SHARON-MORROW	150.0	NORTHERN NATURAL
-APACHE CORPORATION				RECEIVED:	04/28/82	JA: OK		329.0	EL PASO NAT GAS C
8229876	16855	3500920436		102-2		PUCKETT 1-16			
-ARCO OIL AND GAS COMPANY				RECEIVED:	04/29/82	JA: OK			
8230018	13761	3506120435		103		A H COX UNIT #3	KINTA	36.5	OKLAHOMA GAS & EL
-ASSOCIATES RESOURCE CORP				RECEIVED:	04/28/82	JA: OK			
8229867	13753	3507122004		103		TURK #2	UNNAMED	10.2	CORONADO TRANSMIS
-ASSOCIATES RESOURCE CORP				RECEIVED:	04/29/82	JA: OK			
8230042	13754	3507121923		103		VICKERY #1	UNNAMED	6.2	SWAB CORP
8230020	13752	3507122004		103		VICKERY #2	UNNAMED	7.3	SWAB CORP
-BOGERT OIL CO				RECEIVED:	04/29/82	JA: OK			
8230028	13729	3507323142		103		CHLOUBER #6-21	SOONER TREND	225.0	PHILLIPS PETROLEU
-BROCK HYDROCARBONS INC				RECEIVED:	04/29/82	JA: OK			
8230055	16746	3502920278		102-2		WATKINS #1-34	WILDCAT	0.0	
-BUNKER EXPLORATION CO				RECEIVED:	04/28/82	JA: OK			
8229868	13802	3510321318		103		PASSOW 1-4	PASSOW	912.0	AMINOIL U S A INC
8229869	13803	3510321322		103		PASSOW 1-5	PASSOW	912.0	AMINOIL U S A INC
-C & S RESOURCES INC				RECEIVED:	04/29/82	JA: OK			

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JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8230016	16475	3508321553		102-2	103	BARNES #1 (SKINNER)	UNNAMED (13-16N-1E)	135.0	SUN GAS CO
-CHAMPLIN PETROLEUM COMPANY				RECEIVED:	04/29/82	JA: OK			
8230065	13831	3507300000		108		A GLAESLINE #1	S E LYONS	12.0	PHILLIPS PETROLEU
8230043	13829	3509300000		108		C LEIERER #1	E CHANEY DELL	9.0	CHAMPLIN PETROLEU
8230046	13826	3500300000		108		CHURCH #1	E CHANEY DELL	6.0	CHAMPLIN PETROLEU
8230066	13830	3507300000		108		E G VADDER #1	DOVER-HENNESSEY	12.0	MUSTANG FUEL CORP
8230044	13828	3505100000		108		M STILL #1	W CHITWOOD	9.0	MOBIL OIL CORP
8230045	13827	3509300000		108		P J WHITENECK #1	E CHANEY DELL	13.0	CHAMPLIN PETROLEU
-COLOMA PETROLEUM INC				RECEIVED:	04/29/82	JA: OK			
8230041	13740	3504722562		103		LAUPPE #1	SOONER TREND	200.0	GRACE PETROLEUM C
-EASON OIL COMPANY				RECEIVED:	04/28/82	JA: OK			
8229861	13844	3505100000		103		C B PITCHFORD #1-33		71.1	PHILLIPS PETROLEU
8229866	13718	3507323102		103		EMIL BOECKMAN #2-5		109.5	CITIES SERVICE GA
-EASON OIL COMPANY				RECEIVED:	04/29/82	JA: OK			
8230029	13719	3507323025		103		EMIL BOECKMAN #1-4		109.5	CITIES SERVICE GA
-ESTORIL PRODUCING CORP				RECEIVED:	04/29/82	JA: OK			
8230035	13705	3512521251		103		STATE "16" FARRIS #2	NE TECUMSEH	36.5	TRANSOK PIPELINE
-F C D OIL CORP				RECEIVED:	04/28/82	JA: OK			
8229871	13808	3505320713		103		HOFFMAN 1-34	NORTH LAMONT	116.8	C R A INC
-F C D OIL CORP				RECEIVED:	04/29/82	JA: OK			
8230063	13883	3510321405		103		DUROY 1-34	EAST BILLINGS	0.0	ARCO OIL & GAS CO
-GEC PRODUCTION CO				RECEIVED:	04/29/82	JA: OK			
8230039	12060	3504921573		103		GUTHRIE #1	(ANTIOCH)	0.0	BUCKEYE NATURAL G
-GMC OIL AND GAS CORP				RECEIVED:	04/29/82	JA: OK			
8230038	13376	3508371686		103		GLAZEBROOK	SOONER TREND	50.0	EASON OIL CO
-INTER-STATES OIL & GAS INC				RECEIVED:	04/29/82	JA: OK			
8230057	16744	3505320834		102-4		BENKENDORF #1A-21	SE SALT FORK	0.0	
8230056	16745	3505320817		102-4		HALL #1-20	SE SALT FORK	0.0	
-J L BUSBY ENERGY				RECEIVED:	04/28/82	JA: OK			
8229872	13810	3511123090		103		SIBERTS #1	NATURA	81.0	PHILLIPS PETROLEU
-JET OIL COMPANY				RECEIVED:	04/29/82	JA: OK			
8230022	13748	3508321687		103		STROTHAMN #1	MULHALL	18.0	EASON OIL CO
8230021	13749	3508321581		103		TAYLOR "B" #1	MULHALL	34.0	EASON OIL CO
-JOE D DAVIS				RECEIVED:	04/29/82	JA: OK			
8230024	13744	3512120847		103		REED #1	S PINE HOLLOW	26.0	ARKANSAS LOUISIAN
-LEE R ELLER				RECEIVED:	04/29/82	JA: OK			
8230032	13709	3514321523		103		BELCHER #1	SKIATOOK (EAST BIRDCR	100.0	PHILLIPS PETROLEU
8230034	13707	3514321540		103		BELCHER #2	SKIATOOK (EAST BIRDCR	100.0	PHILLIPS PETROLEU
8230031	13710	3514321560		103		BELCHER #3	SKIATOOK (EAST BIRDCR	100.0	PHILLIPS PETROLEU
8230033	13708	3514722675		103		STEPHENS #1	SKIATOOK (EAST BIRDCR	500.0	PHILLIPS PETROLEU
8230030	13711	3514722692		103		STEPHENS "A" #1	SKIATOOK (EAST BIRD C	11.0	PHILLIPS PETROLEU
-MACKELLAR INC				RECEIVED:	04/28/82	JA: OK			
8229877	13891	3510320814		103		COLE #2	EAST GREEN VALLEY	0.0	ARCO OIL & GAS CO
8229856	13887	3510320916		103		FREESE #2B	EAST GREEN VALLEY	0.0	ARCO OIL & GAS CO
8229857	13886	3510321194		103		HENRY #1	EAST GREEN VALLEY	0.0	ARCO OIL & GAS CO
8229855	13888	3510320813		103		STERMER #2	EAST GREEN VALLEY	0.0	ARCO OIL & GAS CO
8229854	13889	3510320855		103		STERMER #3	EAST GREEN VALLEY	0.0	ARCO OIL & GAS CO
-MARLIN OIL CORPORATION				RECEIVED:	04/28/82	JA: OK			
8229862	13842	3500722110		103		REIMAN #1	MOCANE-LAVERNE	72.0	EL PASO NATURAL G
-MARLIN OIL CORPORATION				RECEIVED:	04/29/82	JA: OK			
*8230019	13755	3500722049		103		SIZELOVE #1	MOCANE-LAVERNE	0.0	EL PASO NATURAL G
-MOBIL OIL CORP				RECEIVED:	04/28/82	JA: OK			
8229860	13846	3503700000		108		NORA WILLIAMS #17	CUSHING	6.5	ARCO OIL & GAS CO

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-NATIONAL COOP REFINERY ASSOC				RECEIVED:	04/29/82	JA: OK			
8230023	13746	3505921051		103		CAL-RAY #3	NORTHWEST LOVEDALE	35.0	NATURAL GAS PIPEL
-OKLAHOMA PETROLEUM MANAGEMENT CORP				RECEIVED:	04/28/82	JA: OK			
8229859	13847	3510720853		103		ROOT #1	NORTH OKEMAH	0.0	GOLDEN ARROW GAS
-PHILLIPS PETROLEUM COMPANY				RECEIVED:	04/28/82	JA: OK			
8229865	13689	3504720958		108		WELLS "B" #1	NW HUNTER	1.5	ARKANSAS LOUISIAN
-R CLARK TAYLOR				RECEIVED:	04/28/82	JA: OK			
8229874	13835	3513920919		108		GRIBBLE #1-31	MOUSER	15.0	CITIES SERVICE GA
-RAINEY OIL CO				RECEIVED:	04/29/82	JA: OK			
8230053	13762	3503723085		103		JORDAN #1	ARNO	43.0	KERR-MCGEE CORP
-RALPH E PLOTNER OIL & GAS INVEST IN				RECEIVED:	04/28/82	JA: OK			
8229873	13811	3501721591		103		LAWSON #1-14	MUSTANG	0.0	PHILLIPS PETROLEU
-RED EAGLE OIL CO				RECEIVED:	04/29/82	JA: OK			
8230025	13743	3501121656		103		MASONHALL #1	CANTO	913.0	DELHI GAS PIPELIN
8230026	13742	3509322274		103		NILE #1	CHEYENNE VALLEY	110.0	PHILLIPS PETROLEU
-RESOURCES INVESTMENT CORPORATION				RECEIVED:	04/29/82	JA: OK			
8230037	13585	3502700000		103		NAILON #2	N W NORMAN	62.0	SUN GAS CO
-S K TUTHILL & B J BARBEE				RECEIVED:	04/28/82	JA: OK			
8229864	11625	3515320905		108		WALKER #1-7	SOUTH EAST FAIRVALLEY	76.0	PANHANDLE EASTERN
-SAKET PETROLEUM CO				RECEIVED:	04/29/82	JA: OK			
8230048	13776	3511122923		103		C V #2		0.0	PHILLIPS PETROLEU
8230047	13777	3511122842		103		CHRIS LEDBETTER #1		0.0	PHILLIPS PETROLEU
8230049	13775	3511123255		103		HICKMAN #2		0.0	PHILLIPS PETROLEU
8230050	13774	3511122839		103		PARKS #3		0.0	PHILLIPS PETROLEU
8230051	13773	3511122925		103		PARKS #4		0.0	PHILLIPS PETROLEU
8230052	13772	3511123155		103		ROBERTS #1		0.0	PHILLIPS PETROLEU
-SENECA OIL COMPANY				RECEIVED:	04/29/82	JA: OK			
8230058	16717	3532239300		102-2	103	RITTER #2-34	S E BADO	204.4	PANHANDLE EASTERN
-SHELL OIL CO				RECEIVED:	04/29/82	JA: OK			
8230062	16686	3501512120		102-4		MCCALLA RANCH #1-11	WILDCAT	697.2	
8230059	16689	3505121111		102-4		NADEN HOWARD NO 1-1	WILDCAT	1904.9	
8230061	16687	3505121189		102-4		NEWKIRK #1-13	WILDCAT	751.9	
8230060	16688	3505121219		102-4		PORTER #1-14	WILDCAT	1022.0	
-SOUTHLAND ROYALTY CO				RECEIVED:	04/28/82	JA: OK			
8229863	13836	3513921240		108		CRAIG #1-6	CAPLE	16.0	NORTHERN NATURAL
-TEXAS EAGLE OIL CO				RECEIVED:	04/29/82	JA: OK			
8230015	16528	3509120418		102-2		LACKEY #2-16	HITCHITA	100.0	
-TEXAS OIL & GAS CORP				RECEIVED:	04/28/82	JA: OK			
8229858	13873	3504300000		108		ALKIRE #1	PUTNAM	8.0	DELHI GAS PIPELIN
-THE WIL-MC OIL CORP				RECEIVED:	04/28/82	JA: OK			
8229875	16860	3513721282		102-4		PITTS #2-A (103-13)	COMANCHE	164.9	
-TRIGG DRILLING COMPANY INC				RECEIVED:	04/29/82	JA: OK			
8230017	16368	3500920414		102-2	103	RICHMOND 1-2		0.0	EL PASO NATURAL G
-UNITED OIL CORP				RECEIVED:	04/29/82	JA: OK			
8230040	13732	3507322814		103		MATTI #2	SE ALPHA	0.0	PHILLIPS PETROLEU
8230027	13731	3501721734		103		MCGINNIS #1	W EDMOND	0.0	PHILLIPS PETROLEU
-VULCAN ENERGY CORP				RECEIVED:	04/29/82	JA: OK			
8230064	13882	3503723179		103		ESPOLT #1	SOONER TREND	21.9	PHILLIPS PETROLEU
-WHEATLAND OIL CO				RECEIVED:	04/28/82	JA: OK			
8229870	13804	3507323229		103		MCMEEKAN #1	LACY	73.0	PHILLIPS PETROLEU
-WHITMAR EXPLORATION CO				RECEIVED:	04/29/82	JA: OK			
8230054	13760	3515121162		103		B I B #1-13	NORTH GREENSBURG	300.0	DELHI GAS PIPELIN

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PENNSYLVANIA DEPARTMENT OF ENVIRONMENTAL RESOURCES

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-BETA 79-S T JOINT VENTURE				RECEIVED:	04/29/82	JA: PA			

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8229908	8825	3706521975		108		BLOSE #1	HENDERSON	25.0	NATIONAL FUEL GAS
8229909	8826	3706522126		108		BLOSE #2	HENDERSON	25.0	NATIONAL FUEL GAS
-C & C TROYER BROTHERS				RECEIVED:		04/29/82 JA: PA			
8229973	11237	3704921451		102-2		FOREST HULINGS #1 (#44)	EDINBORO	15.0	NATIONAL FUEL GAS
8229974	11236	3704921451		107-TF		FOREST HULINGS #1 (44)	EDINBORO	15.0	NATIONAL FUEL GAS
8229972	11235	3704921458		102-2		R WALKER #1 (#45) X	EDINBORO	12.0	NATIONAL FUEL GAS
8229971	11223	3704920973		102-2		TROYER-ADAMS #1 (#21)	EDINBERG	15.0	NATIONAL FUEL GAS
-CARDINAL OIL CO				RECEIVED:		04/29/82 JA: PA			
8229910	11148	3704921547		107-TF		RONALD LARSON #1 PA PER ERI-21547	CONNEAUT	0.0	COLUMBIA GAS TRAN
-CASTLE GAS CO INC				RECEIVED:		04/29/82 JA: PA			
8229920	11293	3706325694		103		A CHUNORK #2 (C-477) IND-25694	YOUNG TOWNSHIP	70.0	INDUSTRIAL ENERGY
8229915	11286	3706326417		103		CHERRY RUN DAM #2 (C-738) IND-26417	CENTER TOWNSHIP	65.0	COLUMBIA GAS TRAN
8229914	11285	3706326418		103		CHERRY RUN DAM #3 (C-739) IND-26418	CENTER TOWNSHIP	65.0	COLUMBIA GAS TRAN
8229913	11284	3706326419		103		CHERRY RUN DAM #4 (C-740) IND-26419	CENTER TOWNSHIP	65.0	COLUMBIA GAS TRAN
8229912	11283	3706326469		103		CHERRY RUN DAM #5 (C-741) IND-26469	CENTER TOWNSHIP	55.0	COLUMBIA GAS TRAN
8229911	11282	3706326484		103		CHERRY RUN DAM #6 (C-742) IND-26484	CENTER TOWNSHIP	50.0	COLUMBIA GAS TRAN
8229921	11294	3706326517		103		CHERRY RUN DAM #7(C-743) IND-26517	CENTER TOWNSHIP	60.0	COLUMBIA GAS TRAN
8229918	11291	3706326012		103		J C STONEBRAKER #1(C-641) IND-26012	GREEN TOWNSHIP	60.0	COLUMBIA GAS TRAN
8229917	11290	3706326013		103		J C STONEBRAKER #2(C-642) IND-26013	GREEN TOWNSHIP	60.0	COLUMBIA GAS TRAN
8229919	11292	3706326145		103		J K NICELY #3 (C-712) IND-26145	YOUNG TOWNSHIP	50.0	PEOPLES NATURAL G
8229916	11287	3706326146		103		R CUNNINGHAM #3 (C-714) IND-26146	YOUNG TOWNSHIP	55.0	COLUMBIA GAS TRAN
-CONSOLIDATED GAS SUPPLY CORPORATION				RECEIVED:		04/29/82 JA: PA			
8229922	8858	3706521520		108		CHARLES H MILLER WN-1652	PERRY TOWNSHIP	12.2	GENERAL SYSTEM PU
-DELTA 80 S T JOINT VENTURE				RECEIVED:		04/29/82 JA: PA			
8229924	8539	3706522156		108		PAUL KENNIS #1	HENDERSON	25.0	NATIONAL FUEL GAS
8229923	8538	3706522157		108		PAUL KENNIS #2	HENDERSON	25.0	NATIONAL FUEL GAS
-DONALD F WEAVER				RECEIVED:		04/29/82 JA: PA			
8229907	11013	3706500000		108		BELL RUN #1	ALLEGHENY PLATEAU	20.7	NATIONAL FUEL GAS
8229906	11012	3706500000		108		BELL RUN #2	ALLEGHENY PLATEAU	20.7	NATIONAL FUEL GAS
-EASTERN STATES EXPLORATION CO				RECEIVED:		04/29/82 JA: PA			
8229926	11249	3706522417		103		HARRY KATZEN CO #1	RATHMEL	40.0	NATIONAL FUEL GAS
8229925	11248	3706522395		103		JOHN MC CONNELL #1	WARSAW	30.0	NATIONAL FUEL GAS
-J & J ENTERPRISES INC				RECEIVED:		04/29/82 JA: PA			
8229927	11111	3703320710		103		ROBERT KESTER #6	BELL	0.0	T W PHILLIPS GAS
-KALTSAS OIL CO				RECEIVED:		04/29/82 JA: PA			
8229932	10829	3704921405		103		EDWARD CHYLINSKI #2	NORTH EAST FIELD HORN	12.0	COLUMBIA GAS TRAN
8229933	10830	3704921405		107-TF		EDWARD CHYLINSKI #2	NORTH EAST FIELD HORN	12.0	COLUMBIA GAS TRAN
8229931	10828	3704921407		103		EDWARD CHYLINSKI #4	NORTH EAST FIELD HORN	24.0	COLUMBIA GAS TRAN
8229934	10831	3704921407		107-TF		EDWARD CHYLINSKI #4	NORTH EAST FIELD HORN	24.0	COLUMBIA GAS TRAN
8229928	10825	3704921612		103		FRANK J PATALON #3	NORTH EAST FIELD HORN	18.0	COLUMBIA GAS TRAN
8229936	10833	3704921612		107-TF		FRANK J PATALON #3	NORTH EAST FIELD HORN	18.0	COLUMBIA GAS TRAN
8229929	10826	3704921610		103		PATRICIA CHYLINSKI MCNAUGHTON #1	NORTH EAST FIELD HORN	12.0	COLUMBIA GAS TRAN
8229937	10834	3704921610		107-TF		PATRICIA CHYLINSKI MCNAUGHTON #1	NORTH EAST FIELD HORN	12.0	COLUMBIA GAS TRAN
8229930	10827	3704921627		103		WALLACE MAY #2	NORTH EAST FIELD HORN	22.0	COLUMBIA GAS TRAN
8229935	10832	3704921627		107-TF		WALLACE MAY #2	NORTH EAST FIELD HORN	22.0	COLUMBIA GAS TRAN
-KEPCO INC				RECEIVED:		04/29/82 JA: PA			
8229938	9642	3705921593		102-4		C J HARTLEY #1 (PK-6)	GARARDS FORT	14.0	NEW JERSEY NATURA
8229941	9641	3705921593		103		C J HARTLEY #1 (PK-6)	GARARDS FORT	14.0	NEW JERSEY NATURA
8229939	9644	3705921572		102-4		E V BUNNER #4 (PK-4)	GARARDS FORT	14.0	NEW JERSEY NATURA
8229942	9643	3705921572		103		E V BUNNER #4 (PK-4)	GARARDS FORT	14.0	NEW JERSEY NATURA
8229940	9640	3705921594		103		J V FILIAGGI #1 (PK-5)	GARARDS FORT	24.0	NEW JERSEY NATURA
-LAKE ERIE #1				RECEIVED:		04/29/82 JA: PA			
8229947	11144	3704921514		107-TF		G W SWIFT PA PER ERI-21514	CONNEAUT	0.0	COLUMBIA GAS TRAN

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8229946	11142	3704921534		107-TF		RAYMOND SWIFT #1 PA PER ERI-21534	CONNEAUT	0.0	COLUMBIA GAS TRAN
8229944	11139	3704921516		107-TF		RUDOLPH VANCO #2 PA PER ERI-21516	CONNEAUT	0.0	COLUMBIA GAS TRAN
8229943	11138	3704921517		107-TF		RUDOLPH VANCO #3 PA PER ERI-21517	CONNEAUT	0.0	COLUMBIA GAS TRAN
8229945	11144	3704921512		107-TF		WILLIAM SMITH #1 PA PER ERI-21512	CONNEAUT	0.0	COLUMBIA GAS TRAN
-MID-PENN ENERGY CORP				RECEIVED:	04/29/82	JA: PA			
8229952	11280	3703321130		103		BURNETT HAAG #1	BIG RUN	25.0	NATIONAL FUEL GAS
8229951	11279	3706326408		103		CHRISTINA & THOMAS BOLTER #1	BRUSH VALLEY	35.0	COLUMBIA GAS TRAN
8229950	11278	3703321146		103		HUGH APPLETON #1	GRAMPIAN	25.0	CONSOLIDATED GAS
8229948	11276	3703321128		103		RUSSELL HAAG #1	BIG RUN	30.0	NATIONAL FUEL GAS
8229949	11277	3703321127		103		RUSSELL HAAG #1	BIG RUN	25.0	NATIONAL FUEL GAS
8229953	11281	3706522373		103		WILLIAM WISE #1	BIG RUN	25.0	NATIONAL FUEL GAS
-MITCHELL ENERGY CORPORATION				RECEIVED:	04/29/82	JA: PA			
8229955	11268	3703921448		103		DAVID L STUTZMAN UNIT #1	MOSIERTOWN MEDINA/WHI	27.0	COLUMBIA GAS TRAN
8229958	11269	3703921448		107-TF		DAVID L STUTZMAN UNIT #1	MOSIERTOWN MEDINA/WHI	27.0	COLUMBIA GAS TRAN
8229956	11270	3703921485		103		F NELSON UNIT #1	CONNEAUTVILLE MEDINA/	27.0	COLUMBIA GAS TRAN
8229959	11271	3703921485		107-TF		F NELSON UNIT #1	CONNEAUTVILLE MEDINA/	27.0	COLUMBIA GAS TRAN
8229954	11255	3703921344		103		R E KEENE UNIT #1	MEDINA (WHIRLPOOL SAN	0.0	COLUMBIA GAS TRAN
8229957	11254	3703921344		107-TF		R E KEENE UNIT #1	MEDINA (WHIRLPOOL SAN	0.0	COLUMBIA GAS TRAN
-MITCHELL-HEARD-BROWN				RECEIVED:	04/29/82	JA: PA			
8229960	11252	3704921314		107-TF		MITCHELL-HEARD-BROWN #1	MILL VILLAGE (BROWN F	45.0	COLUMBIA GAS TRAN
-PHILLIPS PRODUCTION CO				RECEIVED:	04/29/82	JA: PA			
8229969	10438	3706323959		108		CARL HAGGERTY #1	CENTER	14.0	WALLACE-MURRAY CO
8229968	10407	3706323907		108		DANIEL R HAUGER ET AL #1	CENTER	15.0	WALLACE-MURRAY CO
8229967	10406	3706323946		108		DANIEL R HAUGER ET AL #2	CENTER	15.0	WALLACE-MURRAY CO
8229962	9338	3703320982		108		HOMER A MOTT ET UX #1	CENTER	3.0	CONSOLIDATED GAS
8229961	9182	3706323977		108		JENNIE B ADAMS ESTATE #3	CENTER	14.0	COLUMBIA GAS TRAN
8229970	10411	3706324406		108		JOHN D BRUCE ET UX #1	CENTER	10.0	WALLACE-MURRAY CO
8229963	9339	3703320993		108		O L STYERS EX FOR O M STYERS EST #1	CENTER	6.0	CONSOLIDATED GAS
8229965	10404	3706323742		108		ROBERT E WISSINGER #2	CENTER	18.0	WALLACE-MURRARY C
8229966	10405	3706323744		108		ROBERT E WISSINGER ET UX #1	CENTER	18.0	WALLACE-MURRAY CO
8229964	10403	3706323799		108		ROBERT E WISSINGER ET UX #3	CENTER	18.0	WALLACE-MURRAY CO
-VINEYARD OIL & GAS CO				RECEIVED:	04/29/82	JA: PA			
8229975	11121	3704921509		102-2		BECK #1	EDINBORO - WASHINGTON	18.0	COLUMBIA GAS TRAN
8229978	11120	3704921509		107-TF		BECK #1	EDINBORO - WASHINGTON	18.0	COLUMBIA GAS TRAN
8229976	11214	3704921571		102-2		GRAVES #1	LEBOEUF	20.0	COLUMBIA GAS TRAN
8229979	11215	3704921571		107-TF		GRAVES #1	LEBOEUF	20.0	COLUMBIA GAS TRAN
8229977	11358	3704921523		102-2		PARKER #1	LEBOEUF	24.0	COLUMBIA GAS TRAN
8229980	11218	3704921523		107-TF		PARKER #1	LEBOEUF	24.0	COLUMBIA GAS TRAN
-WATSON & SWANSON INC				RECEIVED:	04/29/82	JA: PA			
8229981	11299	3703320990		103		J O CLARK BLK #9 WELL #4	BURNSIDE	0.0	COLUMBIA GAS TRAN
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VIRGINIA DEPARTMENT OF LABOR & INDUSTRY									
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-COLUMBIA GAS TRANSMISSION CORP				RECEIVED:	04/29/82	JA: VA			
8229878		4502719958		107-DV		NATL SHAWMUT BK OF BOSTON 80415	VIRGINIA FIELD AREA	0.8	COLUMBIA GAS TRAN
8229879		4502719979		107-DV		NATL SHAWMUT BK OF BOSTON #9 808797	VIRGINIA FIELD AREA	7.0	COLUMBIA GAS TRAN
8229880		4502719982		107-DV		NATL SHAWMUT BK OF BOSTON 808870	VIRGINIA FIELD AREA	14.0	COLUMBIA GAS TRAN
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WEST VIRGINIA DEPARTMENT OF MINES									
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-ALLEGHENY LAND & MINERAL COMPANY				RECEIVED:	04/26/82	JA: WV			
8229896		4708320441		103		A-1011	MIDDLE FORK	0.0	COLUMBIA GAS TRAN
8229889		4708300458		103		A-1019	MIDDLE FORK	0.0	COLUMBIA GAS TRAN

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8229890		4708300460		103		A-1026	ROARING CREEK	0.0	COLUMBIA GAS TRAN
8229888		4708300449		103		A-1027	ROARING CREEK	0.0	COLUMBIA GAS TRAN
8229898		4708300503		103		A-1032	MIDDLE FORK	0.0	COLUMBIA GAS TRAN
8229891		4709702257		103		A-1033	WASHINGTON	0.0	COLUMBIA GAS TRAN
8229895		4704123095		103		A-1036	COURT HOUSE	0.0	CONSOLIDATED GAS
8229897		4708320483		103		A-958	MIDDLE FORK	0.0	COLUMBIA GAS TRAN
-APPALACHIAN PETROLEUM CORP				RECEIVED:	04/30/82	JA: WV			
8230087		4710500897		107-DV		ROY DOUGLAS #1	BURNING SPRINGS	36.0	ROARING FORK GAS
8230088		4710500898		107-DV		ROY DOUGLAS #2	BURNING SPRINGS	36.0	ROARING FORK GAS
-BEREA OIL AND GAS CORPORATION				RECEIVED:	04/26/82	JA: WV			
*8229884		4700121201		108		H WATSON #1	VALLEY	25.1	CONSOLIDATED GAS
-BLAUSER WELL SERVICE INC				RECEIVED:	04/30/82	JA: WV			
8230093		4708524882		103		JESSIE SHEETS #1	UNION	6.3	CONSOLIDATED GAS
-BRAXTON OIL AND GAS CORP				RECEIVED:	04/26/82	JA: WV			
8229885		4700701516		108		NO 2 CARTER	BURNSVILLE	20.0	CONSOLIDATED GAS
-CABOT OIL & GAS CORP				RECEIVED:	04/30/82	JA: WV			
8230099		4703903647		103		JOHN TAIT #1	WASHINGTON	43.0	TENNESSEE GAS PIP
8230097		4703903674		103		KIRK & MILLER #2	JEFFERSON	45.0	TENNESSEE GAS PIP
8230100		4703903729		103		LOUIE FOSTER #1	WASHINGTON	17.0	TENNESSEE GAS PIP
8230101		4703903751		103		TROWBRIDGE #2	WASHINGTON	38.0	TENNESSEE GAS PIP
-CARSON PETROLEUM CORP				RECEIVED:	04/30/82	JA: WV			
8230102		4702103777		103		E WOOFTER #1	LITTLE COVE	18.0	COLUMBIA GAS TRAN
8230103		4701703036		103		ERWIN #1	ST CLAIR	15.0	COLUMBIA GAS TRAN
8230096		4701703024		103		SCHULTE #5	S CLAIR	20.0	COLUMBIA GAS TRAN
8230104		4701702959		103		SMITH #3A	ST CLAIR	25.0	COLUMBIA GAS TRAN
-COLUMBIA GAS TRANSMISSION CORP				RECEIVED:	04/30/82	JA: WV			
8230094		4705900956		107-DV		COTIGA DEVELOPMENT 820223	WEST VA FIELD AREA B	21.0	COLUMBIA GAS TRAN
8230106		4703903638		102-2		GEORGES CK LAND & MIN CO 820520	INDIAN CREEK	168.3	COLUMBIA GAS TRAN
8230095		4703903631		102-2		KANAWHA HOCKING COAL & COKE 820349	INDIAN CK	40.0	COLUMBIA GAS TRAN
-CONSOLIDATED GAS SUPPLY CORPORATION				RECEIVED:	04/26/82	JA: WV			
8229886		4703302562		103		WANDA O HILL 12622	EAGLE DISTRICT	25.4	GENERAL SYSTEM PU
-CONSOLIDATED GAS SUPPLY CORPORATION				RECEIVED:	04/27/82	JA: WV			
8229905		4708300484		102-2		MIDLAND ENTERPRISES INC WN-12692	MIDDLE FORK	10.5	GENERAL SYSTEM PU
-CONSOLIDATED GAS SUPPLY CORPORATION				RECEIVED:	04/30/82	JA: WV			
8230105		4703300993		108		ESTHER R PHILLIPS WN-12222	SARDIS	0.2	GENERAL SYSTEM PU
-D G HANEY INC				RECEIVED:	04/30/82	JA: WV			
8230098		4704102967		103		DONNOLLY VILLERS #4	FREEMANS CREEK DISTRI	0.0	CONSOLIDATED GAS
-DEVON CORPORATION				RECEIVED:	04/26/82	JA: WV			
8229892		4704501072		108		DINGESS RUM COAL CO #958	ETHEL	6.5	COLUMBIA GAS TRAN
-DORAN & ASSOCIATES INC				RECEIVED:	04/26/82	JA: WV			
8229903		4703322586		103		A SHINN #1 KR-22	CLAY	30.0	CONSOLIDATED GAS
8229902		4703322587		103		A SHINN #2 KR-23	CLAY	30.0	CONSOLIDATED GAS
8229900		4703322639		103		A SHINN #4 KR-25	CLAY	30.0	CONSOLIDATED GAS
8229901		4703322637		103		A SHINN #7 KR-27	CLAY	30.0	CONSOLIDATED GAS
8229899		4703322391		103		ROBERT COFFINDAFFER #2 KU-3	UNION	30.0	CONSOLIDATED GAS
8229904		4703322392		103		SMITH CURRY #2 KU-4	UNION	30.0	CONSOLIDATED GAS
-FOX DRILLING CO INC				RECEIVED:	04/26/82	JA: WV			
8229894		4700101431		103		SUE BARTLETT SMITH #1	BELINGTON	10.0	COLUMBIA GAS TRAN
8229683		4700101434		103		WILLSON #1-A	BELINGTON	8.0	COLUMBIA GAS TRAN
-FRANCIS E CAIN				RECEIVED:	04/26/82	JA: WV			
8229893		4701303158		108		GEORGIA BARNETT #1	SHERIDAN	0.0	CABOT CORP
-FRANCIS E CAIN				RECEIVED:	04/30/82	JA: WV			
8230090		4701303191		103		RUSSELL RICHARDS #2	SHERIDAN	0.0	CABOT CORP

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8230089		4701303274		103		RUSSELL RICHARDS #3	SHERIDAN	0.0	CABOT CORP
-HYDROCARBON ENERGIES INC				RECEIVED:	04/30/82	JA: WV			
8230076		4709702288		103		ORTH GOULD H-E #2	BUCKHANNON DISTRICT	0.0	COLUMBIA GAS TRAN
-J & J ENTERPRISES INC				RECEIVED:	04/30/82	JA: WV			
8230072		4701723022		103		J-223	TENMILE	0.0	CONSOLIDATED GAS
8230067		4701722951		103		J-294	CENTRAL	0.0	COLUMBIA GAS TRAN
8230077		4703322539		103		J-411	SARDIS	0.0	CARNEGIE NATURAL
8230074		4703322530		103		J-412	SARDIS	0.0	CARNEGIE NATURAL
8230070		4701702925		103		J-424	NEW MILTON	0.0	CONSOLIDATED GAS
8230085		4701722922		103		J-428	GRANT	0.0	COLUMBIA GAS TRAN
8230079		4701722978		103		J-454	MCELROY	0.0	CONSOLIDATED GAS
8230075		4700121527		103		J-480	BARKER	0.0	COLUMBIA GAS TRAN
8230082		4701723023		103		J-503	WEST UNION	0.0	CONSOLIDATED GAS
8230071		4701723007		103		J-509	NEW MILTON	0.0	CONSOLIDATED GAS
8230081		4701723018		103		J-513	WEST UNION	0.0	CONSOLIDATED GAS
8230083		4709520924		103		J-514	CENTERVILLE	0.0	CONSOLIDATED GAS
8230084		4709520925		103		J-515	CENTERVILLE	0.0	CONSOLIDATED GAS
8230078		4701722479		103		J-54	MCCLELLAN	0.0	CONSOLIDATED GAS
8230080		4701722936		103		J-92	WEST UNION	0.0	CONSOLIDATED GAS
-PETROLEUM RESOURCES INC				RECEIVED:	04/26/82	JA: WV			
8229887		4702103716		108		HEATH #1	BUTCHER'S FORK	25.0	CONSOLIDATED GAS
-ROSS-WHARTON GAS CO				RECEIVED:	04/30/82	JA: WV			
8230086		4704102981		103		C W MAXWELL HRS #1	JANE LEW	20.0	CONSOLIDATED GAS
-UNITED PETRO LTD				RECEIVED:	04/30/82	JA: WV			
8230091		4701308187		108		BOB HAMBURG #1-A	ORMA-MINNORA GAS	10.0	CONSOLIDATED GAS
8230092		4701303159		108		THOMAS HICKS #1	ORMA-MINNORA GAS	16.0	CONSOLIDATED GAS
-WACO OIL AND GAS CO INC				RECEIVED:	04/30/82	JA: WV			
8230069		4702103803		107-DV		BOYLES #2A	GILMER	25.0	CONSOLIDATED GAS
8230073		4702103803		103		BOYLES #2A	GILMER	25.0	CONSOLIDATED GAS
8230068		4702103767		107-DV		WHITING #13A	GILMER	9.0	CONSOLIDATED GAS
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** DEPARTMENT OF THE INTERIOR, MINERALS MANAGEMENT SERVICE, ALBUQUERQUE,NM									
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-YATES PETROLEUM CORPORATION				RECEIVED:	04/29/82	JA: NM 4			
8229882	NM-0556-81	3001521795		102-4		CC TANK UNIT #1	WILDCAT	0.0	TRANSWESTERN PIPE
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** DEPARTMENT OF THE INTERIOR, MINERALS MANAGEMENT SERVICE, CASPER,WY									
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-MIDLANDS GAS CORPORATION				RECEIVED:	04/30/82	JA: MT 5			
8230014	M540-1	2507121195		108		FEDERAL #1 2621	BOWDOIN	22.0	KANSAS-NEBRASKA N
8229986	M231-1	2507121712		108		FEDERAL #1 3013	BOWDOIN	11.0	KANSAS-NEBRASKA N
8229987	M238-1	2507121609		108		0851 83531	WHITEWATER	9.0	KANSAS-NEBRASKA N
-SHELL OIL CO				RECEIVED:	04/30/82	JA: MT 5			
8229991	M502-1	2502521178		103		USA 13X-18	LITTLE BEAVER	18.0	
-KOCH INDUSTRIES INC				RECEIVED:	04/30/82	JA: ND 5			
8230005	ND526-1	3300700751		102-2		FEDERAL #15-33A	TREETOP	11.0	MONTANA-DAKOTA UT
-SHELL OIL CO				RECEIVED:	04/30/82	JA: ND 5			
8229993	ND509-1	3300700664		102-2		USA 41-4	TREETOP	27.0	WESTERN GAS PROCE
-AMERICAN QUASAR PETROLEUM CO				RECEIVED:	04/30/82	JA: WY 5			
8229997	W514-1	4903520603		107-TF		RILEY RIDGE FEDERAL 10-14	SEC 10 T29N-R114W	0.0	
8229992	W508-1	4903520537	D	107-TF		RILEY RIDGE FEDERAL 8-24	SEC 8 T29N-R114W	0.0	
-BELCO PETROLEUM CORPORATION				RECEIVED:	04/30/82	JA: WY 5			
8230083	W521-1	4904521628		103		FROG CREEK FEDERAL 1-7	FROG CREEK	0.0	PHILLIPS PETROLEU

VOLUME 652 PAGE 009

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-CHEVRON U S A INC				RECEIVED:	04/30/82	JA: WY 5			
8230012	W538-1	4904120291		107-DP		CHEVRON FEDERAL 1-6F LODGE POLE	CARTER CREEK	9.1	COLUMBIA GAS TRAN
8230013	W539-1	4904120291		107-DP		CHEVRON FEDERAL 1-6F MISSION CANYON	CARTER CREEK	9.1	COLUMBIA GAS TRAN
-DIAMOND SHAMROCK CORPORATION				RECEIVED:	04/30/82	JA: WY 5			
8230009	W533-1	4900526100		102-2		FRAZIER FEDERAL 11-12	PORCUPINE	19.0	
8230010	W534-1	4900526149		103		MCGAHEY FEDERAL 34-31	PORCUPINE	17.0	
-EDWIN L COX				RECEIVED:	04/30/82	JA: WY 5			
8230008	W532-1	4900526049		103		LANHAM FEDERAL #1-17	SANDBAR WEST	365.0	ARCO OIL & GAS CO
-ENERGETICS INC				RECEIVED:	04/30/82	JA: WY 5			
8229990	W500-1T	4903520532		107-TF		FEDERAL 30-31	N BIRD CANYON	782.0	NORTHWEST PIPELIN
-GREAT WESTERN DRILLING COMPANY				RECEIVED:	04/30/82	JA: WY 5			
8230011	W535-1	4900921896		103		FEDERAL 1-25 W-86186	SCOTT	88.3	PHILLIPS PETROLEU
-INTEGRITY OIL & GAS COMPANY				RECEIVED:	04/30/82	JA: WY 5			
8229988	W477-1	4902521156		102-4		D S FEDERAL #1-4	COOPER RESERVOIR	182.5	KANSAS-NEBRASKA N
8229989	W478-1	4902521143		102-4		W S FEDERAL #1-33	COOPER RESERVOIR	182.5	KANSAS-NEBRASKA N
-NATURAL GAS CORPORATION OF CALIF				RECEIVED:	04/30/82	JA: WY 5			
8229996	W512-1	4902320436		102-2		FEDERAL 3-19	FONTENELLE	632.0	PACIFIC GAS TRANS
-NORTEX GAS & OIL CO				RECEIVED:	04/30/82	JA: WY 5			
8229999	W517-1	4901320991		103		FEDERAL 193 #4-18	FULLER RESERVOIR II	20.0	INTERNORTH INC
8229994	W510-1	4901321000		103		FEDERAL 193 #5-18	FULLER RESERVOIR II	25.0	INTERNORTH INC
8229995	W511-1	4901321056		103		FEDERAL 886 #6-18	FULLER RESERVOIR II	30.0	INTERNORTH INC
-PHILLIPS PETROLEUM COMPANY				RECEIVED:	04/30/82	JA: WY 5			
8230002	W520-1	4900525900		102-2		THUNDER CREEK FED A #1	SCHOOL CREEK	17.9	PANHANDLE EASTERN
8230001	W519-1	4900525899		102-2		THUNDER CREEK FED C #1	SCHOOL CREEK	11.3	PANHANDLE EASTERN
-RESOURCES INVESTMENT CORPORATION				RECEIVED:	04/30/82	JA: WY 5			
8229998	W516-1	4900525775		103		QUILLBACK FEDERAL #2-33	PORCUPINE	219.0	MIGC INC
-SNYDER OIL CO				RECEIVED:	04/30/82	JA: WY 5			
8230006	W530-1	4900720677		107-TF		ABBY FEDERAL 1C-17-15-92	ROBBERS GULCH	140.0	NORTHWEST PIPELIN
8230000	W518-1	4900720657		107-TF		SOCO SUPRON FEDERAL 1C-4-14-92	ROBBERS GULCH	160.0	NORTHWEST PIPELIN
-SUN OIL COMPANY (DELAWARE)				RECEIVED:	04/30/82	JA: WY 5			
8230007	W531-1	4900525635		103		UTE MUDDY SAND UNIT #1-12	UTE	10.0	MCCULLOUGH OIL CO
-TEXACO INC				RECEIVED:	04/30/82	JA: WY 5			
8230004	W522-1	4903721801		103		DELANEY RIM UNIT #7	DELANEY RIM	21.6	COLORADO INTERSTA

OTHER PURCHASERS VOLUME NO :652

8229884 BROOKLYN UNION GAS CO
8230019 MICHIGAN WISCONSIN P L CO

Kenneth F. Plumb,
Secretary.

[FR Doc. 82-14546 Filed 5-27-82; 8:45 am]

BILLING CODE 6717-01-C

Office of Assistant Secretary for International Affairs

European Atomic Energy Community; Proposed Subsequent Arrangement; Japan

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 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, and 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 arrangement to be carried out under the above mentioned agreements involves approval for the following retransfer: RTD/JA(EU)-22, from France to Japan, three irradiated fuel pins containing 329 grams of uranium, enriched to an average of 36.4% in U-235, and 47 grams of plutonium, for post-irradiation analysis and measurements.

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 June 14, 1982.

For the Department of Energy.

Dated: May 21, 1982.

Harold D. Bengelsdorf,

Director, Office of International Nuclear and Non-Proliferation Policy.

[FR Doc. 82-14669 Filed 5-27-82; 8:45 am]

BILLING CODE 6450-01-M

Office of Conservation and Renewable Energy

[Case No. DW-002]

Energy Conservation Program for Consumer Products; Granting of Waiver of Dishwasher Test Procedures Upon Petition of General Electric Co.

AGENCY: Office of Conservation and Renewable Energy, DOE.

ACTION: Decision and order.

SUMMARY: Today's Decision and Order grants General Electric Company a waiver for its model "T" Series dishwater from the existing DOE dishwasher test procedures.

EFFECTIVE DATE: May 19, 1982.

FOR FURTHER INFORMATION CONTACT:

Michael J. McCabe, U.S. Department of Energy, Office of Conservation and Renewable Energy, Mail Station CE-113.1, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252-9127

Eugene Margolis, Esq., U.S. Department of Energy, Office of General Counsel, Mail Station GC-33, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252-9510.

SUPPLEMENTARY INFORMATION:

Background

The Energy Conservation Program for Consumer Products was established pursuant to the Energy Policy and Conservation Act (EPCA), Pub. L. 94-163, as amended by the National Energy Conservation Policy Act (NECPA), Pub. L. 95-619, which requires the Department of Energy (DOE) to prescribe standardized test procedures to measure the energy consumption of certain consumer products, including dishwashers. The intent of the test procedures is to provide a comparable measure of energy consumption that will assist consumers in making purchase decisions. These test procedures appear at 10 CFR Part 430, Subpart B. The Department of Energy, on September 26, 1980 (45 FR 6418), amended the prescribed test procedure regulations to allow the Assistant Secretary for Conservation and Renewable Energy to waive temporarily test procedures for a particular basic model when a petitioner shows that the basic model contains one or more design characteristics which either prevent testing of the basic model according to the prescribed test procedures or the prescribed test procedures may evaluate the basic model in a manner so unrepresentative to its true energy consumption characteristics as to provide materially inaccurate comparative data.

General Electric Company (GE) filed a "Petition for Waiver" in accordance with the provisions of § 430.27 of 10 CFR, "Petition for Waiver." As required by that section, DOE published in the **Federal Register** the GE petition (47 FR 8813, March 2, 1982 and corrected by 47 FR 10272, March 10, 1982) and solicited comments, data and information respecting the petition. GE, by letter dated March 22, 1982, asserted that notice of petition for waiver had been sent to all known manufacturers of domestically marketed dishwashers. Comments were received from Norris Industries (Norris) and Hobart Corporation (Hobart), companies which manufacture dishwashers. All comments were sent to petitioner by DOE on March 8, 1982, and GE responded by letter to each comment. DOE consulted with the Federal Trade Commission (FTC) on April 12, 1982, concerning the petition from GE.

GE's petition contends that while its "T" Series dishwasher is a covered product under the Act, it cannot be adequately tested under the existing DOE test procedures for dishwashers (43 FR 39968, August 8, 1977). The GE design incorporates features which are not addressed in the existing dishwasher test procedures. The GE design allows the dishwasher to operate at a lower inlet water temperature than that specified in the test procedures.

In accordance with 10 CFR 1004.11, GE claimed that the design is confidential and has requested that data regarding it be deleted from the petition. DOE has evaluated this request and has determined that the design information contained in the petition is confidential in accordance with exemption 4 of 5 U.S.C. 552(b)(4).

General Electric Company requested a waiver of the test procedures for all models of its dishwashers, designed as "T" Series. As required by the rule, GE included an alternate test procedure—that for such models the provisions of sections 2.3 and 4.1 of Appendix C, 10 CFR Part 430, "Uniform Test Method for Measuring the Energy Consumption of Dishwashers" be modified as follows:

Section 2.3—Substitute "between 115°F and 125°F" for "between 135°F and 145°F."

Section 4.1—Substitute "70°F" for "90°F."

GE alleges that these modifications will provide for a true measure of energy consumption of its new model dishwashers as designed. GE would modify its user instructions to state that the product is designed to operate with inlet water as low as 120°F, and that energy consumption used to calculate the cost of operation is based upon a 120°F inlet water temperature.

The commenters raised no objection to GE's claim that its "T" Series dishwasher could not be adequately tested under the existing DOE test procedures. With regard to GE's request to substitute a 70°F nominal water heater temperature for the 90°F found in section 4.1, Norris requests that the measured inlet water temperature during testing be used to calculate the nominal water heater temperature rise. Norris contends that if the actual inlet water temperature was allowed to be anywhere between 115°F and 125°F the total energy calculated can be in error proportional to the amount the inlet water temperature varies from 120°F.

Norris provided an example which shows that the per cycle energy consumption can vary by as much as 0.12 Kwh per cycle, or 4.5 percent of the $55 estimated annual cost of operation cited in the example in GE's petition. GE responded, stating that it is appropriate to specify a tolerance for the inlet water temperature and that ±5°F has been found to be reasonable. However, GE stated that a tolerance of ±2°F as granted to Hobart for their KD–19 dishwasher was acceptable. DOE agrees that there may be a variation in the dishwasher per cycle energy consumption based upon the inlet water temperature.

Norris suggested that a test load is required to fairly and accurately measure the energy consumption of the GE design. DOE had previously considered including a provision for a test load in the dishwasher test procedure, but rejected its use stating that:

> Based on over 30 tests on six different models of dishwashers, NBS (the National Bureau of Standards) concluded that there was an insignificant variation in the energy consumed by the internal boost heater between tests conducted with a load and those conducted without a load for dishwashers when operated on the normal cycle. Since none of the models tested had boost heaters that were thermostatistically controlled for the normal cycle, the boost heater operated continuously during the wash and rinse cycles whether or not a load was present. The test results showed that the boost heater consumed nearly a constant amount of energy independent of the number of dishes being washed or the temperature of the water.
>
> In light of the NBS test results, and based on NBS recommendations, FEA has determined that the use of a standard test load for testing of any size dishwasher when operated on the normal cycle or the truncated normal cycle is unnecessarily burdensome on industry and should not be required. 44 FR 39965 (1977).

Subsequent to these tests, NBS conducted a series of energy tests on a dishwasher using thermostatically controlled heating in the normal cycle to determine the effects on energy consumption of a test load and found a difference of 1.7 percent using 140°F inlet water and 6.6 percent with 120°F water.

General Electric responded that its petition did not address the issue of a test load because DOE previously had determined that this requirement was burdensome and did not result in significant differences in energy consumption. Furthermore, GE stated that its test data shows that the difference between energy consumption with a test load and without a test load is significantly less than the difference in energy consumption found by NBS. DOE, in granting a waiver to Norris, specified the use of a test load based upon Norris' contention that there is a variation in energy consumption in its LER Series dishwasher. While GE has provided no data to DOE regarding the energy consumption of its "T" Series dishwasher, DOE believes that there will not be any significant variation in energy consumption of the "T" Series dishwasher with and without a test load.

Hobart suggested that if a waiver is granted to GE for its "T" Series dishwasher, the order should contain the same conditions appearing in the exception the Office of Hearings and Appeals granted for Hobart's KD–19 dishwasher (45 FR 31343, June 15, 1981). In response, GE recognized that in recent years there have been many efforts directed at lowering the temperature of household water heaters and that DOE has given recognition to this situation in granting a waiver to Norris for its LER dishwasher (46 FR 35719). DOE agrees that a consumer may select to operate GE's "T" Series dishwasher with inlet water at temperatures other than 120°F.

Since GE finds a tolerance of ±2°F to be acceptable (which would reduce the potential error in Norris' example to less than 2 percent), a tolerance of ±2°F is specified in the decision and order. No requirement for a test load is included as DOE believes such a requirement is unnecessarily burdensome.

After careful consideration of the comments of Norris and Hobart and the responses of GE, DOE has decided to grant a waiver from the test procedures for GE's "T" Series dishwasher. The granting of the waiver will avoid the inequity of applying a uniform testing program that would restrict GE from advertising the energy-saving potential of its model "T" Series dishwasher. A consequence of granting this waiver is that GE would be permitted to use the results of a test using 120°F inlet water in its representations without violating section 323(c)(1) of EPCA.

The Department is mindful that consumers could be confused by not knowing how to evaluate manufacturer's information when comparing various models, i.e., comparing the estimated annual operating cost of the GE model "T" Series dishwasher with that of other models.

Accordingly, DOE has chosen to impose conditions upon its grant of relief. To insure that consumers will fully benefit from the energy-saving potential of the dishwasher, DOE requires as a condition of waiver relief that GE clearly indicate in any representation it makes that the energy costs are based on the use of 120°F inlet water. DOE believes this condition is sufficient to assure that the waiver granted substantially assists consumers in making purchasing decisions.

As an additional matter, the question arises whether GE is required to place the disclosure of 120°F inlet water on the Energy guide label of its model "T" Series dishwasher. The information which the FTC requires to be placedon the label is set forth in a format designed to show annual operating costs based on uniform testing procedures. The inclusion of additional disclosures would be incompatible with the format of the label. Moreover, DOE's statutory authority does not permit it to alter the format of the lable. The format for labels is established by FTC regulation, set forth at 16 CFR Part 305 (44 FR 66466, November 19, 1979).

It is therefore ordered that:

(1) The "Petition for Waiver" filed by General Electric is hereby granted as set forth in paragraph (2) below, subject to the provisions of paragraphs (3), (4) and (5).

(2) General Electric is not required to test the "T" Series dishwasher pursuant to the test procedures specified in Appendix C of 10 CFR Part 430, Subpart B.

(3) General Electric, in making any representations respecting measures of energy consumption of its model "T" Series dishwasher:

(a) Shall use the test procedures specified in Appendix C to 10 CFR 430, Subpart B, except (1) in section 4.1, substitute "70°F" for "90°F" and (2) in section 2.3, substitute "between 118°F and 122°F" for "between 135°F and 145°F."

(b) Shall disclose in such representations that the energy consumption used to calculate the cost of operation is based upon 120°F inlet water.

(4) The waiver shall remain in effect only until the Department of Energy prescribes final test procedures appropriate to the model "T" Series dishwasher manufactured by General Electric Company and shall in any event expire May 19, 1983.

(5) This waiver is based upon the presumed validity of statements and materials submitted by the applicant and commenters. This waiver may be revoked or modified at any time upon the determination that the factual basis underlying the application is incorrect.

Issued in Washington, D.C., May 19, 1982.

Joseph J. Tribble,

Assistant Secretary, Conservation and Renewable Energy.

[FR Doc. 82-14670 Filed 5-27-82; 8:45 am]

BILLING CODE 6450-01-M

Office of Hearings and Appeals

Issuance of Decisions and Orders; Week of March 22 Through March 26, 1982

During the week of March 22 through March 26, 1982, the decisions and orders summarized below were issued with respect to appeals and applications for exception or other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Copies of the full text of these decisions and orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room 1111, New Post Office Building, 12th & Pennsylvania Avenue, NW., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except Federal holidays. They are also available in *Energy Management, Federal Energy Guidelines,* a commercially published loose leaf reporter system.

Thomas O. Mann,

Acting Director, Office of Hearings and Appeals.

May 24, 1982.

Appeals

Digital Equipment Corp., 3/23/82, HFA-0041

Digital Equipment Corporation filed an Appeal from a partial denial by the Assistant Manager for Administration of the DOE Richland Operations Office of a Request for Information which the firm had submitted under the Freedom of Information Act (the FOIA). In considering the Appeal, the DOE found that the Assistant Manager's rationale for withholding portions of the requested documents under Exemption 4 was inadequate and that the proceeding should be remanded for a more complete determination.

Toppino Associates, 3/22/82, HFA-0033

Toppino associates filed an Appeal from a partial denial by the Assistant Manager for Administration of the DOE Albequerque Operations Office of a Request for Information that the firm submitted under the Freedom of Information Act (the FOIA). In considering the Appeal, the DOE found that Toppino Assocaties had failed to raise adequate objections to the Assistant Manager's denial. However, the DOE did review the determination and concluded that it failed to adequately explain the reasons for withholding portions of the document, which was a proposal submitted by an advertising agency for the Los Alamos National Laboratory advertising contract, under Exemption 4 of the FOIA. Accordingly, the matter was remanded to the Assistant Manager for a new determination whether release of the information in the proposal would cause substantial competitive harm to the firm which submitted it.

Remedial Orders

Hughes and Hughes Oil and Gas Oasis Oil, Inc., Office of Enforcement, 3/25/82, DRO-0243, BRD-0111

Oasis Oil, Inc. objected to a Proposed Remedial Order which the Office of Enforcement issued to Hughes and Hughes Oil and Gas on June 5, 1979. In the Proposed Remedial Order, the Office of Enforcement found that Huges had improperly terminated its supplier/purchaser relationship with Sun Petroleum Products Company (SPPC) in violation of 10 CFR § 211.63. The DOE affirmed the determination that Hughes' termination of its supplier/purchaser relationship with Sun was in violation of 10 CFR 211.63 and remanded the matter for the selection of a remedy to be imposed on Hughes. The DOE also denied the Office of Enforcement's Motion for Discovery because it concerned a remedy to which only preliminary consideration had been given.

NFC Petroleum Corporation, 3/24/82, DRO-0175

The NFC Petroleum Corporation objected to a Proposed Remedial Order which the Southwest District of the Economic Regulatory Administration (ERA) issued to the firm on January 18, 1979. In the Proposed Remedial Order, the ERA found that NFC sold specified volumes of crude oil produced from its Royce-Rigney Wade Sand Unit, located in Caddo County, Oklahoma, at prices that exceeded the applicable ceiling price levels. In considering the firm's objections, the DOE found that NFC improperly included injection wells in the well count for determining stripper well property status. In reaching that determination, the DOE reaffirmed its prior decisions which upheld the procedural and substantive validity of Ruling 1974-29. The DOE also found that the ERA properly treated the Rigney Unit as a property separate and apart from the non-unitized portions of the Rigney Lease, and correctly calculated the average daily production of the wells on the Rigney Unit for purposes of determining NFC's eligibility for the stripper well lease exemption. The DOE therefore concluded that the Proposed Remedial Order should be issued as a final Order.

Motion for Discovery

Arizona Fuels Corporation, 3/22/82, BED-0526, BEH-0526

Arizona Fuels Corporation filed Motions for Discovery and Evidentiary Hearing in connection with its Statement of Objections to a Proposed Decision and Order issued on March 16, 1981. In its Motion for Discovery, Arizona Fuels requested that the DOE provide the firm with all memoranda, workpapers and files involved in reaching the proposed determination. In considering the request, the DOE found that the Motion for Discovery was not of sufficient specificity to permit a reasoned decision concerning the materiality and relevance of the material sought. Accordingly, the discovery request was denied. The firm also requested an evidentiary hearing in order to present evidence that it was financially unable to comply with its entitlements obligations. The DOE determined that, since the DOE's finding that the firm had not made a good faith effort to satisfy its entitlements purchase obligations was central to the Proposed Decision and Order, the firm should have an opportunity to explain at an evidentiary hearing why it had not complied with the provisions of the Entitlements Program. Accordingly, the Motion for Evidentiary Hearing was granted.

Interlocutory Order

Texaco, Inc., 3/24/82, HRZ-0011, HRZ-0012

Texaco, Inc. filed a motion for reconsideration of a Decision and Order striking from the record in an enforcement proceeding certain submissions which it had made without the leave of the Office of Hearings and Appeals. The OHA determined that Texaco had shown good cause for permitting it to amend its filings through those submissions and approved the request. The OHA also permitted Texaco to file additional amendments to its pleadings in the proceeding.

Special Refund Petition

Office of Enforcement; in the Matter of OKC Corp., 3/25/82, BEF-0032

Purusant to 10 CFR Part 205, Subpart V, the Office of Enforcement, now the Office of Special Counsel, filed a Petition for the Implementation of Special Refund Proceedings for distribution of a portion of the consent order funds received from OKC Corp. In a Proposed Decision and Order, the OHA tentatively established a two stage procedure to be used in adjudicating claims to the OKC settlement fund. *See* 46 FR 63100 (1981). In the March 25, 1982 Decision and Order, the OHA set forth final procedures for applications for refund by persons claiming injury as a result of OKC's alleged regulatory violations during the consent order period. Rather than establishing mechanical standards for the allocation of funds among successful claimants, such as the *pro rata* volumetric distribution used in a number of previous refund cases, the decision discusses a number of equitable factors which will be considered in the process of allocating funds. The Decision and Order also reserves the question of the proper disposition of any remaining funds until the completion of the first stage claims procedure.

Dismissal

The following submission was dismissed without prejudice:

Name and Case No.

Tesoro Petroleum Corp., BER-0158

[FR Doc. 82-14667 Filed 5-27-82; 8:45 am]

BILLING CODE 6450-01-M

Objection to Proposed Remedial Orders Filed; Week of April 19 through April 23, 1982

During the week of April 19 through April 23, 1982, the notices of objection to proposed remedial orders listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Any person who wishes to participate in the proceeding the Department of Energy will conduct concerning the proposed remedial orders described in the Appendix to this Notice must file a request to participate pursuant to 10 CFR 205.194 on or before June 17, 1982. The Office of Hearings and Appeals will then determine those persons who may participate on an active basis in the proceeding and will prepare an official service list, which it will mail to all persons who filed requests to participate. Persons may also be placed on the official service list as non-participants for good cause shown.

All requests to participate in these proceedings should be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461.

May 21, 1982.

George B. Breznay,

Director, Office of Hearings and Appeals.

Dorchester Gas Corp., Sacramento, CA HRO-0045

On April 23, 1982, the State of California located in Sacramento, California filed a Notice of Objection to a Proposed Remedial Order which the DOE Dallas District Office of Enforcement issued to Dorchester Gas Corporation on March 19, 1982.

In the PRO the Dallas District found that during November 1974 to December 1979, Dorchester committed a number of violations of the DOE regulations including miscertification of crude oil and improper reporting of crude oil to the Entitlements Program.

According to the PRO the Dorchester violation resulted in $48,756,573.37 of overcharges.

Fuel Oil Supply & Terminating, Inc., Houston, TX, HRO-0044

On April 23, 1982, Fuel Oil Supply & Terminating, Inc. (FOSTI), 333 West Loop North, Suite 303, Houston, TX 77024 filed a Notice of Objection to a Proposed Remedial Order which the Houston Field Office of the Economic Regulatory Administration of the DOE issued to the firm on March 17, 1982.

In the PRO the Houston Field Office found that during the period July 1978 through September 1978, FOSTI violated applicable DOE price regulations in connection with the firm's resales of crude oil.

According to the PRO the FOSTI violation resulted in $2,414,661.28 of overcharges.

Hudson Oil Co., Washington, DC, HRO-0043

On April 19, 1982, Hudson Oil Company, Inc., P.O. Box 3100, Kansas City, Kansas 66103 filed a Notice of Objection to a Proposed Remedial Order which the DOE Kansas City District Office of Enforcement issued to the firm on March 22, 1982.

In the PRO the Kansas City District found that during the period February 1, 1977 to October 31, 1979, Hudson sold motor gasoline at prices which exceeded the DOE Mandatory Price Regulations as set forth in 10 CFR Part 212.

[FR Doc. 82-14666 Filed 5-27-82; 8:45 am]

BILLING CODE 6450-01-M

Western Area Power Administration

Fryingpan-Arkansas Project; Order Confirming and Approving an Extension of Power Rates on an Interim Basis

AGENCY: Western Area Power Administration, DOE.

ACTION: Notice of an extension of power rate on an interim basis—Fryingpan-Arkansas Project.

SUMMARY: Notice is given of Rate Order No. WAPA-11 of the Assistant Secretary for Conservation and Renewable Energy extending the rate on an interim basis for capacity without energy marketed by the Western Area Power Administration (Western) from the Fryingpan-Arkansas Project, Colorado.

ADDRESSES: For further information contact:

Mr. Peter G. Ungerman, Area Manager, Loveland-Fort Collins Area Office, Western Area Power Administration, P.O. Box 2650, Fort Collins, CO 80522, (303) 224-7201

Mr. Conrad Miller, Chief, Rates and Statistics Branch, Western Area Power Administration, P.O. Box 3402, Golden, CO 80401, (303) 231-1535

Mr. James A. Braxdale, Office of Power Marketing Coordination, CE-90, Department of Energy, Mail Code 3353, Federal Building, Washington, DC 20461, (202) 633-8338.

SUPPLEMENTARY INFORMATION: By Delegation Order No. 0204-33, effective January 1, 1979 (43 FR 60636, December 28, 1978), the Secretary of Energy delegated to the Assistant Secretary for Resource Applications the authority to develop power and transmission rates, acting by and through the Administrator, and to confirm, approve, and place in effect such rates on an interim basis, and to the Federal Energy Regulatory Commission (FERC) the authority to confirm and approve on a final basis or to disapprove rates developed by the Assistant Secretary under the delegation. Due to a Department of Energy organizational relignment, Delegation Order No. 0204-33 was amended, effective March 19, 1981 (46 FR 25426, May 7, 1981), to transfer the authority of the Assistant Secretary for Resource Applications to the Assistant Secretary for Conservation and Renewable Energy.

Pursuant to the delegation order, the Assistant Secretary for Conservation and Renewable Energy issued on July 10, 1981, Rate Order No. WAPA-9 (46 FR 37321, July 20, 1981), which confirmed and approved on an interim basis, Rate Schedule FA-1 for capacity without energy marketed by Western from the Fryingpan-Arkansas Project. The rate became effective July 11, 1981, and was to remain in effect for a period of 12 months unless the period was extended or until the FERC confirmed and approved it, or a substitute rate, on a final basis. The rate wa submitted to the FERC for confirmation and approval on a final basis on July 10, 1981.

The FERC has not yet acted on the rates. The purpose of Rate Order No. WAPA-11 is to extend the power rates pending the FERC confirmation and approval of them, or substitutes rates, on a final basis, or until they are superseded.

Issued in Washington, D.C., May 21, 1982.

Joseph J. Tribble,

Assistant Secretary, Conservation and Renewable Energy.

DEPARTMENT OF ENERGY

Assistant Secretary for Conservation and Renewable Energy

May 21, 1982.

In the Matter of: Western Area Power Administration—Fryingpan-Arkansas Project Power Rates, Rate Order No., WAPA-11; Order Confirming and Approving an Extension of a Power Rate on an Interim Basis.

Pursuant to section 302(a) of the Department of Energy Organization Act, 42 U.S.C. 7101, *et seq.*, the power marketing functions of the Secretary of the Interior under the Reclamation Act of 1902, 43 U.S.C. 372, *et seq.*, as amended and supplemented by subsequent enactments, particularly by section 9(c) of the Reclamation Project Act of 1939, 43 U.S.C. 485h(c), for the Bureau of Reclamation were transferred to and vested in the Secretary of Energy. By Delegation Order No. 0204-33, effective January 1, 1979 (43 FR 60636, December 28, 1978), the Secretary of Energy delegated to the Assistant Secretary for Resource Applications the authority to develop power and transmission rates, acting by and through the Administrator, and to confirm, approve, and place in effect such rates on an interim basis, and delegated to the Federal Energy Regulatory Commission (FERC) the authority to confirm and approve on a final basis or to disapprove rates developed by the Assistant Secretary under the delegation. Due to a

Department of Energy organizational realignment, Delegation Order No. 0204–33 was amended, effective March 19, 1981 (46 FR 25426, May 7, 1981), to transfer the authority of the Assistant Secretary for Resource Applications to the Assistant Secretary for Conservation and Renewable Energy. This rate order is issued pursuant to the delegation to the Assistant Secretary for Conservation and Renewable Energy.

Background

Pursuant to Delegation Order No. 0204–33, the Assistant Secretary for Conservation and Renewable Energy issued Rate Order No. WAPA–9 on July 10, 1981 (45 FR 37321, July 20, 1981), which confirmed and approved on an interim basis, Rate Schedule FA–1 for capacity without energy marketed by the Western Area Power Administration's Fryingpan-Arkansas Project. The rate became effective on July 11, 1981. The rate order stated that the rates "* * * shall remain in effect on an interim basis for a period of 12 months unless such period is extended, or until the FERC confirms and approves these or substitute rates, on a final basis, whichever occurs first." The Rate Schedule was submitted to the FERC for confirmation and approval on a final basis by the Assistant Secretary for Conservation and Renewable Energy's letter of July 10, 1981.

Discussion

Inasmuch as the FERC is not expected to complete its confirmation and approval of the Fryingpan-Arkansas Project power rate by July 11, 1982, a further extension of the interim rate is necessary.

Order

In view of the foregoing and pursuant to the authority delegated to me by the Secretary of Energy, I hereby confirm and approve on an interim basis, effective July 11, 1982, an extension of existing Rate Schedule FA–1. The rate shall remain in effect pending the FERC confirmation and approval of it, or a substitute rate, on a final basis, or until it is superseded.

Issued in Washington, D.C., May 21, 1982.

Joseph J. Tribble,

Assistant Secretary, Conservation and Renewable Energy.

[FR Doc. 82–14516 Filed 5–27–82; 8:45 am]

BILLING CODE 6450–01–M

ENVIRONMENTAL PROTECTION AGENCY

[OPTS–53037; TSH–FRL–2132–8]

Toxic Substances; Premanufacture Notices; Monthly Status Report for April 1982

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(d)(3) of the Toxic Substances Control Act (TSCA) requires EPA to issue a list in the **Federal Register** at the beginning of each month reporting the premanufacture notices (PMNs) pending before the Agency and the PMNs for which the review period has expired since publication of the last monthly summary. This is the report for April 1982.

DATE: Written comments are due no later than 30 days before the applicable notice review period ends on the specific chemical substance. Nonconfidential portions of the PMNs may be seen in Rm. E–106 at the address below between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding legal holidays.

ADDRESS: Written comments are to be identified with the document control number "(OPTS–53037)" and the specific PMN number should be sent to: Document Control Officer (TS–793), Management Support Division, Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E–409, 401 M Street, SW., Washington, D.C. 20460, (202–382–3532).

FOR FURTHER INFORMATION CONTACT: Kirk Maconaughey, Chemical Control Division (TS–794), Office of Toxic Substances, Environmental Protection Agency, Rm. E–208, 401 M Street, SW., Washington, D.C. 20460, (202–382–3746).

SUPPLEMENTARY INFORMATION: The monthly status report published in the **Federal Register** as required under section 5(d)(3) of TSCA (90 stat. 2012 (15 U.S.C. 2504)), will identify: (a) PMNs received during April; (b) PMNs received previously and still under review at the end of April; (c) review period has ended during April; PMNs for which the notice (d) chemical substances for which EPA has received a notice of commencement to manufacture during April; and (e) PMNs for which the reviewa period has been suspended. Therefore, the April 1982 PMN Status Report is being published.

Dated: May 20, 1982.

Woodson W. Bercaw,

Acting Director, Management Support Division.

Premanufacture Notices Monthly Status Report, April 1982

I. 79 PREMANUFACTURE NOTICES RECEIVED DURING THE MONTH

PMN No.	Identity and generic name	FR Citation	Expiration date
82-243	Manganic acetylacetonate	47 FR 15407 (4/9/82)	June 30, 1982
82-244	Generic name: Antimony pentafluoride-substituted amine complex	47 FR 16403 (4/16/82)	Do.
82-245	Generic name: Modified polyurethane	47 FR 16403 (4/16/82)	July 1, 1982.
82-246	Generic name: Barium sulfonated red	47 FR 16403 (4/16/82)	Do.
82-247	Generic name: 2-anthracenesulfonic acid, 1-amino-4-substituted phenylamino-9,10-dihydro-9,10-dioxo-sodium salt.	47 FR 16403 (4/16/82)	Do.
82-248	Generic name: Polymer of alkanediols and a carbomonocyclic anhydride	47 FR 16403 (4/16/82)	Do.
82-249	Generic name: Modified hydroxy functional acrylic copolymer	47 FR 16404 (4/16/82)	Do.
82-250	Generic name: Mixture of Naphthalenedisulfonic acid,[azoxy bis[(substituted phenyl)azo]]bis [substituted-, and its sodium salts.	47 FR 16404 (4/16/82)	Do.
82-251	3,4-dichlorophenol	47 FR 16404 (4/16/82)	Do.
82-252	Generic name: Isocyanate terminated polyester polyurethane prepolymer	47 FR 16404 (4/16/82)	July 4, 1982
82-253	Generic name: Urethane polyether	47 FR 16404 (4/16/82)	Do.
82-254	Generic name: Modified polymer of styrene, alkenoic acid, alkenoic esters and substituted alkenoic esters.	47 FR 16404 (4/16/82)	Do.
82-255	Void		
82-256	Generic name: Poly[(aminoalkalamino)alkylene oxide], aqueous solution	47 FR 16404 (4/16/82)	July 5, 1982.
82-257	*m*-chlorophenylphenylether	47 FR 16404 (4/16/82)	Do.
82-258	Generic name: Heterocyclic-methoxyphenylazo subatance	47 FR 16404 (4/16/82)	Do.
82-259	Generic name: Aliphatic oligomeric carbonate diol	47 FR 16404 (4/16/82)	Do.
82-260	Generic name: Disubstituted benzene	47 FR 16404 (4/16/82)	Do.
82-261	Generic name: Substituted naphthalene	47 FR 16404 (4/16/82)	Do.
82-262	Generic name: Substituted naphthalene	47 FR 16405 (4/16/82)	Do.
82-263	Generic name: A mixture of the sodium salts, lithium salts, and mixed sodium/lithium salts of naphthalene disulfonic acid, [azoxy bis [(substituted-phenyl)azo]]bis[substituted-.	47 FR 16405 (4/16/82)	Do.

I. 79 Premanufacture Notices Received During the Month—Continued

PMN No.	Identity and generic name	FR Citation	Expiration date
82-264	Generic name: The reaction products of: Mixed branched 2,5-Furandione; Polyalkylene substituted Phenol; condensed with aldehyde and mixed amines. Coco glycerides with mixed acid and alcohol; Sulfur.	47 FR 16405 (4/16/82)	July 6, 1982.
82-265	4,4'-bis(2,5-dimethylstryl)-diphenyl	47 FR 16405 (4/16/82)	July 7, 1982.
82-266	Generic name: Alkyl quaternary ammonium hydroxide	47 FR 16405 (4/16/82)	Do.
82-267	Generic name: Acid blocked amine	47 FR 16405 (4/16/82)	July 5, 1982.
82-268	Generic name: Acid blocked amine	47 FR 16405 (4/16/82)	Do.
82-269	Generic name: Acid blocked amine	47 FR 16405 (4/16/82)	Do.
82-270	Generic name: Acid blocked amine	47 FR 16405 (4/16/82)	Do.
82-271	Generic name: Acid blocked amine	47 FR 16405 (4/16/82)	Do.
82-272	Generic name: Heterocyclic-alkylphenyl azo substance	47 FR 16405 (4/16/82)	July 8, 1982.
82-273	*m*-chlorophenylphenylsulfide	47 FR 16405 (4/16/82)	Do.
82-274	Generic name: Triethylene glycol ether	47 FR 17666 (4/23/82)	July 11, 1982.
82-275	Generic name: Saturated linear butylene mixed acids copolyester	47 FR 17666 (4/23/82)	July 12, 1982.
82-276	Generic name: Bis(substituted-6,6,6-tri-acryloxyloxymethyl-4-oxahexyl)ethyl-methyl-disubstituted heteromonocycle.	47 FR 17666 (4/23/82)	July 11, 1982.
82-277	Generic name: Polymer of aliphatic and aromatic diacids and an aliphatoc diol	47 FR 17666 (4/23/82)	July 12, 1982.
82-278	Generic name: Di-quaternary ammonium salt with formal linkage	47 FR 17666 (4/23/82)	Do.
82-279	Generic name: Unsaturated carboxylic amide-carboxylic acid	47 FR 17667 (4/23/82)	July 13, 1982.
82-280	Generic name: Unsaturated carboxylic amide-carboxylic acid	47 FR 17667 (4/23/82)	Do.
82-281	Generic name: Polyether alkanyl esters	47 FR 17667 (4/23/82)	Do.
82-282	Generic name: Polyhalogenated aromatic poly-acrylate	47 FR 17667 (4/23/82)	June 9, 1982.
82-283	Generic name: t-butylated triphenyl phosphate residue	47 FR 17667 (4/23/82)	Do.
82-284	Generic name: Methylated triphenyl phosphate residue	47 FR 17667 (4/23/82)	Do.
82-285	Generic name: Isopropylated triphenyl phosphate residue	47 FR 17667 (4/23/82)	Do.
82-286	Generic name: Substituted aryl alkyl siloxane	47 FR 17667 (4/23/82)	July 14, 1982.
82-287	Generic name: Disubstituted benzene	47 FR 18652 (4/30/82)	July 15, 1982.
82-288	Generic name: Polymer of disubstituted acrylic acid, disubstituted benzene, and substituted acrylic acid.	47 FR 18652 (4/30/82)	Do.
82-289	Polymer of ethylene oxide; bisphenol A; epichlorohydrin; acrylonitrile; ethylene glycol; xylylenediamine; isphorondiamine.	47 FR 18652 (4/30/82)	Do.
82-290	Generic name: Disubstituted benzene	47 FR 18653 (4/30/82)	JUly 18, 1982.
82-291	Generic name: Sulfonated copper phthalocycanine dye	47 FR 18653 (4/30/82)	Do.
82-292	Generic name: Substituted trialkoxy silane	47 FR 18653 (4/30/82)	Do.
82-293	2,2,6-trimethyl-4H-1,3-dioxin-4-one	47 FR 18653 (4/30/82)	Do.
82-294	Generic name: Metallic beta diketonate	47 FR 18653 (4/30/82)	Do.
82-295	Cis-r-decen-1-ol	47 FR 18653 (4/30/82)	July 19, 1982.
82-296	Generic name: 9,10-anthracenedione sulfonic acid, sodium salt	47 FR 18653 (4/30/82)	Do.
82-297	Generic name: Isocyanate terminated polyether polyurethane prepolymer	47 FR 18653 (4/30/82)	Do.
82-298	Generic name: Polymer of alkyl acrylate and acrylamide	47 FR 18653 (4/30/82)	Do.
82-299	Generic name: Polymer of alkyl acrylate, vinyl heteromonocycle and acrylic acid	47 FR 18653 (4/30/82)	Do.
82-300	Generic name: Neutralized polymer of styrene, alkyl acrylates and substituted alkyl methacrylates	47 FR 18653 (4/30/82)	July 20, 1982.
82-301	Generic name: Neutralized polymer of styrene, alkyl acrylates and substituted alkyl methacrylates	47 FR 18653 (4/30/82)	Do.
82-302	Generic name: Polysilazane	47 FR 18654 (4/30/82)	Do.
82-303	Generic name: Inert fluorocarbon	47 FR 18654 (4/30/82)	Do.
82-304	Generic name: Quaternary amine functional polyether urethane modified polyglycidyl ether of Bisphenol A.	47 FR 18654 (4/30/82)	July 21, 1982
82-305	Generic name: Modified hydroxyethylcellulose	47 FR 19781 (5/7/82)	July 22, 1982.
82-306	Generic name: Disubstituted benzenamine	47 FR 19781 (5/7/82)	Do.
82-307	Generic name: Polyhaloalkoxyarayl halide	47 FR 19781 (5/7/82)	July 25, 1982.
82-308	Generic name: Substituted benzotriazole	47 FR 19782 (5/7/82)	Do.
82-309	Generic name: Cationic substituted acid amide	47 FR 19782 (5/7/82)	Do.
82-310	Generic name: Cationic substituted acid amide polymer	47 FR 19782 (5/7/82)	Do.
82-311	Generic name: Unsaturated alkyl amino alkyl dioxolane	47 FR 19782 (5/7/82)	Do.
82-312	Generic name: Dihaloethylacetate	47 FR 19782 (5/7/82)	Do.
82-313	Acetamide, 2,2-, dichloro-N-(1,3-dioxlan-2-ylmethyl)-N-2-propenyl	47 FR 19782 (5/7/82)	Do.
82-314	Generic name: Copolymer of alkyl acrylates and methacrylates	47 FR 19782 (5/7/82)	July 26, 1982.
82-315	Generic name: Polyester polymer derived from a carbomonocyclic anhydride and containing a mixture of substituted alkane diols.	47 FR 19782 (5/7/82)	Do.
82-316	4-butylmorpholine	47 FR 19782 (5/7/82)	Do.
82-317	Generic name: Metal alkanoate	47 FR 19782 (5/7/82)	July 27, 1982.
82-318	Generic name: A mixture of naphthalene sulfonic acid, -(substituted amino)-hydroxy-((substituted phenyl)azo) and naphthalene sulfonic acid, -(substituted amino)-hydroxy-((substituted phenyl)azo), compounded with organic acids.	47 FR 19782 (5/7/82)	July 28, 1982.
82-319	Generic name: Alkyl oligoglycosides	47 FR 19782 (5/7/82)	Do.
82-320	Phenol, 4-nitroso-, magnesium salt, hexahydrate	47 FR 19782 (5/7/82)	Do.
82-321	Generic name: Polyester randon copolymer	47 FR 19783 (5/7/82)	Do.
82-322	Generic name: Styrene acrylates copolymer	47 FR 20853 (5/14/82)	July 29, 1982.

II. 74 Premanufacture Notices Received Previously and Still Under Review at the End of the Month

PMN No.	Identity and generic name	FR citation	Expiration date
82-167	Generic name: Disubstituted benzene	47 FR 10900 (3/12/82)	May 30, 1982.
82-168	Generic name: Urethane of substituted alkanols and a diisocyanate	47 FR 10900 (3/12/82)	May 31, 1982.
82-169	Generic name: Polymer of alkyl and polyfluoroalkyl acrylates	47 FR 10900 (3/12/82)	Do.
82-170	1,6-hexanedioic acid, polymer with 1,2-ethanediol, 1,3-benzenedicarboxylic acid, 1,4-benzenedicarboxylic acid, and 1,6-hexanediol.	47 FR 10900 (3/12/82)	Do.
82-171	Generic name: Aromatic substituted triazine disazo dye, tetrasodium salt	47 FR 10900 (3/12/82)	June 1, 1982.
82-172	Generic name: Chromophore substituted poly-(oxyalkylene)	47 FR 10900 (3/12/82)	June 2, 1982.
82-173	Generic name: Borate esters-mixture	47 FR 10901 (3/12/82)	Do.
82-174	Generic name: Substituted acrylamide polymer	47 FR 10901 (3/12/82)	June 2, 1982.
82-175	Generic name: Borate ester	47 FR 11957 (3/19/82)	June 3, 1982.
82-176	Generic name: Expoxy functional polysiloxane/silica resin	47 FR 11957 (3/19/82)	Do.
82-177	Generic name: Metal salt of sulfur analog of carboxy alkyl	47 FR 11957 (3/19/82)	June 6, 1982.
82-178	Generic name: Disubstituted butanamide	47 FR 11957 (3/19/82)	Do.
82-179	Generic name: Disubstituted thioic acid ester	47 FR 11957 (3/19/82)	Do.
82-180	Generic name: Disubstituted benzene	47 FR 11957 (3/19/82)	Do.

II. 74 Premanufacture Notices Received Previously and Still Under Review at the End of the Month—Continued

PMN No.	Identity and generic name	FR citation	Expiration date
82-181	Polymers of benzoic acid, dimethylethanolamine, epoxidized soybean oil, neopenyl glycol, propylene glycol, phthalic anhydride, trimellitic anhydride.	47 FR 11958 (3/19/82)	June 7, 1982.
82-182	Polymers of bisphenol, epichlorohydrin, styrene, phenol, formaldehyde	47 FR 11958 (3/19/82)	June 28, 1982.
82-183	Polymers of acrylic acid, hydroxyethyl methacrylate, methylmethacrylate, phthalicanhydride, trimelliticanhydride, neodecanoic acid, 2,3-epoxypropyl ester.	47 FR 11958 (3/19/82)	June 7, 1982.
82-184	Invalid		
82-185	Generic name: Fatty acids, esters with a polyol	47 FR 11958 (3/19/82)	Do.
82-186	Generic name: Substituted alkyl amine	47 FR 11958 (3/19/82)	Do.
82-187	Generic name: Modified polymer of alkenoic acid, alkenoic ester and substituted alkenoic esters	47 FR 11958 (3/19/82)	Do.
82-188	Generic name: Modified polymer of alkenoic acid, alkenoic ester and substituted alkenoic esters	47 FR 11958 (3/19/82)	Do.
82-189	Generic name: Benzene 2-[(hexahydro-2,4,6-trioxopyrimidyl)azo]-5-(2-benzothiazolyl) sulfonic acid	47 FR 11958 (3/19/82)	June 8, 1982.
82-190	Generic name: Metal containing 2-hydroxyl alkyl benzoate	47 FR 11958 (3/19/82)	Mar. 29, 1982.
82-191	Generic name: Metal containing 2-hydroxyl alkyl benzoate	47 FR 11958 (3/19/82)	Do.
82-192	Generic name: Metal containing 2-hydroxyl alkyl benzoate	47 FR 11958 (3/19/82)	Do.
82-193	Generic name: Reaction product of a substituted benzene formaldehyde and inorganic acid	47 FR 11958 (3/19/82)	Apr. 13, 1982.
82-194	Generic name: Reaction product of a substituted benzene formaldehyde and inorganic acid	47 FR 11958 (3/19/82)	Do.
82-195	Generic name: Reaction product of a substituted benzene formaldehyde and inorganic acid	47 FR 11959 (3/19/82)	Do.
82-196	Generic name: Polyalkylene glycol alkyl glycidyl ether	47 FR 11959 (3/19/82)	June 9, 1982.
82-197	Generic name: Polyoxyalkylene aryl alkyl phenyl ether	47 FR 11959 (3/19/82)	Do.
82-198	Generic name: Modified polyurethane of a substituted alkene diol and a diisocyanate	47 FR 11959 (3/19/82)	Do.
82-199	Generic name: Poly-imidazoline derivative	47 FR 11959 (3/19/82)	Do.
82-200	Void		
82-201	Generic name: Dodecenyl-oleyl-capryl-succinimide	47 FR 13037 (3/26/82)	June 10, 1982.
82-202	Generic name: Dimer fatty acid, propionic acid, dicarboxylic acid, ethylene diamine, diamine polymer.	47 FR 13037 (3/26/82)	June 13, 1982.
82-203	Generic name: Bisphenol A-epichlorohydrin resin—mixed acrylic polymer	47 FR 13037 (3/26/82)	Do.
82-204	Generic name: Di-abietamide	47 FR 13037 (3/26/82)	June 14, 1982.
82-205	Generic name: Polyetherpolyol reaction with toluene diisocyanate hydroxypropyl acrylate blocked	47 FR 13038 (3/26/82)	Do.
82-206	Reaction product of (9,12 octadecadienoic acid, dimer, polymer with 2,5 furandione) with tallow diamine.	47 FR 13038 (3/26/82)	June 15, 1982.
82-207	OC-hydro-w-hydroxy-poly (oxy-1, 2 ethanediyl)), polymer with 3,5-dimethyl-1H-pyrazole	47 FR 13038 (3/26/82)	Do.
82-208	OC-hydro-w-hydroxy-poly (oxy(methyl-1,2 ethanediyl)), polymer with 3,5-dimethyl-1H-pyrazole	47 FR 13038 (3/26/82)	Do.
82-209	Generic name: Polymer from disubstituted monocycle and disubstituted alkanes	47 FR 13038 (3/26/82)	Do.
82-210	Generic name: Disubstituted benzene	47 FR 13038 (3/26/82)	June 14, 1982.
82-211	Generic name: Disubstituted butanamide salt	47 FR 13038 (3/26/82)	Do.
82-212	Generic name: Disubstituted benzene	47 FR 13038 (3/26/82)	Do.
82-213	Generic name: Disubstituted benzene	47 FR 13038 (3/26/82)	Do.
82-214	Generic name: Benzoxazole carbocyanine	47 FR 13038 (3/26/82)	June 15, 1982.
82-215	Generic name: Halogenated silicon magnesium oxo-titanium alkoxides	47 FR 13038 (3/26/82)	Do.
82-216	Adduct of 1,3-bis(isocyanatomethyl)-cyclohexane with 2-ethyl-2 (hydroxymethyl)-1,3-propanediol	47 FR 13038 (3/26/82)	Do.
82-217	2-methoxy-1,4 naphthalenedione	47 FR 13038 (3/26/82)	Do.
82-218	Generic name: Di-arylamine	47 FR 14218 (4/2/82)	June 17, 1982.
82-219	Generic name: Polyetherpolyol reaction with isophorone diisocyanate—HEA blocked	47 FR 14218 (4/2/82)	Do.
82-220	Generic name: Polymer of linear glycols and aromatic dicarboxylic acids	47 FR 14218 (4/2/82)	Do.
82-221	Generic name: Disubstituted benzene	47 FR 14218 (4/2/82)	Do.
82-222	Generic name: Disubstituted benzene	47 FR 14218 (4/2/82)	Do.
82-223	Generic name: Polyester-urethane	47 FR 14218 (4/2/82)	June 20, 1982.
82-224	Generic name: Neutralized reaction products of fatty acid derivatives and a substituted alkyl ester	47 FR 14218 (4/2/82)	Do.
82-225	Generic name: Neutralized reaction products of fatty acid derivatives and a substituted alkyl ester	47 FR 14218 (4/2/82)	Do.
82-226	Generic name: Substituted phenyl, substituted naphthalenyl azo dye	47 FR 14219 (4/2/82)	June 21, 1982.
82-227	Generic name: 2-propenamide, N-[3-(dimethylamino)propyl]-polymer with diethenylbenzene and 2,2-bis[(2-propenloxy)methyl]-1-butanol.	47 FR 14219 (4/2/82)	June 23, 1982.
82-228	Generic name: 1-propanaminium, N,N,N-trimethyl-3-[(1-oxo-2-propenyl)amino]-, chioride, polymer with diethenylbenzene and 2,2-bis[(2-propenyloxy)methyl]-1-butanol.	47 FR 14219 (4/2/82)	Do.
82-229	Generic name: 1-propanaminium, N,N,N-trimethyl-3-[(1-oxo-2-propenyl)amino]-, hydroxide, polymer with diethenylbenzene and 2,2-bis[(2-propenyloxy)methyl]-1-butanol.	47 FR 14219 (4/2/82)	Do.
82-230	Generic name: 1-propanaminium, N,N,N-trimethyl-3-[(1-oxo-2-propenyl)amino]-, sulfate, polymer with diethenylbenzene and 2,2-bis[(2-propenyloxy)methyl]-1-butanol.	47 FR 14219 (4/2/82)	Do.
82-231	Generic name: Laurylsulfate salt of substituted p-diazo diphenylamine, polymer with formaldehyde	47 FR 14219 (4/2/82)	June 24, 1982.
82-232	Generic name: Thiophosphate	47 FR 15407 (4/9/82)	June 27, 1982.
82-233	Generic name: Organic salt of phosphorus	47 FR 15407 (4/9/82)	Do.
82-234	Generic name: Modified aromatic diisocyanate with aliphatic triol	47 FR 15407 (4/9/82)	Do.
82-235	Generic name: Allylglycidyl ether alcohol resin	47 FR 15407 (4/9/82)	June 28, 1982.
82-236	Generic name: Polymer of an alkoxylated alkyl heteromonocycle and polymethylenepolyphenylene isocyanate.	47 FR 15407 (4/9/82)	Do.
82-237	Generic name: Bis-substituted urea	47 FR 15407 (4/9/82)	Do.
82-238	Generic name: N-substituted phenyl-N,N'-dialkyl urea	47 FR 15407 (4/9/82)	Do.
82-239	Generic name: Substituted unsaturated alcohol	47 FR 15407 (4/9/82)	Do.
82-240	Generic name: Substituted unsaturated alcohol	47 FR 15407 (4/9/82)	Do.
82-241	Generic name: Penta(oxy-1,2-ethanediyl), alpha-(carboxymethyl)-omega-hydroxy-, C_{12-16} linear primary-alkyl ethers.	47 FR 15407 (4/9/82)	June 29, 1982.
82-242	Suspended		

III. 60 Premanufacture Notices for Which the Notice Review Period Has Ended During the Month. (Expiration of the Notice Review Period Does Not Signify That the Chemical Had Been Added to the Inventory)

PMN No.	Identity and generic name	FR citation	Expiration date
81-500	2-dodecyl-9-H-thioxanthen-9-one	46 FR 50147 (10/9/81)	Apr. 11, 1982.
81-643	Generic name: Cationic acrylamide copolymer	46 FR 63107 (12/30/81)	Apr. 19, 1982.
81-644	Generic name: Cationic acrylamide copolymer	46 FR 63107 (12/30/81)	Do.
82-1	Generic name: Halogenated derivative of polyethylene glycol	47 FR 1409 (1/13/82)	Apr. 4, 1982.
82-2	Generic name: Propionic acid 1-methyl-2 (amino functional) substituted	47 FR 1409 (1/13/82)	Apr. 5, 1982.
82-3	Generic name: Polydimethylsiloxane, copolymer with (substituted alkyl) trimethoxy silane	47 FR 1410 (1/13/82)	Do.
82-4	Generic name: Polydimethylsiloxane, polymer with amino substituted and methyl silsesquioxanes	47 FR 1410 (1/13/82)	Do.
82-5	Generic name: Alkyl[(substituted phenly) alkylate]	47 FR 2399 (1/15/82)	Apr. 8, 1982.
82-6	Generic name: (Dialkylaminophenylazo)azo-benzene sulfonic acid	47 FR 2399 (1/15/82)	Do.

III. 60 Premanufacture Notices for Which the Notice Review Period Has Ended During the Month. (Expiration of the Notice Review Period Does Not Signify That the Chemical Had Been Added to the Inventory)—Continued

PMN No.	Identity and generic name	FR citation	Expiration date
82-7	Generic name: Modified polymer of styrene, alkernoic acid, alkenoic ester and substituted alkenoic esters.	47 FR 2400 (1/15/82)	Do.
82-8	Generic name: Polyester from vegetable oil acids, alkane triol, carbomonocyclic anhydride and carbomonocyclic acids.	47 FR 2400 (1/15/82)	Do.
82-9	Generic name: Substituted di-alkyl di-thiophosphate	47 FR 2400 (1/15/82)	Do.
82-10	Generic name: 2-ethylmer capto-3-ethylbenzthiazole iodide	47 FR 2400 (1/15/82)	Do.
82-11	Generic name: Polymer of a dihalo alkane, an alkyl alkenoate, and a substituted alkyl alkenoate	47 FR 2401 (1/15/82)	Do.
82-12	Generic name: Substituted polyhydroxy benzene derivative	47 FR 2402 (1/15/82)	Apr. 7, 1982.
82-13	Generic name: Polyester diol	47 FR 3031 (1/21/82)	Apr. 11, 1982.
82-14	Generic name: Reaction product of a substituted benzene, formaldehyde and inorganic acid	47 FR 3593 (1/26/82)	Apr. 13, 1982.
82-15	Generic name: Polyester from an unsaturated oil, alkanetriol, carbomonocylic anhydride and carbomonocyclic acids.	47 FR 3593 (1/26/82)	Do.
82-16	Generic name: Substituted cyclic amidealdehyde condensation product	47 FR 3593 (1/26/82)	Do.
82-17	Generic name: Sulfo monoazo dye, 2,2'-iminiobis ethanol salt	47 FR 3593 (1/26/82)	Do.
82-18	Generic name: Polyurethane aqueous dispersion	47 FR 3593 (1/26/82)	Do.
82-19	Generic name: Pentaerythritol isostearate esters	47 FR 3594 (1/26/82)	Do.
82-20	Generic name: Dipentaerythritol ester of isostearic acid	47 FR 3594 (1/26/82)	Do.
82-21	Generic name: Hydroxynaphthoic acid metal complex	47 FR 3594 (1/26/82)	Do.
82-22	Generic name: Acrylic copolymer	47 FR 3594 (1/26/82)	Do.
82-24	Void.		
82-25	Generic name: Substituted amine polymer	47 FR 3595 (1/26/82)	Do.
82-26	Generic name: Substituted amine	47 FR 3595 (1/26/82)	Do.
82-27	Generic name: Substituted amine	47 FR 3595 (1/26/82)	Do.
82-28	Boron trifluoride—2,4 dimethylaniline complex	47 FR 3592 (1/26/82)	Apr. 18, 1982.
82-29	Generic name: Naphthalenedisulfonic acid, monoaz acid dye, lithium salt	47 FR 3592 (1/26/82)	Do.
82-30	Generic name: Polysubstituted alkyl polamine	47 FR 3592 (1/26/82)	Do.
82-31	Generic name: Quaternary, ammonium compound	47 FR 3592 (1/26/82)	Do.
82-32	Generic name: Dichloro-triazinylamino-substituted sulfophenylazo-sulfonaphthalenyl-azo-benzene-disulfonic acid, tetra sodium salt.	47 FR 4143 (1/28/82)	Do.
82-33	Generic name: Unsaturated polyester resin	47 FR 4143 (1/28/82)	Apr. 19, 1982.
82-34	Polymer of hydroxypropyl methacrylate, methyl methacrylate, diallyl phthalate, styrene, butyl methacrylate, hydroxyethyl-acrylate, 2-ethyl hexyacrylate, acrylic acid.	47 FR 4144 (1/28/82)	Do.
82-35	Generic name: Reaction product of dehydroacid ester, polyhydric anhydride and substituted isocyanate.	47 FR 4144 (1/28/82)	Do.
82-36	Carnauba wax ethoxylated propoxylated	47 FR 4144 (1/28/82)	Do.
82-37	Generic name: Neutralized substituted alkanoic acid	47 FR 4145 (1/28/82)	Apr. 20, 1982.
82-38	Generic name: Modified alkyd polymer from fatty acid oils, glycerin, and a carbomonocyclic anhydride.	47 FR 4145 (1/28/82)	Do.
82-39	Generic name: Polymer of a diisocyanate, polyglycol and polysubstituted alkyl amine	47 FR 4145 (1/28/82)	Do.
82-40	Generic name: Modified polymer of styrene, alkyl acrylates, alkyl methacrylates and a substituted alkyl methacrylate.	47 FR 4145 (1/28/82)	Do.
82-41	Generic name: Naphthalenedisulfonic acid, disazo acid dye, lithium salt	47 FR 4735 (2/2/82)	Apr. 22, 1982.
82-42	Generic name: Alkyd polymer from fatty acids, substituted alkane triols, carbomonocyclic acids and an anhydride.	47 FR 4735 (2/2/82)	Do.
82-43	Generic name: Organic acid, lead salt	47 FR 5330 (2/4/82)	Do.
82-44	Generic name: Chloroheteropolycyclic, hydrochloride salt	47 FR 4736 (2/2/82)	Apr. 25, 1982.
82-45	Generic name: Substituted pyridinium bromide	47 FR 4736 (2/2/82)	Do.
82-46	Generic name: Polymer from 1-propanesulfonic acid, 2-methyl-2-((1-oxo-2-propenyl)amino), formamide, N-ethenyl, 2-propenamide.	47 FR 5328 (2/4/82)	May 3, 1982.
82-47	Generic name: Alkyl, alkanol derivative of ammonia, chloride salt	47 FR 5328 (2/4/82)	Apr. 26, 1982.
82-48	Generic name: Polymer of cycloalkene	47 FR 5331 (2/4/82)	Do.
82-49	Generic name: Modified polyester polyurethane	47 FR 5328 (2/4/82)	Do.
82-50	Generic name: Polyester from an alkanedioic acid and polyetherdiols	47 FR 5328 (2/4/82)	Do.
82-51	Trimethyladipolydichloride	47 FR 5331 (2/4/82)	Apr. 27, 1982.
82-52	Generic name: Perfluoroalkane sulfonic acid, diethanolamine salt	47 FR 5331 (2/4/82)	Do.
82-53	Generic name: Ethoxylated ethanol, fatty acid ester	47 FR 5329 (2/4/82)	Do.
82-54	Generic name: Substituted amine polymer	47 FR 5329 (2/4/82)	Do.
82-55	Generic name: Organo phosphorus-containing acid	47 FR 5329 (2/4/82)	Do.
82-56	Generic name: Modified alkyd polymer	47 FR 5329 (2/4/82)	Do.
82-57	Generic name: Modified alkyd polymer	47 FR 5330 (2/4/82)	Do.
82-58	Generic name: Alkyd resin	47 FR 5330 (2/4/82)	Do.
82-61	Generic name: Polyoxypropylene ester acyl caprolactam	47 FR 5932 (2/9/82)	Apr. 29, 1982.

IV. 33 Chemical Substances for Which EPA Has Received Notices of Commencement to Manufacture

PMN No.	Chemical identification	FR citation	Date of commencement
80-194	2,24 trimethyl-1,3-pentanediol, 1,6-hexanediol, phthalic anhydride	45 FR 58195 (9/2/80)	Apr. 5, 1982.
80-210	Generic name: Bis[1-polyamino-2-alkyl imidazolene]	45 FR 60007 (9/11/80)	Oct. 1981.
81-69	Generic name: Benzophenone tetracarboxylic dianhydride copolyimide	46 FR 19075 (3/27/81)	Nov. 17, 1981.
81-125	Generic name: Mixed salt of benzophenone tetracarboxylic dimethyl ester and diamines	46 FR 22646 (4/20/81)	Do.
81-257	Generic name: Silicone polyol	46 FR 35343 (7/8/81)	Mar. 1, 1982.
81-285	Generic name: Amino carboxylic acid structural copolymer	46 FR 35340 (7/8/81)	Mar. 29, 1982.
81-398	Generic name: Polymer of vinyl acetate and acrylate esters	46 FR 44049 (9/2/81)	Mar. 2, 1982.
81-471	Generic name: Urethane polymer	46 FR 48753 (10/2/81)	Apr. 1, 1982.
81-472	Generic name: Alicyclic alcohol	46 FR 48753 (10/2/81)	Mar. 23, 1982.
81-487	Generic name: Aliphatic ester	46 FR 48980 (10/5/81)	Do.
81-495	Bis(3,5-di-*tert*-butyl-4-hydroxybenzyl)malonic acid, diester with 1-acryloyl-2,2,6,6-tetramethyl-4-piperidinol.	46 FR 49946 (10/6/81)	Mar. 25, 1982.
81-499	Generic name: Pentasubstitutedbenzopyran	46 FR 50149 (10/9/81)	Mar. 15, 1982.
81-542	Generic name: Substituted propiophenone	46 FR 54403 (11/2/81)	Apr. 1, 1982.
81-555	Generic name: Sulfonylphenylsilane	46 FR 55003 (11/5/81)	Apr. 8, 1982.
81-599	Generic name: Substituted benzenesulfonic acid	46 FR 58734 (12/3/81)	Mar. 29, 1982.
81-600	Generic name: Dichroic tetra-azo ester dye	46 FR 58734 (12/3/81)	Apr. 30, 1982.
81-601	Generic name: Dichroic tetra-azo dye	46 FR 58734 (12/3/81)	Do.
81-621	Generic name: Polyester of propanediol, adipic acid, phthalic anhydride, aromatic aliphatic ester	46 FR 60982 (12/14/81)	Apr. 17, 1982.
81-626	Ethylene glycol acrylate trimelliate	46 FR 61505 (12/17/81)	Apr. 1, 1982.

IV. 33 CHEMICAL SUBSTANCES FOR WHICH EPA HAS RECEIVED NOTICES OF COMMENCEMENT TO MANUFACTURE—Continued

PMN No.	Chemical identification	FR citation	Date of commencement
81-627	Polymer of ethylene glycol acrylate mellitate and bisphenol-A epichlorohydrin	46 FR 61505 (12/17/81)	Do.
81-628	Adduct of toluene diisocyanate with 2-hydroxyethyl acrylate and caprolatum	46 FR 61506 (12/17/81)	Do.
81-631	Generic name: Polymer of mixed alkyl acrylates and methacrylates	46 FR 62312 (12/23/81)	Apr. 7, 1982.
81-641	Generic name: Substituted tetradecanoic acid	46 FR 62929 (12/29/81)	Mar. 29, 1982.
81-642	Terpolymer of dimethyl diallyl ammonium chloride/acrylamide/sodium acrylate	46 FR 63107 (12/30/81)	Mar. 18, 1982.
81-672	Pheny acetic acid hydrazide	47 FR 1412 (1/13/82)	May 10, 1982.
81-675	Generic name: Acrylic copolymer	47 FR 1413 (1/13/82)	Apr. 6, 1982.
81-676	Generic name: Acrylic copolymer	47 FR 1413 (1/13/82)	Do.
81-677	Generic name: Acrylic copolymer	47 FR 1413 (1/13/82)	Do.
81-678	Generic name: Acrylic copolymer	47 FR 1413 (1/13/82)	Do.
81-679	Generic name: Acrylic copolymer	47 FR 1414 (1/13/82)	Do.
82-5	Generic name: Alkyl[(substituted phenyl)alkylate]	47 FR 2399 (1/15/82)	Do.
82-12	Generic name: Substituted polyhydroxy benzene derivative	47 FR 2402 (1/15/82)	Apr. 20, 1982.
82-63	Generic name: Substituted benzene sulfonamide	47 FR 6363 (2/11/82)	May 3, 1982.

V. 17 PREMANUFACTURE NOTICES FOR WHICH THE REVIEW PERIOD HAS BEEN SUSPENDED

PMN No.	Identity and generic name	FR citation	Date suspended
80-137	Benzeneamine, 4,4'-methylene bis [*N*-(1-methybutylidene)]	45 FR 48243 (7/18/80)	Sept. 22, 1980.
80-138	Benzeneamine, 4,4'-methylene bis [*N*-(1-methybutylidene)]	45 FR 48243 (7/18/80)	Do.
80-146	Phosphorodithioic acid *O,O'*-di(isohexyl, isoheptyl, isooctyl, isononyl, isodecyl) mixed esters, zinc salt.	45 FR 49153 (7/23/80)	Sept. 17, 1980.
80-147	Phosphorodithioic acid *O,O'*-di(isohexyl, isoheptyl, isooctyl, isononyl, isodecyl) mixed esters.	45 FR 49153 (7/23/80)	Do.
80-264	Generic name: Benzeneamine, [*N*-(1-methylhexylidene)-*N*-(1-methyl butylidene)-4,4'-methylene bis].	45 FR 73127 (11/4/80)	Dec. 24, 1980.
81-534	2,3-epoxycyclohexanone	46 FR 53522 (10/29/81)	Nov. 2, 1981.
81-558	4-hydroxy-3-(5-(2-hydroxysulfonyloxy) ethylsulfonyl)-2-methoxyphenylazo)-7-succinyl-amino-2-naphthalenesulfonic acide disodium salt.	46 FR 55146 (11/6/81)	Jan. 27, 1982.
81-559	5-Acetylamino-4-hydroxy-3-(2-hydroxyl-4-(2-hydroxy-sulfonyl) ethylsulfonly)-5-methyphenylazo)-2,7-naphthalenedisulfonic acid trisodium salt complex.	46 FR 5516 (11/6/81)	Do.
81-561	4-[4-[2-(hydroxysulfonyoxy)ethylsulfonyl]-5-methyl-2-methoxyphenylazo]-3-methyl-1-(3-sulfophenyl)-5-pyrazolone disodium salt.	46 FR 55146 (11/6/81)	Do.
81-580	Poly(oxy-1,2-ethanediyl), alpha-(carboxymethyl)-omega-(4-nonylphenoxy)	46 FR 57127 (11/20/81)	Feb. 2 through 16, 1982.
81-643	Generic name: Cationic acrylamide copolymer	46 FR 63107 (12/30/81)	Feb. 19, 1982.
81-644	Generic name: Cationic acrylamide copolymer	46 FR 63107 (12/30/81)	Do.
81-660	4-hydroxy-3-(2-methoxy-5-methyl-4-(2-(hydroxysulfonyloxy)ethylsulfonyl)phenylazo)-1-naphthalene sulfonic acid disodium salt.	47 FR 1021 (1/8/82)	Mar. 28, 1982.
81-661	4-hydroxy-3-(2-methoxy-5-methyl-4-(2-(hydroxysulfonyloxy)ethylsulfonyl)phenylazo)-6-(3-sulfophenyl)amino-2-naphthalenesulfonic acid trisodium salt.	47 FR 1021 (1/8/82)	Do.
82-46	Polymer from 1-propanesulfonic acid, 2-methyl-2-((1-oxo-2-propenyl)amino), formamide, N-ethenyl, 2-propenamide.	47 FR 5328 (2/4/82)	Feb. 2 through 9, 1982.
82-59	Generic name: Aromatic disazo dye	47 FR 5330 (2/4/82)	Apr. 20, 1982.
82-60	Generic name: Zinc, O,O-bis alkylphosphoro dithioate	47 FR 5932 (2/9/82)	Apr. 15, 1982.

[FR Doc. 82-14426 Filed 5-27-82; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-59085A; TSH-FRL-2126-8]

Toxic Substances; Alkylbenzenesulfonic Acid Compound With Dialkyl Fatty Amine; Approval of Test Marketing Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA received an application for a test marketing exemption (TM-82-13) under section 5 of the Toxic Substances Control Act (TSCA) on April 6, 1982. Notice of receipt of the application was published in the **Federal Register** of April 16, 1982 (47 FR 16410). EPA has granted the exemption.

EFFECTIVE DATE: This exemption is effective on May 19, 1982.

FOR FURTHER INFORMATION CONTACT: Rose Allison, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-206, 401 M St., SW., Washington, DC 20460, (202-382-3733).

SUPPLEMENTARY INFORMATION: Under section 5 of TSCA, anyone who intends to manufacture in, or import into, the United States a new chemical substance for commercial purposes must submit a notice to EPA before manufacture or import begins. A "new" chemical substance is any chemical substance that is not on the Inventory of existing substances compiled by EPA under section 8(b) of TSCA. Section 5(a)(1) requires each premanufacture notice (PMN) to be submitted in accordance with section 5(d) and any applicable requirements of section 5(b). Section 5(d)(1) defines the contents of a PMN and section (5b) contains additional reporting requirements for certain new chemical substances.

Section 5(h), "Exemptions", contains several provisions for exemptions from some or all of the requirements of section 5. In particular, section 5(h)(1) authorizes EPA, upon application, to exempt persons from any requirements of section 5(a) or section 5(b), and to permit them to manufacture or process chemical substances for test marketing purposes. To grant an exemption, the Agency must find that the test marketing activities will not present any unreasonable risk of injury to health or the environment. EPA must either approve or deny the application within 45 days of its receipt, and under section 5(h)(6) the Agency must publish a notice of this disposition in the **Federal Register.** If EPA grants a test marketing exemption, it may impose restrictions on the test marketing activities.

On April 6, 1982, EPA received an application for an exemption from the requirements of sections 5(a) and 5(b) of TSCA to manufacture a new chemical substance for test marketing purposes. The application was assigned test marketing exemption number TM-82-13. The manufacturer claimed his identity,

the specific chemical identity, the specific end-use and process information of the new substance as confidential business information. The generic name of the new substance is alkylbenzenesulfonic acid compound with dialkyl fatty amine. A maximum of 5,000 kilograms (kg) will be manufactured for test market purposes, during a test marketing period not to exceed 6 months. During manufacturing, a maximum of six workers may be exposed for 8 hours/day for 30 days. A notice published in the **Federal Register** of April 16, 1982 (47 FR 16410) announced receipt of this application and requested comment on the appropriateness of granting the exemption. The Agency has not received any comments concerning the application.

EPA has established that the test marketing of the substance described in TM-82-13, under the conditions set out in the application, will not present any unreasonable risk of injury to health or the environment. No significant health concerns were identified for the PMN substance. Worker exposure during manufacture, processing and use should be low. Consumer exposure of the new substance is not expected. Possible aquatic toxicity at low levels could be expected based on properties of the constituents of the test market substance. Environmental release is expected to be low at all points of release. The amount of the test market substance reaching the environment as the result of manufacture is very low and the majority is expected to be treated at a publicly-owned treatment works.

This test marketing exemption is granted based on the facts and information obtained and reviewed, but is subject to all conditions set out in the exemption application, and, in particular, those enumerated below.

1. This exemption is granted solely to this manufacturer.

2. The applicant must maintain records of the date(s) of shipment(s) to customers and the quantities shipped in each shipment, and must make these records available to EPA upon request.

3. Each bill of lading that accompanies a shipment of the substance during the test marketing period must state that the use of the substance is restricted to that described to EPA in the test marketing exemption application.

4. The production volume of the new substance may not exceed the quantity of 5,000 kg described in the test marketing exemption application.

5. The test marketing activity approved in this notice is limited to a period of 6 months commencing on the date of signature of this notice by the Administrator.

6. The number of workers exposed to the new chemical should not exceed that specified in the application, and the exposure levels and duration of exposure should not exceed those specified.

7. The amount of environmental release and disposal should not exceed that specified in the application.

The Agency reserves the right to rescind its decision to grant this exemption should any new information come to its attention which casts significant doubt on the Agency's conclusions that the test marketing of this substance under the conditions specified in the application will not present an unreasonable risk of injury to human health or the environment.

Dated: May 19, 1982.

Anne M. Gorsuch,

Administrator.

[FR Doc. 82-14425 Filed 5-27-82; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-51415; TSH-FRL 2134-3]

Toxic Substances; 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 twenty-four PMNs and provides a summary of each.

DATES: Close of Review Period:

PMN 82-357, 82-358, 82-359, 82-360, 82-361 & 82-362—August 12, 1982.

PMN 82-363, 82-364, 82-365, 82-366 & 82-367—August 15, 1982.

PMN 82-368, 82-369, 82-370, 82-371 & 82-372—August 16, 1982.

PMN 82-373 & 82-374—August 17, 1982.

PMN 82-375. 82-376, 82-377, 82-378, 82-379 & 82-380—August 18, 1982.

Written comments by:

PMN 82-357, 82-358, 82-359, 82-360, 82-361, & 82-362—July 13, 1982.

PMN 82-363, 82-364, 82-365, 82-366 & 82-367—July 16, 1982.

PMN 82-368, 82-369, 82-370, 82-371 & 82-372—July 17, 1982.

PMN 82-373 & 82-374—July 18, 1982.

PMN 82-375, 82-376, 82-377, 82-378, 82-379 & 82-380—July 19, 1982.

ADDRESS: Written comments, identified by the document control number "[OPTS-51415]" and the specific PMN number should be sent to: Document Control Officer (TS-793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-409, 401 M St., SW., Washington, DC 20460, (202-382-3532).

FOR FURTHER INFORMATION CONTACT: David Dull, Acting Chief, Notice Review Branch, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-216, 401 M St., SW., Washington, DC 20460, (202-382-3729).

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the non-confidential version of the submission provided by the manufacturer on the PMNs received by EPA. The complete non-confidential document is available in the public reading room E-107.

PMN 82-357

Manufacturer. Confidential.

Chemical. (G) 2,5-diisopropoxy-4-morpholino benzene diazonium aryl sulfonic acid salt.

Use/Production. Confidential. Prod. range: Confidential.

Toxicity Data. No data on the PMN substance submitted.

Exposure. Manufacture and processing: dermal and inhalation, a total of 12 workers, up to 8 hrs/da, up to 24 da/yr.

Environmental Release/Disposal. Less than 10 kg/yr released to air up to 24 hrs/da, up to 240 da/yr. Disposal by landfill.

PMN 82-358

Manufacturer. Confidential.

Chemical. (G) Modified phenoxy-S resin.

Use/Production. Confidential. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture: a total of 6 workers, up to 8 hrs/da, up to 100 da/yr.

Environmental Release/Disposal. No release.

PMN 82-359

Manufacturer. Confidential.

Chemical. (G) Polyester resin.

Use/Production. (S) Captive intermediate. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Use: dermal and inhalation, up to 8 hrs/da.
Environmental Release/Disposal. Disposal by approved landfill.

PMN 82-360

Manufacturer. Confidential.
Chemical. (G) Trisubstituted benezisoxazole.
Use/Production. (G) Site-limited chemical intermediate. Prod. range: 1,000–3,000 kg/yr.
Toxicity Data. Acute oral: rats—>3,000 mg/kg, mice—1,600 mg/kg; Acute dermal: >1,000 mg/kg; Skin: Slight irritant; Acute intraperitoneal: rats—1,100 mg/kg, mice—440 mg/kg.
Exposure. Manufacture and use: minimal dermal and inhalation, a total of 10 workers, up to 1 hr/da, up to 15 da/yr.
Environmental Release/Disposal. No release. Disposal by incineration.

PMN 82-361

Manufacturer. Confidential.
Chemical. (G) Tetrasubstituted benzene.
Use/Production. (G) Site-limited chemical intermediate. Prod. range: 2,000–5,000 kg/yr.
Toxicity Data. Acute oral: rats and mice—2,300 mg/kg; Acute dermal: >1,000 mg/kg; Skin: Moderate irritant; Acute intraperitoneal: rats—300 mg/kg, mice—<100 mg/kg.
Exposure. Manufacture and use: minimal dermal and inhalation, a total of 10 workers, up to 1 hr/da, up to 15 da/yr.
Environmental Release/Disposal. No release. Disposal by incineration.

PMN 82-362

Manufacturer. Confidential.
Chemical. (G) Substituted benzamide.
Use/Production. (G) Site-limited chemcial intermediate. Prod. range: 55,000 kg/yr.
Toxicity Data. Acute oral: >3,000 mg/kg; Acute dermal: >1,000 mg/kg; Skin: Slight irritant; Eye: Slight irritant.
Exposure. Manufacture and use: minimal dermal and inhalation, a total of 80 workers, up to 1 hr/da, up to 10 da/yr.
Environmental Release/Disposal. No release. Disposal by incineration.

PMN 82-363

Manufacturer. Monsanto Company.
Chemical. (G) Polyoxypropylene ester acyl caprolactam.
Use/Production. (S) Reaction injection molding. Prod. Range: Confidential.
Toxicity Data. No data on the PMN substance submitted
Exposure. Manufacture: dermal, 6 to ~500 workers, up to 2 hrs/da, up to 200 da/yr.
Environmental Release/Disposal. Minimal release to land. Disposal by landfill.

PMN 82-364

Manufacturer. Sandoz Colors and Chemicals.
Chemical. (S) Poly(oxy-1,2-ethanediyl), alpha-(carboxymethyl)-omega-(4-nonylphenoxy).
Use/Production. (S) Industrial emulsifier. Prod. range: Confidential.
Toxicity Data. No data on the PMN substance submitted.
Exposure. Manufacture and use: dermal, 1 worker, 1 hr/da, 10 da/yr.
Environmental Release/Disposal. Less than 10 kg/yr released to air and land with 10–100 kg/yr to water .25 hr/da, 10 da/yr. Disposal by publicly owned treatment works (POTW).

PMN 82-365

Manufacturer. Sandoz Colors and Chemicals.
Chemical. (S) Poly(oxy-1,2-ethanediyl), alpha-(carboxymethyl)-omega-(4-nonylphenoxy).
Use/Production. (S) Industrial emulsifier. Prod. range: Confidential.
Toxicity Data. No data on the PMN substance submitted.
Exposure. Manufacture and use: dermal, 1 worker, 1 hr/da, 10 da/yr.
Environmental Release/Disposal. Less than 10 kg/yr released to air and land with 10–100 kg/yr to water .25 hr/da, 10 da/yr. Disposal by POTW.

PMN 82-366

Manufacturer. Sandoz Colors and Chemicals.
Chemical. (S) Poly(oxy-1,2-ethanediyl), alpha-(carboxymethyl)-omega-(4-nonylphenoxy).
Use/Production. (S) Industrial emulsifier. Prod. range: Confidential.
Toxicity Data. No data on the PMN substance submitted.
Exposure. Manufacture and use: dermal, 1 worker, 1 hr/da, 10 da/yr.
Environmental Release/Disposal. Less than 10 kg/yr released to air and land with 10–100 kg/yr to water .25 hr/da, 10 da/yr. Disposal by POTW.

PMN 82-367

Manufacturer. Sandoz Colors and Chemicals.
Chemical. (S) Poly(oxy-1,2-ethanediyl), alpha-(carboxymethyl)-omega-(4-nonylphenoxy).
Use/Production. (S) Industrial emulsifier. Prod. range: Confidential.
Toxicity Data. No data on the PMN substance submitted.
Exposure. Manufacture and use: dermal, 1 worker, 1 hr/da, 10 da/yr.
Environmental Release/Disposal. Less than 10 kg/yr released to air and land with 10–100 kg/yr to water .25 hr/da, 10 da/yr. Disposal by POTW.

PMN 82-368

Manufacturer. Confidential.
Chemical. (G) Alkenyl alkyl siloxane alkoxy terminated.
Use/Production. (S) Coating additive. Prod. range: Confidential.
Toxicity Data. Acute oral: 16 ml/kg; Acute dermal: 16 ml/kg; Eye: Not a primary irritant; Ames Test: Negative; BOD, day 5: <5; COD: 1.58.
Exposure. Manufacture, processing and use: inhalation, dermal and occular, a total of 153 wokers, up to 14 hrs/da, up to 260 da/yr.
Environmental Release/Disposal. No release. Disposal by incineration.

PMN 82-369

Manufacturer. The Goodyear Tire and Rubber Company.
Chemical. (G) Benzenedicarboxylic acid saturated mixed glycols copolyester.
Use/Production. (S) Industrial resin for powder coating. Prod. range: 45,000–445,000 kg/yr.
Toxicity Data. No data on the PMN substance submitted.
Exposure. Manufacture: inhalation, a total of 10 workers, up to 8 hrs/da, up to 70 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 82-370

Manufacturer. The Goodyear Tire and Rubber Company.
Chemical. (G) Benzenedicarboxylic acid saturated mixed glycols copolyester.
Use/Production. (S) Industrial resin for powder coating. Prod. range: 100,000–800,000 kg/yr.
Toxicity Data. No data on the PMN substance submitted.
Exposure. Manufacture: inhalation, 10 workers, 8 hrs/da, 120 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 82-371

Manufacturer. Confidential.
Chemical. (G) Disubstituted alkane.
Use/Production. (S) Company-limited intermediate. Prod. range: 20,000–40,000 kg/yr.
Toxicity Data. Acute oral: 900–1,100 mg/kg; Acute dermal: >5 mL/g; Skin: Severe irritant; Eye: Strong irritant; Skin

sensitization: Low; Repeated 10-day skin application: Moderate; Two-week gavage study: Weight gain and feed intake-Normal, Hematology-Normal, Clinical chemistry-Normal, Necropsy-Normal liver and kidney weights, Pathology-Minimal to minor gastritis, Target organ-Contact tissues; COD: 0.60 g/g; TOD: 0.68 g/mL; BOD_{20}: 0.035 g/mL; Secondary waste treatment compatibility study: No effects; Acute effects on five aquatic species: No effects; Plant growth effects: No effects as tested.

Exposure. Manufacture and use: minimal dermal, a total of 35 workers, up to 2 hrs/da, up to 100 da/yr.

Environmental Release/Disposal. Minimal release to water with none to air and land. Disposal by biological treatment system.

PMN 82-372

Manufacturer. Confidential.

Chemical. (G) ((substituted phenyl)azo)-dihydro-hydroxy-alkyl-oxo-pyridinecarbonitrile.

Use/Production. (S) Colorant for textiles. Prod. range: Confidential.

Toxicity Data. Acute oral: >5.0 g/kg.

Exposure. Negligible.

Environmental Release/Disposal. Less than 10 kg/yr released to air with 10–100 kg/yr to land. Disposal by biological treatment system.

PMN 82-373

Importer. Confidential.

Chemical. (G) Poly(ester-urethane).

Use/Import. (S) Leather coating. Import range: Confidential.

Toxicity Data. Acute oral: >10 g/kg; Skin: Non-irritant; Eye: Non-irritant.

Exposure. Processing: dermal, 2 workers, 1 hr/da, 100 da/yr.

Environmental Release/Disposal. 10–100 kg/yr released 1 hr/da, 100 da/yr. Disposal by approved landfill.

PMN 82-374

Manufacturer. Confidential.

Chemical. (G) Alkyl thiadiazole.

Use/Production. (G) Contained use. Prod. range: Confidential.

Toxicity Data. Acute oral: >5 g/kg; Acute dermal: >2 g/kg; Skin: 2.5/8.0; Eye: 12.5/110 @ 24 hrs; Ames Test: Negative.

Exposure. Use: dermal, 23 da/yr.

Environmental Release/Disposal. More than 2,000 kg/yr released as solid waste.

PMN 82-375

Manufacturer. The Quaker Oats Company.

Chemical. (S) Formaldehyde polymer with 2-furanmethanol and methyloxirane capped.

Use/Production. (S) Industrial polyol for urethane chemistry. Prod. range: Confidential.

Toxicity Data. Acute oral: >5 gm/kg; Skin irritant: Slight; DOT skin corrosive: Non-corrosive.

Exposure. Confidential.

Environmental Release/Disposal. Confidential.

PMN 82-376

Manufacturer. Confidential.

Chemical. (S) Polymer of trimethylol propane, 1-6 hexanediol, neopentyl glycol, trimellitic anhydride, adipic acid, and isophthalic acid.

Use/Production. (S) Industrial baking enamel coating. Prod. range: 20,000–175,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture, processing, use and disposal: inhalation, a total of 11 workers, up to 8 hrs/da, up to 251 da/yr.

Environmental Release/Disposal. Release to water with less than 10 kg/yr to air up to 16 hrs/da, up to 252 da/yr. Disposal by incineration.

PMN 82-377

Manufacturer. Olin Corporation.

Chemical. (G) Hybrid urethane.

Use/Production. (S) Fiber reinforced plastics. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Confidential.

Environmental Release/Disposal. Minimal to incidental release to land. Disposal by approved landfill.

PMN 82-378

Manufacturer. Olin Corporation.

Chemical. (G) Hybrid urethane.

Use/Production. (S) Fiber reinforced plastics. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Confidential.

Environmental Release/Disposal. Minimal to incidental release to land. Disposal by approved landfill.

PMN 82-379

Manufacturer. Confidential.

Chemical. (G) Tetrasubstituted benzisoxazole.

Use/Production. (G) Site-limited intermediate. Prod. range: 1,200–1,800 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture and use: minimal dermal and inhalation, a total of 10 workers, up to 2 hrs/da, up to 5 da/yr.

Environmental Release/Disposal. No release. Disposal by incineration.

PMN 82-380

Manufacturer. Confidential.

Chemical. (G) Disubstituted benzoxazole.

Use/Production. (G) Site-limited intermediate. Prod. range: 50,000 kg/yr.

Toxicity Data. Acute oral: >3,000 mg/kg; Acute dermal. >1,000 mg/kg; Skin: Slight irritant; Eye: Slight irritant.

Exposure. Manufacture and use: minimal dermal and inhalation, a total of 50 workers, up to 2 hrs/da, up to 5day/yr.

Environmental Release/Disposal. No release. Disposal by incineration.

Dated: May 24, 1982.

Woodson W. Bercaw,

Acting Director, Management Support Division.

[FR Doc. 82-14565 Filed 5-27-82; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-59089; TSH-FRL 2134-4]

Toxic Substances; Certain Chemicals; 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 two applications for exemptions, provides a summary, and requests comments on the appropriateness of granting each of the exemptions.

DATE: Written comments by: June 14, 1982.

ADDRESS: Written comments, identified by the document control number "[OPTS-59089]" 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 notice contains information extracted from the non-confidential version of the submission provided by the manufacturer on the TMEs received by EPA. The complete non-confidential document is available in the public reading room E-107.

TME 82-19

Close of Review Period. June 28, 1982.
Manufacturer. Confidential.
Chemical. (G) Polyester resin.
Use/Production. (G) Captive intermediate. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Use: dermal and inhalation, 8 hrs/da.
Environmental Release/Disposal. Disposal will be incidental, by destruction.

TME 82-20

Close of Review Period. July 4, 1982.
Manufacturer. The Quaker Oats Company.
Chemical. (S) Formaldehyde polymer with 2-furanmethanol and 2-methyloxirane.
Use/Production. (S) Component polyol for rigid urethane foam. Prod. range: Confidential.
Toxicity Data. Acute oral: 5 g/kg; Skin: Slight; DOT skin corrosive: Non-corrosive.
Exposure. 35 people.
Environmental Release/Disposal. No data submitted.

Dated: May 24, 1982.

Woodson W. Bercaw,

Acting Director, Management Support Division.

[FR Doc. 82-14566 Filed 5-27-82; 8:45 am]

BILLING CODE 6560-50-M

[ER-FRL-2134-6]

Availability of Environmental Impact Statements Filed May 17 Through May 21, 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. 820320, Draft; COE, ND Sheyenne River Basin Flood Damage Control and Reduction Plan, Due: July 12, 1982.
EIS No. 820325, Final, COE, WA, Weyerhaeuser Export Facility Construction at DuPont, Permit, Due: June 28, 1982.
EIS No. 820323, Report, COE, MI Report—Ontonagon Harbor Operation and Maintenance Activities, Due:
Department of Energy:
EIS No. 820316, Final DOE, PA, International Submarine Transmission Line, Lake Erie, Permit, Erie Co., Due: June 28, 1982.
Department of Interior:
EIS No. 820324, Draft, DOI, SEV, PRO, Undeveloped Coastal Barriers/Flood Insurance, Definition, Due: July 14, 1982.
EIS No. 820313, Final, BLM, AK, OCS Oil and Gas Lease Sale No. 74, Diapir Field, Due: June 28, 1982.
EIS No. 820310, Final, IBR, SEV, WA OR ID MT WY Creston Generating Station/ Transmission Facilities, Due: June 28, 1982.
Department of Transportation:
EIS No. 820315, Final, FAA VA, Dulles Airport Access Road Parallel Toll Roads, Loudoun/Fairfax Cos., Due: June 28, 1982.
EIS No. 820318, Draft, FHW, MA, US 7 Reconstruction, Lenox/Pittsfield/ Lanesborough, Berkshire County, Due: July 12, 1982.
EIS No. 820309, Final, FHW, MD, MD-410 Extension, B/W Parkway to Pennsy Drive, Prince George's County, Due: June 28, 1982.
EIS No. 820314, Final, FHW, MD, MD-115 Construction, Montgomery Village Avenue/Norbeck, Montgomery Co., Due: June 28, 1982.
EIS No. 820312, Final, FHW, TX, US 277 Gap Closure, Stamford, Jones and Haskell Counties, Due: June 28, 1982.
EIS No. 820321, Final, FHW, WV, Appalachian Corridor G Construction, Holden/Godby Heights, Logan Co., Due: June 28, 1982.
Department of Housing and Urban Development:
EIS No. 820317, Draft, HUD, WY, Broken Circle Development, Mortgage Insurance, Uinta County, Due: July 12, 1982.
EIS No. 820319, Draft, HUD, WY, Yellow Creek Ranch Development, Mortgage Insurance, Uinta County, Due: July 12, 1982.
Department of Defense, Navy:
EIS No. 820311, Final, USN, CA, San Diego Area Navy Complex Family Housing Units, San Diego County, Due: June 28, 1982.
US Postal Service:
EIS No. 820322, DSuppl, UPS, NY, Manhattan Vehicle Maintenance Facility, New York County, Due: July 12, 1982.
Amended Notices:
EIS No. 820133, Final, NPS, SD, Badlands National Park Master Plan, Pennington/ Jackson/Shannon Cos.,[1] Due: June 28, 1982.
EIS No. 820294, Draft, HUD, CA, Victoria Community Plan, Mortgage Insurance, San Bernardino County,[2] Due: July 12, 1982.
EIS No. 820302, Draft, COE, IN, Little Calumet River Multipurpose Project, Lake County,[2] Due: July 12, 1982.

Dated: May 25, 1982.

Louis J. Cordia,

Acting Director, Office of Federal Activities.

[FR Doc. 82-14666 Filed 5-27-82; 8:45 am]

BILLING CODE 6560-50-M

[1] Published FR 3-19-82—Review period reestablished due to noncompletion of distribution.
[2] Published FR 5-21-82—Review period reestablished due to noncompletion of disitribution.

[WH-FRL 2134-8]

National Pollutant Discharge Elimination System (NPDES); Public Comments on Treatability Manual; Amendment

May 26, 1982.

AGENCY: Environmental Protection Agency.

ACTION: Extension of comment period.

SUMMARY: In FR Doc. 82-2347, appearing on page 4330 and again on page 4333, the date on or before which public comments must be received in order to be considered during the next revision of the Treatability Manual was "June 1, 1982." The Agency received a request on May 12, 1982, to extend the period of time available for preparing technical comments to be considered during the next revision of the Manual. In response to that request, the Agency hereby announces extension of the public comment period for the next revision of the Treatability Manual to allow consideration of all technical comments submitted on or before July 15, 1982.

FOR FURTHER INFORMATION CONTACT: Bill Chang, 426-2970.

Dated: May 26, 1982.

Frederic A. Eidsness, Jr.,

Assistant Administrator for Water.

[FR Doc. 82-14766 Filed 5-27-82; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

[BC Doc. No. 82-277, et al.; File Nos. BPH-801112AF et al.]

John C. Butler, et al.; Applications for Consolidated Hearing on Stated Issues

In re applications of John C. Butler, Paradise, California; Req: 92.7 MHz, Channel 224 3 kW (H&V), 283 feet; BC Docket No. 82-277 File No. BPH-801112AF; Alina M. Abramson, Edward E. Abramson, Morris B. Abramson and William P. Huddy, d/b/a Cheshire Broadcast Group, Paradise, California; Req: 92.7 MHz, Channel 224 2.82 kW (H&V), 320 feet; BC Docket No. 82-278 File No. BPH-810424AF; Joseph W. Schneider and Rick D. Stanton, d/b/a

The Colonial Broadcasting, Paradise, California; Req: 92.7 MHz, Channel 224 0.30 kW (H&V), 1034 feet; BC Docket No. 82–279 File No. BPH–810427AF; Joseph D. Zink, Paradise, California; Req: 92.7 MHz, Channel 224 2.2 kW (H&V), 345 feet; BC Docket No. 82–280 File No. BPH–810427AH; James T. Flood and Bonnie C. Flood, d/b/a JIBO Broadcasting, Paradise, California; Req: 92.7 MHz, Channel 224 0.995 kW (H&V), 529.59 feet; BC Docket No. 82–281 File No. BPH–810427AN; for construction permit for a new FM station.

Hearing Designation Order

Adopted: May 13, 1982.

Released: May 21, 1982.

By the Chief, Broadcast Bureau:

1. The Commission, by the Chief, Broadcast Bureau, acting pursuant to delegated authority, has under consideration the above-captioned mutually exclusive applications filed by John C. Butler (Butler); Alina M. Abramson, Edward E. Abramson, Morris B. Abramson, and William P. Huddy, d/b/a Cheshire Broadcast Group (Cheshire); Joseph W. Schneider and Rick D. Stanton, d/b/a The Colonial Broadcasting (Colonial); Joseph D. Zink (Zink); and James T. Flood and Bonnie C. Flood, d/b/a JIBO Broadcasting (Jibo).

2. *Butler.* Butler will not be able to provide a 3.16 mV/m signal to the entire city of Paradise as required by § 73.315(a) of the Commission's Rules. Butler proposes to use an antenna-transmitter site on the Skyway west of Paradise and claims it would be difficult to erect a new tower in any location that would give 3.16 mV/m coverage to the entire town of Paradise in better fashion than the proposed site. However, other applicants have been able to locate suitable sites for providing a 3.16 mV/m signal to the entire city of Paradise. Under these circumstances, we can not find that waiver of this provision is appropriate at this stage. Thus, an issue will be specified.

3. Section 73.1125 of the Commission's Rules requires that the main studio of an FM station be located within the city of license, but that on a showing of good cause the main studio may be located outside that community. Butler proposes to locate its main studio on the Skyway, approximately three miles west of Paradise. Butler has failed to justify this location for the main studio. Accordingly, an issue will be specified.

4. *Cheshire.* Applicants for new broadcast stations are required by § 73.3580(f) of the Commission's Rules to give local notice of the filing of their applications. we have no evidence that Cheshire published the required notice. To remedy this deficiency, Cheshire must publish local notice, if it has not already done so, and so inform the presiding Administrative Law Judge.

5. As previously noted, § 73.1125 of the Commission's Rules requires that the main studio of an FM station be located within the city of license, but that on a showing of good cause the main studio may be located outside that community. Cheshire has failed to provide us with any information concerning its main studio location. Accordingly, an issue will be specified.

6. Analysis of the financial data submitted by Cheshire reveals that $77,837 will be required to construct the proposed station and operate for three months, itemized as follows:

Equipment down payment	$15,536
Equipment payments with interest	7,620
Building	4,000
Miscellaneous	30,901
Operating costs (three months)	19,780
Total	77,837

Cheshire plans to finance construction and operation with the following funds: $4,898 in existing capital and $70,000 in loans from principals. Morris Abramson has adequately demonstrated the ability to lend Cheshire $40,000. However, from the financial statement of Edward and Alina Abramson it appears that they have $13,167 in current liquid assets offset by $2,055 in current liabilities for five monthly payments on two deeds of trust, leaving a total of $11,112. Moreover, Cheshire has not adequately established the availability of the $20,000 bank loan from Crocker National Bank to meet the costs of construction and operation of the proposed FM station. Cheshire has failed to provide the terms of interest, collateral or repayment, as required by Section III, Paragraph 4(e) of FCC Form 301. Therefore, Cheshire has demonstrated only $56,010 available to meet the $77,837 required to operate and construct the proposed station, and a limited financial issue will be specified.

7. *Colonial.* Analysis of the financial data submitted by Colonial reveals that $80,265 will be required to construct the proposed station and operate for three months, itemized as follows:

Equipment	$42,200
Station construction	9,700
Operating costs (three months)	28,365
Total	80,265

Colonial plans to finance construction and operation with the following funds: $51,000 in existing capital and a $100,000 lease agreement. However, Joseph W. Schneider has not segregated long term liabilities from short term liabilities nor did he segregate cash from coins and stamps in compliance with paragraph 4(b) of Section III. He has shown $31,000 in current liquid assets offset by $90,665 in liabilities, and therefore has no net liquid assets. On the other hand, Rick Stanton has failed to provide a balance sheet, so he has shown no net liquid assets. The NorCal lease filed in the original application is undated and does not contain repayment terms as required by Section III, Paragraph 4(e) of FCC Form 301. Therefore, Colonial has filed to demonstrate sufficient funds available to meet the $80,265 required to operate and construct the proposed station, and a limited financial issue will be specified.

8. *Zink.* Analysis of the financial data submitted by Zink reveals that $68,750 will be required to construct the proposed station and operate for three months, itemized as follows:

Equipment lease payments (excluding three months operating cost)	$4,650
Miscellaneous	21,500
Operating costs (three months)	42,600
Total	68,750

Zink plans to finance construction and operation with the following funds: $3,200 in existing capital and a $65,000 bank loan (net). The bank loan letter dated April 20, 1981 from Wells Fargo Bank does not constitute a firm commitment to loan the sum in question. In addition, the loan letter fails to comply with the requirements of Section III, Paragraph 4(e) of Form 301 with respect to terms of interest, payment, collateral, or security. Therefore, Zink has demonstrated only $3,200 available to meet costs of $68,750 to operate and construct the proposed station. A limited financial issue will be specified.

9. Zink has failed to submit a narrative description of its proposed programming service to meet community needs as required by Section IV of FCC Form 301. To remedy this deficiency, Zink will be required to file an amendment containing its program narrative with the presiding Administrative Law Judge.

10. Examination of the application of Zink raises a question as to whether the proposed 3.16 mV/m contour would cover all of Paradise as required by § 73.315(a) of the rules. Moreover, the coordinates specified for the antenna-transmitter site, N. 39° 43′ 37″, W. 121° 40′ 42″ do not agree with the coordinates listed in the Commission's records for the AM tower on which Zink proposes to mount his antenna. Accordingly, an

issue with respect to these matters will be specified.

11. Data submitted by the applicants indicate that there would be a significant difference in the size of the areas and populations which would receive service from the proposals. Consequently, for the purpose of comparison, the areas and populations which would receive FM service of 1mV/m or greater intensity, together with the availability of other primary aural services in such areas, will be considered under the standard comparative issue, for the purpose of determining whether a comparative preference should accrue to any of the applicants.

12. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. However, since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding on the issues specified below.

13. Accordingly, it is ordered, that pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine whether the proposal of John C. Butler would provide coverage of the city sought to be served, as required by § 73.315(a) of the Commission's Rules and, if not, whether circumstances exist which warrant a waiver of that section.

2. To determine, pursuant to § 73.1125, whether good cause exists for John C. Butler's proposed location of its main studio outside the community of license.

3. To determine whether Cheshire Broadcast Group will locate its main studio in Paradise in compliance with § 73.1125 of the Commission's rules and, if not, whether good cause exists for locating it outside of Paradise.

4. To determine with respect to Cheshire Broadcast Group:

(a) the source and availability of additional funds over and above the $56,010 indicated; and

(b) whether, in light of the evidence adduced pursuant to (a) above, the applicant is financially qualified.

5. To determine with respect to Colonial Broadcasting:

(a) the source and availability of funds to meet estimated costs; and

(b) whether, in light of the evidence adduced pursuant to (a) above, the applicant is financially qualified.

6. To determine with respect to Joseph D. Zink:

(a) the source and availability of additional funds over and above the $3,200 indicated; and

(b) whether, in light of the evidence adduced pursuant to (a) above, the applicant is financially qualified.

7. To determine, with respect to the application of Joseph D. Zink,

(a) the exact location of the proposed antenna tower;

(b) whether the proposed 3.16 mV/m would cover the community of license in accordance with § 73.315(a) of the Commission's Rules and, if not, whether circumstances warrant a waiver of that section.

8. To determine which of the proposals would, on a comparative basis, best serve the public interest.

9. To determine, in the light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

14. It is further ordered, that Joseph D. Zink shall file a program narrative statement with the presiding Administrative Law Judge showing compliance with Section IV of FCC Form 301.

15. It is further ordered, that Cheshire Broadcast Group shall inform the presiding Administrative Law Judge as to whether it has complied with the public notice requirements of § 73.3580(f) of the Commission's Rules.

16. It is further ordered, that to avail themselves of the opportunity to be heard, the applicants herein shall, pursuant to § 1.221(c) of the Commission's rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission in triplicate a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

17. It is further ordered, that the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's rules, give notice of the hearing (either individually or, if feasible and consistent with the Rules, jointly) within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the Rules.

Federal Communications Commission.

Larry D. Eads,

Chief, Broadcast Facilities Division, Broadcast Bureau.

[FR Doc. 82-14522 Filed 5-27-82; 8:45 am]
BILLING CODE 6712-01-M

Commission Closes Cincinnati, Ohio, Field Office

May 21, 1982.

The Federal Communication's Commission's Cincinnati, Ohio, field office will be closed on July 30, 1982. After that date, all public service and enforcement activities in the Cincinnati area will be handled by the Commission's Detroit District Office, located at: 1054 Old Federal Building, 231 W. LaFayette Boulevard, Detroit, Michigan 48226.

The telephone number for the Detroit office is: (313) 226-6078

All requests for forms, information and assistance should be directed to the Detroit District Office.

Radio operator examinations for all classes of amateur (except Novice) and commercial radiotelephone licenses will continue to be administered in Cincinnati by the Detroit office three times per year, in February, June and October. Applications for an appointment to have an examination administered in Cincinnati must be submitted to the Detroit office at least three (3) weeks before the scheduled examination dates.

All applicants for appointment will be notified, in writing, by Detroit as to the date, time and exact location of the examination in the Cincinnati area.

Examinations are given in Detroit as follows:

Commercial Examinations,
Radiotelephone: 1st, 2nd and 3rd Tuesday & Thursday of each month—9:00 AM to 12 Noon
Radiotelegraph: By appointment only.
Amateur Examinations: 1st, 2nd and 3rd Wednesday & Friday of each month—
Requiring Code—9:00 AM
Not Requiring Code—9:00 AM to 1:00 PM.

No prior appointment is required for testing in Detroit except as noted or for:
—Blind Applicants
—Groups of 10 or more.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 82-14519 Filed 5-27-82; 8:45 am]
BILLING CODE 6712-01-M

[CC Docket No. 82-163, File No. 20011-CD-P-(2)-82 and CC Docket No. 82-164, File No. 21606-CD-P-(2)-82]

Continental Telephone Co. of Illinois and American Paging, Inc.; Designating Applications for Consolidated Hearing on Stated Issue

Memorandum Opinion and Order

Adopted: May 14, 1982.

Released: May 21, 1982.

By the Common Carrier Bureau:

In the matter of Continental Telephone Company of Illinois for authority to change frequency from 43.48 MHz to 152.84 MHz for one-way Station KDS784 in the Domestic Public Land Mobile Radio Service at Rochelle, Illinois, and to construct an additional site on frequency 152.84 MHz for Station KDS784 at Dekalb, Illinois; American Paging, Inc. for authority to construct additional base station sites in the Domestic Public Land Mobile Radio Service for one-way Station WRV944 operating on frequency 152.84 MHz at Aurora and Elgin, Illinois.

1. Presently before the Chief, Common Carrier Bureau, pursuant to delegated authority, is a petition filed by American Paging, Inc. (American), for reconsideration of the decision of the Mobile Services Division to return as defective its application to add an additional base station site at Elgin, Illinois, for one-way Station WRV944. Continental Telephone Company of Illinois (Continental) filed an opposition to the petition and American replied.

2. American's application, File No. 21606-CD-P-(2)-82, proposed to add two sites, one at Elgin and another at Aurora, Illinois. On March 12, 1982, the Chief, Mobile Services returned as defective that portion of the application pertaining to the Elgin site because the application did not contain engineering information required by Item 26(a) of FCC Form 401. In a *Memorandum Opinion and Order*, Mimeo 3037, released March 30, 1982, the portion of the application proposing to add a site at Aurora was designated for a comparative hearing with an application filed by Continental. In view of our action here granting the petition for reconsideration, we will add the American prposal for the Elgin site to the consolidated hearing proceeding in CC Dockets 82-163 and 82-164.

3. In its petition, American indicates that the page containing the required engineering statement was filed with the original application but that it "slipped out or was otherwise lost." Since the application was substantially complete, and the required enginering information has been resubmited with its petition, American requests that the application for the Elgin site be accepted *nunc pro tunc* [1] and be accorded comparative consideration. Continental opposes reinstatement of American's application on two grounds: (1) that American has not shown that the required information was filed with the application; and (2) under 21.3(b) of the Commission's Rules and established Commission policy, [2] Amercan's refiled application may not be reinstated nunc pro tunc and accorded comparative consideration.

4. In reply, American indicates that although the first page of Engineering Exhibit 2A may have been left out when the application was filed with the Commission, the omission was due to clerical error which was not the fault of the applicant. American argues that the application should be reinstated *nunc pro tunc* because § 22.31(e) recognizes an exception for clerical errors and permits a mutually exclusive application to be amended without losing its right to comparative consideration. Also, American argues that *Allen C. Moore, supra*, note 2, is not controlling because, unlike the *Moore* case which dealt with inadequate information, here it could have been ascertained that there was a clerical error by reference to the other portions of the application and the numbered exhibit pages. Lastly, American argues that acceptance of its application *nunc pro tunc* will not undermine the Commission's cut-off policy or otherwise harm the public interest since neither American nor Continental can provide service until the previously mentioned comparative hearing is completed.

5. It is clear from the uncontradicted affidavits submitted by American that the page containing the engineering information was prepared prior to filing as part of the original application and was inexplicably lost. Therefore, we believe that good cause has been demonstrated why the American application should be accepted *nunc pro tunc* and designated for comparative hearing. We agree with American that the *Moore* decision concerns inadequate showings and does not apply where a page of an exhibit was timely prepared for submission but was not present when the application was reached for processing. However, the Commission will continue to adhere strictly to the *Moore* policy in cases where the applicant has failed to submit required information.[3] We will therefore grant American's petition and reinstate its application *nunc pro tunc*. In addition, we find that American is legally and technically qualified to construct the proposed facilities at Elgin and we will, therefore, incorporate this application into the pending hearing proceeding.

6. Accordingly, it is ordered, that the petition for reconsideration filed by American Paging, Inc., is granted.

7. It is further ordered, that American's application File No. 21606-CD-P-(2)-82 to construct an additional base station facility at Elgin, Illinois, to operate on frequency 152.84 MHz is accepted *nunc pro tunc*.

8. It is further ordered, that the application of American Paging, Inc., File No. 21606-CD-P-(2)-82 for the Elgin, Illinois, site is designated for hearing and consolidated into the hearing in CC Docket Nos. 82-163 and 82-164 on the same issues and with the same parties in that proceeding.

9. It is further ordered, that the applicant shall file a written notice of appearance under § 1.221 of the Commission's rules stating its intention to present evidence concerning the application for the Elgin, Illinois, site on the issues specified in CC Docket Nos. 82-163 and 82-164.

10. The Secretary shall cause a copy of this Order to be published in the **Federal Register.**

Gary M. Epstein,

Chief, Common Carrier Bureau.

[FR Doc. 82-14520 Filed 5-27-82; 8:45 am]

BILLING CODE 6712-01-M

[1] Accepting the application *nunc pro tunc*, would result in the application being considered filed as of its original filing date, and not subject to another round of pre-grant procedures.

[2] Continental argues that in Allen C. Moore, 86 FCC 2d 782 (1981), the Commission held that a returned application may not be reinstated and accorded comparative consideration if it is amended and refiled after the 60 day cut-off period.

[3] See Order Designating Applications for Hearing, Mimeo No. 2928, released March 24, 1982, at para. 7.

[Report No. 1353]

Petitions for Reconsideration of Actions in Rule Making Proceedings

May 24, 1982.

The following listings of petitions for reconsideration filed in Commission rulemaking proceedings is published pursuant to CFR 1.429(e). Oppositions to such petitions for reconsideration must be filed within 15 days after publication of this Public Notice in the **Federal Register.** Replies to an opposition must be filed within 10 days after the time for filing oppositions has expired.

Subject: Amendment of Parts 89, 91, 93 and 95 of the Commission's Rules and Regulations to Adopt New Practices and Procedures for Cooperative Use and Multiple Licensing of Stations in the Private Land Mobile Radio Services. (Docket No. 18921, RM's 1197, 1218 & 1330)

Filed by: John R. Younger, President for AGS Electronics, Inc., on 5-14-82;

Francis K. Wisener for Commercial Communications, Inc., on 5–17–82.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 82-14517 Filed 5-27-82; 8:45 am]

BILLING CODE 6712-01-M

Place for July 7, 1982 Meeting of Radio Advisory Committee Changed

The next meeting of the Advisory Committee on Radio Broadcasting will be held at 9:30 am, Wednesday, July 7, 1982 in Room 856, 1919 M Street, N.W., Washington, D.C., (*instead of* at 1229 20th Street, as previously announced in Doc. 82–13122 which was published on Friday, May 14, 1982 at 47 FR 20854).

The agenda remains unchanged.

The meetings of the Committee and its Subgroups are public, and open for participation by all interested persons.

For further information call the Committee chairman: Louis C. Stephens, FCC Headquarters, (202) 632–7792.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 82-14518 Filed 5-27-82; 8:45 am]

BILLING CODE 6712-01-M

[BC Docket No. 82–227, File No. BP–780901AG]

WKKQ, Inc.; Designating Application for Hearing on Stated Issues

Memorandum Opinion and Order

Adopted: April 22, 1982.

Released: April 29, 1982.

In re application of WKKQ, Inc., WKKQ, Hibbing, Minnesota, Has: 1060 kHz, 5 kW, D, Req: 1080 kHz, 5 kW, 10 kW–LS, DA–N, U, for construction permit.

1. The Commission has before it for consideration: (i) the above-captioned application for a change in facilities for WKKQ, Hibbing, Minnesota; (ii) a petition to deny filed by Metromedia, Inc., licensee of KRLD, Dallas, Texas; (iii) a petition to deny filed by Hibbing Broadcasting Company, (HBC) licensee of WMFG–AM–FM, Hibbing, Minnesota; and (iv) related pleadings.[1] We also consider HBC's petition for reconsideration of a September 10, 1979 staff ruling concerning WKKQ's alleged violation of Section 73.1850 of our Rules.

2. *Metromedia's petition.* This petitioner contends that WKKQ's proposed nighttime antenna is unstable, and may cause objectionable interference to KRLD, a co-channel class I–B station.[2] Metromedia requests that any grant of a construction permit be subject to certain engineering conditions. WKKQ counters that because of design and environmental conditions, the array would be stable. Nevertheless, by letter of September 18, 1981 applicant agrees to accept Metromedia's proposed conditions.

3. Our aim in adopting standard radiation patterns was to provide for each directional AM operation one radiation model to be used for all allocation purposes. See *Radiation Patterns for AM Broadcast Stations,* 84 FCC 2d 796 (1980). At the heart of this simplified allocation system is the postulate that in normal operation, directional arrays will not radiate in excess of their standard patterns. When there is a likelihood that they will (*i.e.,* that they are unstable), we must carefully consider whether the array can be adjusted and maintained within the standard-pattern limits, and if so what conditions are required to assure such operation. Once a question of instability is raised, our concern is with stability *per se,* not just possible interference to a particular station. Here, then, we are concerned with more than possible interference to KRLD.

4. Our own computer studies show that the proposed nighttime array is inherently sensitive to minor changes in the operating parameters, in that variations as small as 0.5 percent current-ratio deviation and 0.5 degree phase deviation would result in radiation greater than the specified standard-radiation values. (Our benchmarks are 1%/1° for generally stable arrays and 0.1%/0.1° for highly unstable arrays; between these extremes we consider arrays on a case-by-case basis.) However, countervailing indications of stability include a relatively low RSS/RMS ratio of 1.34, a suitable ground system, regular terrain for some distance around the proposed site, and the absence of any likely sources of reradiation nearby. On balance, therefore, we believe the conditions Metromedia proposes and WKKQ accepts are sufficient to assure operation within the standard-pattern limits.

5. *HBC's non-technical arguments.* HBC alleges that (i) applicant has violated § 73.1211 of our Rules by broadcasting lottery information, (ii) applicant has violated section 317(a)(1) of the Communications Act by broadcasting commercials without identifying their sponsors, (iii) applicant has violated § 73.1850 of the Rules by refusing to allow public inspection of program logs, (iv) applicant has violated Section 312(a)(7) of the Communications Act by failing to provide a candidate for federal office with reasonable access to applicant's facilities, and (v) applicant has misrepresented to the Commission its policy on the length of commercials available for sale on WKKQ.[3]

6. First, HBC alleges that WKKQ broadcast a commercial for a local ski resort which invited listeners to purchase skiing tickets from the sponsor and thus become eligible to win a skiing trip to Jackson Hole, Wyoming, a lottery as defined by the Commission.[4] According to applicant, the sponsor furnished the copy for the 60-minute announcement, and WKKQWs copy reader failed to screen it. Also according to applicant, the prohibited material aired from January 26 to January 31, 1978, when the station's owner heard it, stopped its broadcast, called the ski resort and arranged for deletion of the consideration requirement (thus rendering the promotion not a lottery), and requested the ski resort to notify other stations that were also broadcasting the commercial.

7. As WKKQ admits, it clearly violated § 73.1211 by broadcasting information pertaining to a lottery. However, this was a short-lived, isolated occurrence, and the applicant took aggressive corrective steps once the violation was discovered. While similar violations could result in forfeiture, the facts here do not raise a substantial question of applicant's licensee qualifications.

8. Petitioner next alleges that applicant violated section 317(a)(1) of the Communications Act by broadcasting a commercial by singer Rex Allen for a local concert he was to appear at, without the required sponsorship identifiction announcement.[5] Applicant contends it

[1] The related pleadings include applicant's motions for an extension of time to respond to a Commission inquiry and for extensions of time to file oppositions to the petitions, and motions by both petitioners for extensions of time to file replies to the opposition to their petitions. Since all parties seeking extensions have shown good cause, the motions are granted and the pleadings accepted.

[2] The showing of possible interference gives Metromedia standing as a party in interest within the meaning of Section 309(d) of the Communications Act of 1934, as amended. *FCC* v. *National Broadcasting Co., Inc.,* 319 U.S. 239 (1943).

[3] This petitioner's stations compete with WKKQ for audience and revenue. HBC therefore has standing as a party in interest within the meaning of section 309(d) of the Communications Act of 1934, as amended. *FCC* v. *Sanders Bros. Radio Station,* 309 U.S. 470 (1940).

[4] See *Applicability of Lottery Statutes to Contests and Sales Promotions,* 18 FCC 2d 52 (1969).

[5] Petitioner's argument that announcement for a station promotion, "Bingo Blast," were commercials

did not consider the broadcast a commercial, because it was a "brief telephone comment from a country music personality," and no direct consideration for the airing was involved, since the station organized the concert. Further, applicant contends, if the spot were considered a commercial, the fact that WKKQ sponsored the concert was so well publicized that there was sufficient tie-in to WKKQ to provide proper identification. At any rate, WKKQ states that it has discontinued the practice of telephone comments of this sort.

9. The concert was a non-broadcast commercial venture of WKKQ, and the transcript reveals that Rex Allen's only "comment was to urge people to attend the concert. Thus the broadcast in question was clearly a commercial *Fuqua Communications, Inc.*, 30 FCC 2d 94 (1971); *Waterman Broadcasting Corp. of Texas*, 28 FCC 2d 348 (1971); and it should have been accompanied by a sponsor identification. However, this single incident, which has not recurred, does not raise a substantial question of applicant's qualification.

10. Next, petitioner contends that applicant violated § 73.1850 or our Rules by not allowing a member of the public, Mr. Thomas Sonaglia, to inspect WKKQ's program logs.[6] Mr. Sonaglia filed a complaint with the Broadcast Bureau's Complaints and Compliance Division, which after making inquiries, denied his request to examine the logs because he had neither fully identified himself to station personnel [7] nor stated the general purpose of the examination. HBS seeks reconsideration of that September 10, 1979 ruling, and further asks that WKKQ be compelled to furnish its logs to the Commission for inspection in connection with the charges discussed above.

11. Mr. Sonaglia's refusal to state why he wanted to review WKKQ's logs, contrary to the requirement of § 73.1850(b), was sufficient reason for the station to refuse him access to them. Further, it is clear from HBC's own pleadings that Mr. Sonaglia was acting as petitioner's agent. Applicant's surmise in this regard, borne out by petitioner's subsequent statements, provides an additional, independent warrant for WKKQ's actions. See *Cass River Broadcasting Co.*, 68 FCC 2d 937 (1978). We therefore concur with the Chief of the Complaints and Compliance Division that WKKQ did not act improperly, and thus find petitioner's arguments in its petition to deny meritless. Further, for the reasons discussed previously, we find no reason to examine WKKQ's program logs in connection with petitioner's other charges of misconduct.

12. Petitioner's final non-technical arguments are related and will be discussed together. On October 25, 1978 a representative of Senator Wendell Anderson, the Democratic Party candidate for the United States Senate from Minnesota, complained to the Commission that WKKQ had refused a series of requests to purchase five-minute segments of political advertising time, and that the licensee had quoted an "artifically high" rate for five minutes of program time. Among WKKQ's arguments in its behalf was that the station had an established practice of selling no program time longer than 60-second spot announcements. We found that WKKQ had violated section 312(a)(7) of the Communications Act and ordered the station to advise us how it intended to fulfill its "reasonable access" obligations. *Sen. Wendell Anderson*, 69 FCC 2d 831 (1978). On October 31, 1978, WKKQ sent a telegram to Senator Anderson's representative offering to sell five-minute programs to Senator Anderson, thus complying with our order. These programs were purchased and subsequently broadcast.

13. Petitioner's arguments stemming from this incident are that (i) applicant's general conduct and specific violation of the Act raise questions of its qualifications to be a licensee and (ii) applicant's representation to the Commission that WKKQ sold no programs longer than 60-second announcements was a misrepresentation and less than candid, because the station regularly broadcast the "WKKQ Fun Guide," a commercial of two to three minutes in length.

14. Both of petitioner's contentions are groundless. Absent any showing of bad faith and in light of the prompt corrective action taken, WKKQ's violation of Section 312(a)(7) in no way casts a cloud on its licensee qualifications. As to the "Fun Guide," while the commercial in its aggregate may have lasted 2 to 3 minutes, it was composed of multiple, individual 10-second commercials run serially, each advertising a current recreational event. It was not a single 3-minute commercial, and thus not a contradiction of WKKQ's representation concerning its commercial spot sales policy.

15. While this applicant did violate unrelated provisions of the Communications Act and our Rules, we find that these violations, considered separately or together, raise no substantial question of WKKQ's licensee qualifications requiring a hearing. Further, the statute of limitations has run as to any of these violations that might otherwise have been subject to a forfeiture. We shall, however, expect careful attention to these requirements in the future.

16. *HBC's technical argument.* Using conductivities shown on FCC Figure M3, WKKQ's proposed daytime 0.025 mV/m contour would overlap the 0.5 mV/m contour of co-channel station KNDK, Langdon, North Dakota, in violation of § 73.37(a) of the rules. Applicant supported its proposal in part with May 1977 field strength measurements on two WKKQ radials (284° and 295°) showing that there would be no overlap. In its petition to deny HBC submits its own April 1979 measurements, showing a higher conductivity on both radials than applicant's measurements. Petitioner concludes from its measurements on the 295° radial that there would be prohibited overlap. In its opposition applicant challenges HBC's measurements on various grounds, and submits the results of its May 1979 remeasurement of the 295° radial, showing the same conductivities as its 1977 measurements.

17. Petitioner's measurements fall far short of the requirements for field strength measurements set out in § 73.186 of our rules. There were only 17 measurement points, one 2 miles from WKKQ and the rest from 8.7 to 44.6 miles from the station; our rule calls for about double that number, with many close to the antenna. Also, satisfactory details were not provided concerning the meter used and its calibration, the engineer who made the measurements and his qualifications, a map of the measurement points, the times and methodology of the measurements, and so forth. Therefore these measurements are inadequate to establish conductivity on the disputed radial.

18. However, there are also questions of the acceptability of applicant's measurements. By letter to WKKQ the staff questioned the 1977 measurements, noting that while they had all been made by one individual, the reported intervals between some measurements appeared unrealistically short, and that two measurements at different points

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and required sponsorship identification is meritless. Such promotional announcements are not commercial. See generally *Logging of Promotional Announcements*, 59 FCC 2d 594 (1976).

[6] While § 73.1850 applied to WKKQ at the time in question, we no longer require radio stations to keep or make available program logs. See *Deregulation of Radio*, 84 FCC 2d 968 (1981).

[7] Mr. Sonaglia's comments to WKKQ employees suggested that he was ana gent for another rather than the individual citizen he professed to be. In part, § 73.1850(b) of the Rules requires one seeking access to program logs to identify the organization he or she represents, if any.

were reported as having been made at the same time. In WKKQ's response, its engineer (who had made the measurements) affirmed the reported measurement times but disputed the staff's position that the times between some measurements appeared too short:

> There is no basis for such a statement and it completely ignores the logical facts. (1) I am an experienced field engineer, have taken and submitted similar measurements to the FCC for over 25 years. (2) I have a photographic memory and do not need to keep stopping to study road maps and hence require very little time to be so wasted. (3) I was driven by Mr. Jerry Collins, the Owner of WKKQ in his Corvette sports car. I thus had no time wasted in starting or stopping vehicles. (4) Mr. Collins lives 30 miles northwest of the station and travels many of these roads to and from * * * work and thus is even more familiar with the roads and the area than would any other driver I could have wished for. (5) As to the fact that two readings * * * were shown as taken at the same time, yes I know. They were of course not physically taken at the same time, but my watch stopped about then and we relied upon Mr. Collins' watch for the balance of the readings. Since his watch showed 10:41, that was the time we recorded even though it was the same time shown for another measurement.

19. Field strength measurements are critical to many of our AM allocation decisions, and as with other applicant representations, we must be able to rely on the accuracy of the data submitted to us. See generally *Babcom, Inc.*, 31 FCC 2d 425 (1971). The most suspicious measurements reported by WKKQ are apparently a series of thirteen made on May 20, 1977 between 10:44 and 11:23 a.m. (all presumably timed using Collins' watch), as follows:

Time	Miles from WKKQ	Radial
10:44	8.7	295°
10:46	9.2	295°
10:48	11.2	295°
10:52	10.7	284°
10:54	12.0	284°
10:57	13.7	284°
11:00	16.4	284°
11:03	17.4	284°
11:10	13.5	295°
11:12	14.4	295°
11:15	16.3	295°
11:19	17.6	295°
11:23	18.7	295°

20. This tabulation indicates that in a period of 39 minutes, WKKQ's engineer traveled over 21 miles and stopped to make 13 measurements. Considering the time that should have been spent assuring proper location of measurement points and accurate measurements, and allowing for roads that do not generally provide straight-line, point-to-point travel (so the distances traveled actually exceeded the straight-line distances shown above), it seems to us improbable that accurate measurements could have been made as reported. Further, those of petitioner's measurements made at the same points as applicant's show significantly greater field strengths—an average of 188 percent greater. There is therefore a substantial and material question that either the measurements were not made with sufficient care to assure their validity, or the measurements were not made as reported. Hearing issues are thus required.

21. *Other matters.* WKKQ's local notice of its application did not describe the extensive antenna construction proposed, as required by § 73.3580(f)(6) of our Rules. Applicant must therefore republish and rebroadcast a corrected notice.

22. Except as indicated by the issues specified below, the applicant is qualified to construct and operate as proposed. However, in view of the foregoing, the Commission is unable to conclude that grant of the captioned application would serve the public interest, convenience, and necessity, and is of the opinion that the application must be designated for hearing.

23. Accordingly, it is ordered, That pursuant to section 309(e) of the Communications Act of 1934, as amended, the application is designated for hearing, at a time and place to be specified in a subsequent order, upon the following issues:

1. To determine the facts and circumstances surrounding the applicant's May 1977 field stength measurements.

2. To determine, in light of the evidence adduced pursuant to issue 1, whether applicant misrepresented facts or was lacking in candor with respect to its May 1977 field strength measurements.

3. To determine, in light of the evidence adduced pursuant to issue 1, whether the applicant's May 1977 field strength measurements are valid.

4. To determine whether the proposed operation would cause overlap to KNDK, Langdon, North Dakota in violation of § 73.37 of the Commission's Rules.

5. To determine, in light of the evidence adduced pursuant to the foregoing issues, whether a grant of this application would serve the public interest, convenience, and necessity.

24. It is further ordered, That in the event of a grant of this application, the construction permit shall contain the following conditions:

1. An antenna monitor of sufficient accuracy and repeatability, and having a minimum resolution of 0.1 degree phase deviation and 0.1 percent sample-current ratio deviation, shall be installed and continuously available to indicate the relative phase and magnitude of the sample current of each element in the array, to insure maintenance of the radiated fields within the authorized values of radiation.

2. A complete nondirectional proof of performance, in addition to the required proof on the directional antenna system, shall be submitted before program tests are authorized. The nondirectional and directional field strength measurements must be made under similar environmental conditions.

3. Upon receipt of operating specifications and before issuance of a license, permittee shall submit the results of observations made daily of the base currents and their ratios, relative phases, sample currents and their ratios, and sample current deviations for each element of the array, along with the final amplifier plate voltage and current, the common-point current, and field strengths of each monitoring point for both nondirectional and directional operations for a period of at least 30 days, to demonstrate that the array will be maintained within the specified tolerances.

4. The inverse distance field intensity at a distance of one kilometer from the antenna in the directions specified shall not exceed the following values:

True azimuth	Maximum field strength (mV/m)
91.5°	23.58
118.0°	23.61
157.0°	23.53
172.0°	23.51
192.0°	25.27
202.0°	23.98
212.0°	22.85
220.0°	23.01
227.0°	22.85
240.0°	26.97
266.0°	23.61
292.5°	23.58

25. It is further ordered, That the petitions to deny filed by Metromedia, Inc. and Hibbing Broadcasting Company are granted to the extent indicated above, and are denied in all other respects, and that Hibbing Broadcasting Company is made a party to the hearing.

26. It is further ordered, That Hibbing Broadcasting Company's petition for reconsideration of the September 10, 1979 staff ruling on its public-file complaint is denied.

27. It is further ordered, That WKKQ, Inc. shall republish and rebroadcast a corrected local notice of its application,

and shall file a statement of publication with the presiding Administrative Law Judge on or before July 7, 1982.

28. It is further ordered, That to avail themselves of the opportunity to be heard and pursuant to § 1.221(c) of our Rules, the parties shall, in person or by attorney, within 20 days of the mailing of this order, file with the Commission in triplicate written appearances stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this order.

29. It is further ordered, That pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of our Rules, WKKQ, Inc. shall give notice of the hearing as prescribed in the rule, and shall advise the Commission of the publication of the notice as required by § 73.3594(g).

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 82-14733 Filed 5-27-82; 8:45 am]

BILLING CODE 6712-01-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 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 Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Harris Bankcorp, Inc.*, Chicago, Illinois; to acquire 100 percent of the voting shares or assets of Argo State Bank, Summite, Illinois. Comments on this application must be received not later than June 20, 1982.

2. *Security Financial Services, Inc.* Sheboygan, Wisconsin; to acquire 80 percent of the voting shares or assets of Manitowoc County Bank, Manitowoc, Wisconsin. Comments on this application must be received not later than June 20, 1982.

B. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Assistant Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *First City Financial Corporation*, Hobbs, New Mexico; to acquire 100 percent of the voting shares of First City National Bank, Ruidoso, New Mexico, a *de novo* bank. Comments on this application must be received not later than June 20, 1982.

C. **Secretary, Board of Governors of the Federal Reserve System,** Washington, D.C. 20551:

1. *First City Bancorporation of Texas, Inc.*, Houston, Texas; to acquire 100 percent of the voting shares or assets of Citizens First National Bank of Tyler, Tyler, Texas. This application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Comments on this application must be received not later than June 20, 1982.

Board of Governors of the Federal Reserve System, May 21, 1982.

Dolores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 82-14511 Filed 5-27-82; 8:45 am]

BILLING CODE 6210-01-M

Boulevard Bancorp, Inc.; Formation of Bank Holding Company

Boulevard Bancorp, Inc., Chicago, Illinois, has applied for the Board's approval under secton 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company, to be interposed between Miami Corporation, a registered bank holding company, and National Boulevard Bank of Chicago, Chicago, Illinois, for prior approval to acquire up to 100 percent of: First National Bank of Wilmette, Wilmette, Illinois; The Hinsdale Capital Corporation, Hinsdale, Illinois, which owns 81.9 percent of The First National Bank of Hinsdale, Hinsdale, Illinois; Firstwin Corporation, Winnetka, Illinois, which owns 83.6 percent of The First National Bank of Winnetka, Winnetka, Illinois; The Glencoe Capital Corporation, Glencoe, Illinois, which owns 89.7 percent of Gllencoe National Bank, Glencoe, Illinois. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than June 20, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, May 21, 1982.

Dolores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 82-14509 Filed 5-27-82; 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 Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. *FSB Bancorporation*, Decatur, Alabama; to become a bank holding company by acquiring 100 percent of the voting shares of First State Bank of Decatur, Decatur, Alabama. Comments on this application must be received not later than June 20, 1982.

B. **Federal Reserve Bank of St. Louis** (Delmer P. Weisz, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Central Kentucky Bancorp, Inc.*, Elizabethtown, Kentucky; to become a bank holding company by acquiring 100 percent of the voting shares of the

successor by merger to First Hardin National Bank & Trust, Elizabethtown, Kentucky. Comments on this application must be received not later than June 20, 1982.

2. *FSB, Inc.*, Covington, Tennessee; to become a bank holding company by acquiring 100 percent of the voting shares of First State Bank of Covington, Tennessee, Covington, Tennessee. Comments on this application must be received not later than June 20, 1982.

C. **Federal Reserve Bank of Minneapolis** (Lester G. Gable, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Financial Services of Winger, Inc.*, Winger, Minnesota; to become a bank holding company by acquiring 96.6 percent of the voting shares of Farmers State Bank of Winger, Winger, Minnesota. Comments on this application must be received not later than June 20, 1982.

D. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Amoret Bancshares, Inc.*, Amoret, Missouri; to become a bank holding company by acquiring at least 80 percent of the voting shares of Bates County National Bank, Amoret, Missouri. Comments on this application must be received not later than June 20, 1982.

2. *University State Bancshares, Inc.*, Lawrence, Kansas; to become a bank holding company by acquiring 80 at least percent of the voting shares of The University State Bank, Lawrence, Kansas. Comments on this application must be received not later than June 20, 1982.

E. **Secretary, Board of Governors of the Federal Reserve System**, Washington, D.C. 20551:

1. *BCTC Corporation*, Moorestown, New Jersey; to become a bank holding company by acquiring 100 percent of the voting shares of Burlington County Trust Company, Moorestown, New Jersey. This application may be inspected at the Federal Reserve Bank of Philadelphia. Comments on this application must be received not later than June 13, 1982.

2. *Eastern Iowa Secured Bancshares Corporation*, Bettendorf, Iowa; to become a bank holding company by acquiring 80 percent of the voting shares of Security State Trust and Savings Bank, Bettendorf, Iowa. This application may be inspected at the Federal Reserve Bank of Chicago. Comments on this application must be received not later than June 20, 1982.

Board of Governors of the Federal Reserve System, May 21, 1982.

Dolores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 82-14510 Filed 5-27-82; 8:45 am]

BILLING CODE 6210-01-M

Miami Corp.; Acquisition of Bank

Miami Corporation, Chicago, Illinois, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent of the voting shares of Boulevard Bancorp, Inc., Chicago, Illinois and thereby indirectly acquiring: (1) 100 percent of the voting shares of The Hinsdale Capital Corporation, Chicago, Illinois which owns 81.4 percent of the voting shares of The First National Bank of Hinsdale, Hinsdale, Illinois; (2) 100 percent of the voting shares of First National Bank of Wilmette, Wilmette, Illinois; (3) 80 percent of the voting shares of National Boulevard Bank of Chicago, Chicago, Illinois; (4) 100 percent of the voting shares of The Glencoe Capital Corporation, Glencoe, Illinois, which currently owns 89.7 percent of the voting shares of Glencoe National Bank, Glencoe, Illinois; and (5) 100 percent of the voting shares of Firstwin Corporation, Chicago, Illinois which currently owns 83.6 percent of the voting shares of The First National Bank of Winnetka, Winnetka, Illinois. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than June 20, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, May 21, 1982.

Dolores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 82-14512 Filed 5-27-82; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Blood Products Advisory Committee; Renewal

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: Under the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92-463, 86 Stat. 770-776 (5 U.S.C. App. I)), the Food and Drug Administration announces the renewal of the Blood Products Advisory Committee by the Secretary, Department of Health and Human Services.

DATE: Authority for this committee will expire on May 13, 1983, unless the Secretary formally determines that renewal is in the public interest.

FOR FURTHER INFORMATION CONTACT: Richard L. Schmidt, Committee Management Office (HFA-306), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-2765.

Dated: May 20, 1982.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc 82-14407 Filed 5-27-82; 8:45 am]

BILLING CODE 4160-01-M

Consumer Participation; Open Meetings

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the following consumer exchange meetings:

Baltimore District Office, Chaired by Thomas L. Hooker, District Director.

DATE: Monday, June 7, 10 a.m. to 12 m.

ADDRESS: Roanoke County Library, Main Headquarters, Route 419, 3131 Electric Rd. SW., Roanoke, VA.

FOR FURTHER INFORMATION CONTACT: Charity E. Singletary, Consumer Affairs Officer, Food and Drug Administration, 701 W. Broad St., Rm. 309, Falls Church, VA 22046, 703-285-2578.

Buffalo District Office, Chaired by Burton I. Love, Chief Investigator, and Lois M. Meyer, Consumer Affairs Officer.

Date: Thursday, June 17, 1 p.m.
Address: Lower Level Ballroom, Hotel Syracuse, 500 S. Warren St., Syracuse, NY.
For further information contact: Lois M. Meyer, Consumer Affairs Officer, Food and Drug Administration, 599 Delaware Ave., Buffalo, NY 14202, 716-846-4483.

SUPPLEMENTARY INFORMATION: The purpose of these meetings is to encourage dialogue between consumers and FDA officials, to identify and set priorities for current and future health concerns, to enhance understanding and exchange information between local consumers and FDA's District Offices, and to contribute to the agency's policymaking decisions on vital issues.

Dated: May 21, 1982.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 82-14409 Filed 5-24-82; 1:31 pm]

BILLING CODE 4160-01-M

Gastroenterology and Urology Device Section of the General Medical Devices Panel; Meeting Cancellation

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing cancellation of a meeting of the Gastroenterology and Urology Device Section of the General Medical Devices Panel scheduled for June 21, 1982. The meeting was announced by notice in the Federal Register of May 14, 1982 (47 FR 20860).

FOR FURTHER INFORMATION CONTACT: Norman T. Welford, Bureau of Medical Devices (HFK-420), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7750.

Dated: May 21, 1982.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 82-14408 Filed 5-24-82; 1:31 pm]

BILLING CODE 4160-01-M

Small Business Participation; Open Meeting

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing a forthcoming small business exchange meeting to be chaired by E. Pitt Smith, District Director, Buffalo District Office, Region II.

DATE: This meeting will be held from 1 p.m. to 4 p.m., Tuesday, June 22, 1982.

ADDRESS: The meeting will be held at the Federal Bldg., Rm. 1440, 111 W. Huron St., Buffalo, NY 14202.

FOR FURTHER INFORMATION CONTACT: George R. Walden, Small Business Representative, Food and Drug Administration, 20 Evergreen Place, East Orange, NJ 07018, 201-645-6466.

SUPPLEMENTARY INFORMATION: The purpose of this meeting is to encourage dialogue between small businesses and FDA officials. The meeting will provide a forum for the owners and managers of small businesses to express their concerns about FDA, encourage discussion about the effects of regulation and regulatory alternatives, convey knowledge about the agency's operations and procedures, and increase participation by small business persons in FDA's decisionmaking process.

Dated: May 20, 1982.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 82-14406 Filed 5-27-82; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 82N-0153; DESI 11409 and 50230]

Bristol Laboratories, Lederle Laboratories, Pfizer Laboratories, E.R. Squibb & Sons, Inc., and the Upjohn Co.; Certain Combination Drugs Containing Antibiotics and Antifungal Agents; Notice of Hearing

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is granting a hearing on orders withdrawing provisions for certification of certain drugs, described specifically below, that contain antibiotics in combination with antifungal agents.

DATES: Notices of participation must be file with the Dockets Management Branch no later than June 28, 1982. Disclosure of data and information by FDA's Bureau of Drugs by July 27, 1982 and by other parties by August 10, 1982. Prehearing conference on September 8, 1982, at 10 a.m.

ADDRESSES: Written notices of participation and disclosures of data amd information to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857. (Submissions to the Dockets Management Branch should be identified with docket number 82N-0153 and clearly labeled "Antibiotics with Antifungal Agents Hearing.") Prehearing conference in the FDA Hearing Room, Rm. 4A-35, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Robert J. Rice, Jr., Regulations Policy Staff (HFC-10), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3480.

SUPPLEMENTARY INFORMATION: In the Federal Register of November 13, 1969 (34 FR 18161), the Commissioner of Food and Drugs, announced that, as part of the Drug Efficacy Study Implementation (DESI) Program, he was revoking regulations describing the conditions for certification of oral dosage forms of certain products containing antibiotics in combination with antifungal agents. That action was taken after review of comments received on the agency's announced concurrence with the evaluation of these products by the National Academy of Sciences-National Research Council, Drug Efficacy Study Group (NAS-NRC) (33 FR 19204; December 12, 1968 (DESI 11409)). The order affected the following preparations:

A. Combination drugs containing tetracycline, tetracycline hydrochloride, or tetracycline phosphate complex with nystatin:

1. Mysteclin-V Capsules (NDA 50-206): E.R. Squibb & Sons, Inc., Georges Rd., New Brunswick, NJ 08903.

2. Tetrastatin for Oral Suspension (NDA 60-287): Pfizer Laboratories, 235 E. 42d St., New York, NY 10017.

3. Tetrastatin Capsules (NDA 60-283): Pfizer Laboratories.

4. Comycin Half-Strength Capsules (NDA 60-425): The Upjohn Co., 7171 Portage Rd., Kalamazoo, MI 49002.

5. Comycin Capsules (NDA 60-425): The Upjohn Co.

6. Achrostatin V for Oral Suspension (NDA 50-283): Lederle Laboratories, Division of American Cyanamid Co., West Middletown Rd., Pearl River, NY 10965.

7. Achrostatin V Capsules (NDA 60-433): Lederle Laboratories.

8. Tetrex-F Capsules: Bristol Laboratories, Division of Bristol-Meyers Co., Thompson Rd, Syracuse, NY 13201.

9. Tetrex-F for Oral Suspension (tetracycline-nystatin): Bristol Laboratories.

B. Combination drugs containing oxytetracycline and nystatin:

1. Terrastatin for Oral Suspension (NDA 60-598): Pfizer Laboratories.

2. Terrastatin Capsules (NDA 60-597): Pfizer Laboratories.

C. Combination drugs containing demeclocycline and nystatin:

1. Declostatin for Oral Suspension (NDA 50-258): Lederle Laboratories.

2. Declostatin Capsules (NDA 50-259): Lederle Laboratories.

3. Declostatin 300 Tablets (NDA 50-034): Lederle Laboratories.

In accordance with 21 U.S.C. 357(h) and (f), the manufacturers of each of these products submitted objections and requests for hearing concerning that

action. Accordingly, the order with respect to these drugs was stayed pending completion of the agency's review of the submitted data (see 35 FR 5811; March 30, 1970).

The sections of Title 21 of the Code of Federal Regulations affected by this order are listed below. In parentheses after each section is the designation of that same section prior to a recodification published in the Federal Register of May 30, 1974 (39 FR 18922).

446. 115c (141c.263, 146c.263)—Demeclocycline-Nystatin for Oral Suspension.

446. 116b (141c.271, 146c.271)—Demeclocycline Hydrochloride-Nystatin tablets.

446. 116d (141c.259, 146c.259)—Demeclocycline Hydrochloride-Nystatin Capsules.

446. 165c (148n.10)—Oxytetracycline-Nystatin Capsules.

446. 165e (148n.9)—Oxytetracycline-Nystatin for Oral Suspension.

446.180a (141c.229, 146c.229)—Tetracycline-Nystatin for Oral Suspension; Tetracycline Phosphate Complex-Nystatin Oral Suspension (Tetracycline Phosphate Complex-Nystatin Oral Drops).

446.180b (141c.236, 146c.236)—Tetracycline-Nystatin for Oral Suspension.

446.181a (141c.225, 146c.225)—Tetracycline Hydrochloride-Nystatin Tablets.

446.181b (141c.224, 146c.224)—Tetracycline Hydrochloride-Nystatin Capsules; Tetracycline Phosphate Complex-Nystatin Capsules.

In addition, on June 13, 1969 (34 FR 9336), the Commissioner announced that he was revoking the regulations that described the conditions for certification of oral dosage forms containing tetracycline and amphotericin B. This notice affected four products, each manufactured by E.R. Squibb & Sons, Inc.: Mysteclin "F" Capsules (NDA 50–230), Mysteclin "F" 125 Capsules (NDA 50–231), Mysteclin "F" Syrup (NDA 50–231), and Mysteclin "F" Pediatric Drops (NDA 50–231). The June 13, 1969 order was issued after the agency's review of comments received in response to FDA's announcement of its concurrence with the conclusions of NAS–NRC applicable to these products (33 FR 19204; December 24, 1968 (DESI 50230)). The filing of objections and requests for hearing by Squibb to the June 13, 1969 order effectively stayed the order with respect to the Squibb products. Thus, products containing these ingredients continued to be certified by the agency.

A final rule published in the Federal Register of October 31, 1978 (43 FR 50676), amended the antibiotic drug regulations by revoking provisions for certification of concentrated liquid dosage forms of tetracycline. Mysteclin "F" Pediatric Drops, although not specifically mentioned in the October 31, 1978 order, are subject to that order becuase it revoked provisions for certification of all concentrated liquid dosage forms that are labeled and formulated specifically for children. Therefore, release of that product has already ceased and is not the subject of this notice of hearing.

Through inadvertence, the agency did not officially announce a stay of the June 13, 1969 order and the affected regulations have thus been removed from the Code of Federal Regulations. At the time of the 1969 order, the affected regulations appeared in the Code of Federal Regulations as 21 CFR 141c.257, 141c.260, 141c.262, 146c.257, 146c.260, and 146c.262. If this order is not affirmed after the completion of the hearing announced in this notice, the regulations will, because of subsequent reorganizations of Title 21 of the Code of Federal Regulations, be assigned different section numbers. They will also be updated to conform to changes in other similar regulations. They then will be codified once again in the Code of Federal Regulations. In the interim, until the completion of the hearing, the agency will continue to release these products, despite the lack of published monographs. If the hearing concludes in a decision that the 1969 order was correct, certification and release of the drugs covered by these regulations will cease.

FDA is now announcing a hearing on the objections and requests for hearing submitted with respect to the two orders identified above. The orders will be affirmed as to a particular product (and further certification of the product denied) unless there exists, for the product, "substantial evidence" that the product has the clinical effect it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in the labeling (see 21 U.S.C. 357(h)). Because these products are combination drugs, such evidence exists for them only if "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).

The applicants have submitted several studies to show that these drugs satisfy the effectiveness criteria of the statute and the regulation. Thus, there are two questions to be addressed in this proceeding with respect to each drug product. First, whether any studies proffered by the applicants meet the criteria for adequate and well-controlled investigations set out in 21 CFR 314.111. Second, whether any studies that are found to be adequate and well-controlled investigations show that the particular drugs in issue are effective and satisfy the combination policy set out in 21 CFR 300.50. (For example, there may be a question whether a study done on one product properly applicable to a product containing a different formulation.) Thus, the hearing will address the following issues:

1. Whether there is evidence consisting of adequate and well-controlled investigations, including clinical investigations, by experts qualified by scientific training and experience to evaluate the effectiveness of the drug involved.

2. Whether on the basis of any such adequate and well-controlled investigations that exist it could fairly and responsibly be concluded by experts qualified by scientific training and experience to evaluate the effectiveness of drugs that the drug product in question satisfied the combination policy set out in 21 CFR 300.50 and will have the effect it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in the labeling or proposed labeling thereof.

21 U.S.C. 357(f), 21 U.S.C. 355(d).

These issues must be resolved for each individual drug product. As is obvious, it is at least theoretically possible for the decision for one product covered by this notice to be different on these issues than the decision for another product that is also covered by the notice.

The parties to the hearing will be FDA's Bureau of Drugs, Bristol Laboratories, Lederle Laboratories, Pfizer Laboratories, E. R. Squibb & Sons, Inc., and the Upjohn Co. The presiding officer will be Administrative Law Judge Daniel J. Davidson.

Under § 12.85 (21 CFR 12.85), FDA's Bureau of Drugs would normally file with the Dockets Management Branch a narrative statement setting forth its position on the issues for hearing and a summary of the types of evidence to be introduced in support of its position in the hearing, together with copies of data within the Bureau's files relating to the issues raised herein, at the time when this notice issues. I am, under § 10.19 (21 CFR 10.19), modifying that requirement to the extent that the Bureau will be granted until July 27, 1982, to make those submissions. I have concluded that this modification of this regulation in the context of this proceeding does not prejudice any participant in the hearing, serves the ends of justice, is in accordance with law, and thus is authorized by § 10.19. The modification

allows FDA to advise the parties that a hearing is pending on this matter prior to the competition by the Bureau of the sometimes lengthy process of complying with the requirements of § 12.85.

Interested persons may obtain a copy of the narrative statement after it is filed from the Dockets Management Branch, at the address given above. Such persons may also examine the data on the drugs subject to this hearing notice (with the exception of any data indentified as confidential) at the Dockets Management Branch, from 9 a.m. to 4 p.m., Monday through Friday.

The prehearing conference will be held at 10 a.m. on September 8, 1982, in the FDA Hearing Room, Rm. 4A–35, 5600 Fishers Lane, Rockville, MD 20857. The hearing will be held in the FDA Hearing Room on a date to be set at the prehearing conference. Written notices of participation must be filed with the Dockets Management Branch no later than June 28, 1982.

The hearing will be open to the public. Any participant may appear in person, or by or with counsel, or with other qualified representatives, and may be heard on matters relevant to the issues under consideration. Participants other than the Bureau of Drugs shall disclose data and information and submit narrative statements pursuant to 21 CFR 12.85 on or before August 10, 1982.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 505, 507, 52 Stat. 1052 as amended, 59 Stat. 463 as amended (21 U.S.C. 355, 357)), and under authority delegated to me (21 CFR 5.10), I order that a public hearing be held on the issues set out in this notice.

Dated: May 24, 1982.

Mark Novitch,

Acting Commissioner of Food and Drugs.

[FR Doc. 82-14562 Filed 5-27-82; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 80N-0074; DESI 9149 and 11127]

Chlorpromazine Hydrochloride; Hearing

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Commissioner of Food and Drugs is granting a hearing on a proposal to withdraw approval of the new drug applications for Thorazine Tablets, Thorazine Concentrate, Thorazine Injection, Thorazine Syrup, Thorazine Spansules, and Thorazine Suppositories, all containing chlorpromazine, with respect to the following indication: for control of excessive anxiety, tension and agitation as seen in neuroses. Thorazine is effective for several other indications.

DATES: Notices of participation must be filed with the Dockets Management Branch no later than June 28, 1982. Disclosure of data and information by FDA's Bureau of Drugs by August 26, 1982 and by other parties by September 9, 1982. Prehearing conference on September 13, 1982, at 10 a.m.

ADDRESS: Written notices of participation and disclosures of data and information to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857. (Submissions to the Dockets Management Branch should be identified with docket number 80N–0074 and clearly labeled "Thorazine Hearing.") Prehearing conference in the FDA Hearing Rm. 4A–35, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Robert J. Rice, Jr., Regulations Policy Staff (HFC–10), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3480.

SUPPLEMENTARY INFORMATION: In a notice (DESI 9149) published in the **Federal Register** of April 3, 1971 (36 FR 6447), as amended on November 2, 1971 (36 FR 20997) and July 27, 1973 (38 FR 20114), the Food and Drug Administration (FDA) evaluated the effectiveness of the oral and parenteral forms of Thorazine, NDA 9–149 and NDA 11–120, held by Smith Kline & French Laboratories, Division of SmithKline Corp., 1500 Spring Garden St., Philadelphia, PA 19101 (SmithKline). In a notice (DESI 11127) published in the **Federal Register** of July 27, 1972 (37 FR 15038), FDA also evaluated the effectiveness of the rectal suppository form of Thorazine, NDA 9–149, held by SmithKline.

These announcements stated that FDA had evaluated the reports of the National Academy of Sciences-National Research Council, Drug Efficacy Study Group, together with other evidence and concluded that the oral, parenteral, and rectal suppository forms of chlorpromazine were effective for some indications, e.g., management of mainfestations of psychotic disorders, and less than effective for other indications. In response to these notices, SmithKline submitted data to show the effectiveness of Thorazine for several less than effective indications.

In a notice published in the **Federal Register** of June 17, 1980 (45 FR 41070), the Director of the Bureau of Drugs reclassified as effective one indication concerning disturbed children. He also found that the data submitted in support of certain other indications that had been previously classified as less than effective, did not constitute substantial evidence of effectiveness. Accordingly, he reclassified chlorpromazine as lacking substantial evidence of effectiveness for the indications (1) agitation and tension associated with mild alcoholic withdrawal in patients under close supervision; (2) agitation, anxiety, tension, confusion, and related symptoms seen in neuroses; and (3) in cancer and severe pain, to reduce apprehension and suffering and to reduce narcotic requirements. The Director proposed to withdraw approval of the new drug applications for Thorazine for the indications which had been reclassified as lacking substantial evidence of effectiveness and to offer an opportunity for a hearing with respect to these indications.

On July 17, 1980, SmithKline requested a hearing on the proposal to withdraw approval of the indication for control of excessive anxiety, tension and agitation as seen in neuroses. ("Confusion" which had been included in this indication had been deleted previously from the labeling.) SmithKline does not contest the other indications reclassified in the June 17 notice as lacking substantial evidence of effectiveness. On August 18, 1980, SmithKline requested FDA to withdraw the notice of June 17, 1980; in the event the notice was not withdrawn, the firm provided studies, information, and analysis on which it relies to justify its hearing request. On January 19, 1982, SmithKline provided a supplemental submission in support of its requests.

FDA is now granting SmithKline's request for a hearing on the proposal to withdraw approval of the new drug applications for Thorazine with respect to this indication. Approval for this indication will be withdrawn unless there exists "substantial evidence" that Thorazine has the clinical effect it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in the labeling (21 U.S.C. 355(d)).

SmithKline has submitted several studies to show that Thorazine satisfies the effectiveness criteria of the statute for the indication now at issue. Thus, there are two questions to be addressed in this proceeding: first, whether any studies proffered by SmithKline meet the criteria for adequate and well-controlled investigations set out in 21 CFR 3.14.111; and second, whether any studies that are found to be adequate and well-controlled investigations show that Thorazine is effective for control of excessive anxiety, tension and agitation

as seen in neuroses. Thus, the hearing will address the following issues:

1. Whether there is evidence consisting of adequate and well-controlled investigations, including clinical investigations, by experts qualified by scientific training and experience to evaluate the effectiveness of the drug, and

2. Whether on the basis of any such adequate and well-controlled investigations that exist it could fairly and responsibly be concluded by experts qualified by scientific training and experience to evaluate the effectiveness of drugs that Thorazine will have the effect it purports or is represented to have, that is, for control of excessive anxiety, tension and agitation as seen in neuroses, under the conditions of use prescribed, recommended, or suggested in the labeling or proposed labeling thereof. 21 U.S.C 355(d).

The parties to the hearing will be the Bureau of Drugs and Smith Kline & French Laboratories. The presiding officer will be Administrative Law Judge Daniel J. Davidson.

Under § 12.85 (21 CFR 12.85), FDA's Bureau of Drugs would normally file with the Dockets Management Branch a narrative statement setting forth its position on the issues for hearing and a summary of the types of evidence to be introduced in support of its position in the hearing, together with copies of data within the Bureau's files relating to the issues raised herein, at the time when this notice issues. I am, under § 10.19 (21 CFR 10.19), modifying that requirement to the extent that the Bureau will be granted until August 26, 1982 to make those submissions. I have concluded that this modification of this regulation in the context of this proceeding does not prejudice any participant in the hearing, serves the ends of justice, is in accordance with law, and thus is authorized by § 10.19. The modification allows the FDA to advise the parties that a hearing is pending on this matter prior to the completion by the Bureau of the sometimes lengthy process of complying with the requirements of § 12.85.

Interested persons may obtain a copy of the narrative statement after it is filed from the Dockets Management Branch, at the address given above. Such persons may also examine the data on the drug subject to this hearing notice (with the exception of any data identified as confidential) at the Dockets Management Branch, from 9 a.m. to 4 p.m., Monday through Friday.

The prehearing conference will be held at 10 a.m., on September 13, 1982, in the FDA Hearing Room, Rm. 4A–35, 5600 Fishers Lane, Rockville, MD 20857. The hearing will be held in the FDA Hearing Room on a date to be set at the prehearing conference. Written notices of participation must be filed with the Dockets Management Branch no later June 28, 1982.

The hearing will be open to the public. Any participant may appear in person, or by or with counsel, or with other qualified representatives, and may be heard on matters relevant to the issues under consideration. Participants other than the Bureau of Drugs shall disclose data and information and submit narrative statements pursuant to 21 CFR 12.85 on or before September 9, 1982.

Therefore, under the Federal Food, Drug, and Cosmetic Act, (sec. 505, 52 Stat. 1052 as amended (21 U.S.C. 355)), and under authority delegated to me (21 CFR 5.10), I order that a public hearing be held on the issues set out in this notice.

Dated: May 24, 1982.

Mark Novitch,

Acting Commissioner of Food and Drugs.

[FR Doc. 82–14561 Filed 5–26–82; 8:45 am]

BILLING CODE 4160–01–M

[Docket No. 80N–0204]

International Vitamin Corporation, et al.; New Drug Applications; Withdrawal of Approval

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This document withdraws approval of 35 new drug applications (NDA's) and 2 abbreviated new drug applications (ANDA's) based on the written request of the applicants.

EFFECTIVE DATE: June 7, 1982.

FOR FURTHER INFORMATION CONTACT: Herbert T. Beherns, Bureau of Drugs (HFD–105), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4320.

SUPPLEMENTARY INFORMATION: The holders of the NDA's listed herein have informed the Food and Drug Administration (FDA) that these drug products are no longer marketed and have requested that FDA withdraw approval of the NDA's. The applicants have also, by their request, waived their opportunity for hearing.

NDA	Drug name	Applicant's name and address
01–093	Compomol Liquid	International Vitamin Corp., 2530 Polk St., Union, NJ 07083.
01–276	Liquavite Drops	Do.
01–786	Maxitate Tablets	Pennwalt Corp., P.O. Box 1710, Rochester, NY 14603.
02–238	Negatan Solution and Suppositories.	Byk-Gulden, Inc., P.O. Box 730, Hicksville, NY 11802.
03–077	Davegol Liquid	International Vitamin Corp.
05–504	Methedrine Tablets	Burroughs Wellcome Co., 3030 Cornwallis Rd., Research Triangle Park, NC 27709.
05–769	Intraderm Tyrothricin Cream.	Carter-Wallace, Inc., Half Acre Rd., Cranbury, NJ 08512.
05–812	Aminophyllin Supposicones.	Searle Research & Development, Division of G. D. Searle & Co., P.O. Box 5110, Chicago, IL 60680.
05–851	Intraderm-Tyrothricin Cream.	Carter-Wallace, Inc.
06–042	Meprane Tablets	Reed & Carnick Pharmaceuticals, 30 Boright Ave., Kenilworth, NJ 07033.
06–096	Naprylate Vaginal Cream.	Pennwalt Corp.
06–186	Zyclophen Ointment.	Arnar-Stone Laboratories, Inc., 1600 Waukegan Rd., McGaw Park, IL 60085.
07–040	Diasal Spray and Granules.	Byk-Gulden, Inc.
08–627	Digitaline Nativelle Injection.	Do.
09–274	Rauwolfia Serpentina Tablets.	KV Pharmaceutical Co., 2503 South Hanley Rd., St. Louis, MO 63144.
09–572	Reserpine Tablets	Do.
09–596	Reserpine Tablets	Lemmon Pharmacal Co., P.O. Box 30, Sellersville, PA 18960.
09–771	Reserpine Alkaloid Tablets.	Invenex Laboratories, P.O. Box 122, Grand Island, NY 14072.
09–825	Isopto Hydrocortisone Ophthalmic Suspension.	Alcon Laboratories, Inc., P.O. Box 1959, Fort Worth, TX 76101.
09–841	Isopto Cortisone Suspension.	Do.
09–937	Americaine w/ Neomycin Ointment.	Arnar-Stone Laboratories, Inc.
10–170	Serfolia Tablets	Mallard Incorporated, 3021 Wabash Ave., Detroit, MI 48216.
10–378	Resercen Tablets	The Central Pharmacal Co. 110–128 East Third St. Seymour, IN 47274.
10–400	Nilevar Tablets	Searle Research & Development.
10–678	Reserpine Tablets	Mallard, Inc.
11–019	Nilevar Injection	Searle Research & Development.
11–301	Rauwolfia Serpentina Tablets.	Do.
11–343	Transvasin Ointment.	Carter-Wallace, Inc.
11–505	Chymar Ointment	Armour Pharmaceutical Co., Box 511, Kankakee, IL 60901.
12–284	Miltown Injection	Carter-Wallace, Inc.
12–450	Tertrasule-80 Timesule Capsules.	Arnar-Stone Laboratories, Inc.
14–417	Meprobarnate Tablets.	Devlin Pharmaceuticals, Inc., 700 North Sepulveda Blvd., El Segundo, CA 90245.
14–765	Solacen Capsules	Carter-Wallace, Inc.
16–464	Tanipent #4 Tablets.	Moffet Pharmaceuticals, Inc., P.O. Box 296, Englewood, OH 45322.
16–634	Cyanocobalamin C060 Capsules.	Mallinckrodt, Inc., P.O. Box 5840, St. Louis, MO 63134.
80–262	Testosterone Propionate Injection.	Invenex Laboratories.
85–679	Ammonium Chloride Injection..	Do.

Many of the prescription drug products listed above have been subject

to the effectiveness review under the Drug Efficacy Study Implementation (DESI) program. One or more of these products may be in a drug group that has not had a final effectiveness decision at the time this order is published. There is no need, however, to defer this withdrawal action and maintain and active NDA file for a product that is not marketed. In accord with previous agency policy, future DESI notices that announce effectiveness conclusions on related drug groups will include these drug products so that manufacturers of identical, similar, and related products will be informed of the final decision.

The agency has determined that, in accordance with 21 CFR 25.24(d)(2) (proposed in the **Federal Register** of December 11, 1979, 44 FR 71742), this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 505(e), 76 Stat. 782 as amended (21 U.S.C. 355(e))), and under authority delegated to the Director of the Bureau of Drugs (21 CFR 5.82), approval of the new drug applications listed above, and supplements thereto, is hereby withdrawn.

This order will become effective on June 7, 1982.

Dated: May 5, 1982.

J. Richard Crout,

Director, Bureau of Drugs.

[FR Doc. 82-14559 Filed 5-27-82; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 80N-0273]

The Vale Chemical Co., Withdrawal of Approval

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This document withdraws approval of 28 new drug aplications (NDA's) based on the written request of the applicant.

EFFECTIVE DATE: June 7, 1982.

FOR FURTHER INFORMATION CONTACT: Hubert T. Behrens, Bureau of Drugs (HFD-105), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4320.

SUPPLEMENTARY INFORMATION: The holders of the NDA's listed herein have informed the Food and Drug Administration (FDA) that these drug products are no longer marketed and have requested that FDA withdraw approval of the NDA's. The applicants have also, by their request, waived their opportunity for hearing.

NDA	Drug name	Applicant's name and address
00-597	Phenobarbital and Atropine Tablets.	The Vale Chemical Co., Inc., 1201 Liberty St., Allentown, PA 18102.
01-176	Lembrose Ointment	Wyeth Laboratories, Inc., P.O. Box 8299, Philadelphia, PA 19101.
01-709	Betamer with Cascara Powder.	Endo Laboratories, Inc., 1000 Stewart Ave., Garden City, NY 11530.
02-638	B-Plex Elixir	Wyeth Laboratories, Inc.
02-881	Pyridine HCl Injection.	Endo Laboratories, Inc.
03-862	Histamine Diphosphate Injection.	Do.
05-337	Bornate Lotion	Wyeth Laboratories, Inc.
07-748	PMAC Cough Syrup	ICN Pharmaceuticals, Inc., 5040 Lester Rd., Cincinnati, OH 45213.
07-827	Cholron Tablet	Travenol Laboratories, Inc., Deerfield, IL 60015.
08-550	Rubiguent Cream	Wyeth Laboratories, Inc.
08-558	Niadrin Tablets	Endo Laboratories, Inc.
09-407	Rauserpa Tablets	Tutag Pharmaceuticals, 2599 West Midway Blvd., Broomfield, CO 80020.
09-454	Tensethyn Capsules.	Travenol Laboratories, Inc.
09-635	Reserpine Tablets	Wyeth Laboratories, Inc.
10-643	Sul-Spansion Suspension.	Smith Kline & French Laboratories, P.O. Box 7929, Philadelphia, PA 19101.
11-135	Sul-Spantab SR Tablet.	Do.
11-196	Henoton Tablet	ICN Pharmaceuticals, Inc.
11-219	Heparin Injection	Travenol Laboratories, Inc.
11-737	Numorphan Tablets	Endo Laboratories, Inc.
11-740	Trendar Tablets	Whitehall Laboratories, Division of American Home Products Corp., 685 Third Ave., New York, NY 10017.
11-921	Resdan Liquid	Do.
12-080	Prinadol Injection	Smith Kline & French Laboratories.
12-713	Neosum Lotion	Summers Laboratories, Inc., P.O. Box 162, Fort Washington, PA 19034.
14-464	Meprobamate Tablets.	Towne, Paulsen & Co., Inc., 140 E. Duarte Rd., Monrovia, CA 91016.
14-644	Meprobamate Tablets.	Unimed, Inc., 35 Columbia Road, Somerville, NJ 08876.
15-023	Meprobamate Tablets.	Do.
15-202	Meprobamate Tablets.	Truett Laboratories, Box 34029, Dallas, TX 75234.
16-558	Pentaerythritol Tetranitrate Tablets.	West-ward, Inc., 465 Industrial Way West, Eatontown, NJ 07724.

Many of the prescription drug products listed above have been subject to the effectiveness review under the Drug Efficacy Study Implementation (DESI) program. One or more of these products may be in a drug group that has not had a final effectiveness decision at the time this order is published. There is no need, however, to defer this withdrawal action and maintain an active NDA file for a product that is not marketed. In accord with previous agency policy, future DESI notices that announce effectiveness conclusions on related drug groups will include these drug products so that manufacturers of identical, similar, or related products will be informed of the final decision.

The agency has determined that, in accordance with 21 CFR 25.24(d)(2) (proposed in the **Federal Register** of December 11, 1979, 44 FR 71742), this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 505(e), 76 Stat. 782 as amended (21 U.S.C. 355(e))), and under authority delegated to the Director of the Bureau of Drugs (21 CFR 5.82), approval of the new drug applications listed above, and supplements thereto, is hereby withdrawn.

This order will become effective on June 7, 1982.

Dated: May 6, 1982.

J. Richard Crout,

Director, Bureau of Drugs.

[FR Doc. 82-14560 Filed 5-27-82; 8:45 am]

BILLING CODE 4160-01-M

Elanco Products Co. and Syntex Agribusiness, Inc.; Chlormadinone Acetate; Withdrawal of Approval of NADA's and the Notice of Opportunity for Hearing

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is withdrawing approval for new animal drug applications (NADA's) for chlormadinone acetate, a drug administered in animal feed to beef heifers and beef cows for synchronization of estrus (heat). The agency is also withdrawing the notice of opportunity for hearing. Elanco Products Co. and Syntex Agribusiness, Inc., each the sponsor of an NADA for chlormadinone acetate, requested withdrawal of approval of their application.

EFFECTIVE DATE: June 7, 1982.

FOR FURTHER INFORMATION CONTACT: David N. Scarr, Bureau of Veterinary Medicine (HFV-214), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3183.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of December 14, 1971 (36 FR 23733), FDA offered a notice of opportunity for hearing (NOOH) to Elanco Products Co. and Syntex Laboratories, Inc., on a proposal to

withdraw approval of their new animal drug applications (NADA's) for chlormadinone acetate, a drug administrated in feed to beef heifers and beef cows for synchronization of estrus (heat). The basis for the proposed withdrawal was that new information showed that the oral administration of chlormadinone acetate in dogs caused the development of mammary tumors. On the basis of the new information, FDA concluded that chlormadinone acetate was not shown to be safe under the conditions of use upon which the applications were approved in the absence of appropriately sensitive methods of analysis to establish the absence of the drug in food derived from treated animals.

Elanco Products Co. (Elanco), a Division of Eli Lilly & Co., 740 S. Alabama St., Indianapolis, IN 46206, the sponsor of NADA 37–147 for Matrol Premix (chlormadinone acetate), responded to the NOOH by filing a written appearance and requested a hearing. Elanco based its response on its position that there exists an appropriate sensitive method of analysis (2 parts per billion (ppb) to 5 ppb) to establish the absense of chlormadinone acetate in food derived from treated animals.

Syntex Agribusiness, Inc., formely Syntex Laboratories, Inc., (Syntex) 3401 Hillview Drive, Palo Alto, CA 94304, sponsor of NADA 37–146 for Skedule Premix (chlormadinone acetate), responded to the NOOH by filing a written appearance and requesting a hearing. Syntex based its response on its position that (1) an new highly sensitive (2 ppb to 5 ppb) method of analysis was available to establish the absence of chlormadinone acetate in food derived from treated animals; (2) the previously existing tissue assay method sensitive to 20 ppb had shown the absence of residues; and (3) the existing toxicity data showed that a method sensitive to 20 ppb was adequate to demonstrate safety.

Because Elanco and Syntex are not currently manufacturing or distributing chlormadinone acetate and apparently have never marketed the product within the U.S., FDA, by letters dated December 14, 1981, suggested to each firm that it consider voluntarily withdrawing its request for hearing and its NADA. Elanco, by letter dated January 5, 1982, and Syntex, by letter dated February 5, 1982, agreed to withdraw their requests for hearing and requested a voluntary withdrawal of their NADA's.

Section 514.115(d) (21 CFR 514.115(d)) of the animal drug regulations allows for the voluntary withdrawal of an approved NADA. But § 514.115(d) normally does not apply if the holder of the application whose withdrawal has been requested already has been afforded an opportunity for hearing on a proposal to withdraw approval of the NADA. In this case, however, Elanco's and Syntex's requests are being granted because of the extended time interval which has elasped since the notice of opportunity for hearing was published and also because the public interest will be served and the firm's interests will not be prejudiced by the withdrawals.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(e), 82 Stat. 345–347 (21 U.S.C. 360(e))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10 (formerly 5.1; see 46 FR 26052; May 11, 1981)) and redelegated to the Director of the Bureau of Veterinary Medicine (21 CFR 5.84), and in accordance with § 514.115 *Withdrawal of approval of applications* (21 CFR 514.115), notice is given that approval of Elanco's NADA 37–147 and Syntex's NADA 37–146 and all supplements to these applications for chlormadinone acetate are hereby withdrawn, effective June 7, 1982. Also, the notice of opportunity for hearing (36 FR 23733) is hereby withdrawn.

In a separate document published elsewhere in this issue of the **Federal Register** consistent with the action taken in this document, § 556.126 *Chlormadinone acetate* (21 CFR 558.126) and § 558.130 *Chlormadinone acetate* (21 CFR 556.130) are removed.

Dated: May 24, 1982.

Gerald B. Guest,

Acting Director, Bureau of Veterinary Medicine.

[FR Doc. 82–14595 Filed 5–27–82; 8:45 am]

BILLING CODE 4160–01–M

Health Care Financing Administration

Medicaid Program, Hearing; Reconsideration of Effective Date of a New Jersey State Plan Amendment

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Notice of Hearing.

SUMMARY: This notice announces an administrative hearing on June 22, 1982 in New York, New York to reconsider the effective date of New Jersey State Plan Amendment 80–2–MA.

CLOSING DATE: Request to participate in the hearing as a party must be received by June 14, 1982.

FOR FURTHER INFORMATION CONTACT: Lawrence Ageloff, Hearing Officer, Bureau of Program Policy, G–20 East High Rise Building, 6325 Security Boulevard, Baltimore, Maryland 21207, Telephone: (301) 594–8260.

SUPPLEMENTARY INFORMATION: This notice announces an administrative hearing to reconsider the effective date of a New Jersey State plan amendment.

Section 1116 of the Social Security Act and 45 CFR Parts 201 and 213 establish Department procedures that provide an administrative hearing for reconsideration for States dissatisfied with a determination on a State plan or plan amendment. HCFA is required to publish a copy of the notice to a State Medicaid agency that informs the agency of the time and place of the hearing and the issues to be considered. (If we subsequently notify the agency of additional issues which will be considered at the hearing, we will also publish that notice.)

Any individual or group that wants to participate in the hearing as a party must petition the Hearing Officer within 15 days after publication of this notice, in accordance with additional requirements contained in 45 CFR 213.15(b)(2). Any interested person or organization that wants to participate as amicus curiae must petition the Hearing Officer before the hearing begins, in accordance with additional requirements contained in 45 CFR 213.15(c)(1).

If the hearing is later rescheduled, the Hearing Officer will notify all participants.

The issue in this matter relates to the effective date established on a State plan amendment dealing with the rate review process for Intermediate Care Facilities for the Mentally Retarded. Regulations at 45 CFR 201.3(g) require that the effective date of such a State plan amendment may be no earlier than the first day of the calendar quarter in which an approvable plan is submitted. The New Jersey plan amendment was received on February 26, 1980 and thus, an effective date of January 1, 1980 was established. The State, however, requested an effective date of October 1, 1977. New Jersey has requested the reconsideration on the basis that the State relied on representatives of the Department to the State's detriment during the period October 1, 1977 to January 1, 1980 and based upon such reliance, withheld submission of the State plan amendment until February 26, 1980. The State contends, in this case, that the Department is barred from applying 42 CFR 201.3(g) because of the continuing knowledge and assistance provided by the Department between October 1, 1977 and January 1, 1980. The State further contends that the regulation should be waived.

The notice to New Jersey announcing an administrative hearing to reconsider the effective date of its State plan amendment reads as follows:

May 10, 1982.

Mr. Ivan J. Punchatz,

Deputy Attorney General, Department of Law and Public Safety, Division of Law, Human Services and Corrections Section, Richard J. Hughes, Justice Complex, CN 112, Trenton, N.J.

Dear Mr. Punchatz: This is in reply to your letters requesting reconsideration of the effective date of New Jersey State Plan Amendment 80–2–MA. This amendment, which pertains to the codification of the rate review process for Intermediate Care Facilities for the Mentally Retarded was approved on November 28, 1980 with an effective date of January 1, 1980.

You have requested reconsideration of the effective date based on your contention that the State relied on Region II staff in the development of the plan amendment from the period October 1, 1977 to January 1, 1980, and based on this reliance, the State withheld submission of the plan amendment until February 26, 1980.

I am scheduling a hearing on your request to be held on June 22, 1982 at 10:00 a.m. in Room 3809, 26 Federal Plaza, New York, New York. If this date is not acceptable, we would be glad to set another date that is mutually agreeable to the parties.

I am designating Mr. Lawrence Ageloff as the presiding official. Please let him know if these arrangements present any problems. He can be reached on (301) 594–8260.

Sincerely yours,

Carolyne K. Davis, Ph. D.

(Sec. 1116 of the Social Security Act (42 U.S.C. 1316))

(Catalog of Federal Domestic Assistance program No. 13.714, Medical Assistance Program)

Dated: May 10, 1982.

Carolyne K. Davis,

Administrator, Health Care Financing Administration.

[FR Doc. 82–14503 Filed 5–27–82; 8:45 am]

BILLING CODE 4120–03–M

Pharmaceutical reimbursement Board; Maximum Allowable Cost (MAC) Limits and Announcement of Public Hearing

AGENCY: Health Care Financing Administration (HCFA) HHS.

ACTION: Proposed notice.

SUMMARY: The Pharmaceutical Reimbursement Board (PRB) proposes maximum allowable cost limits on the drugs specified below and announces a public hearing with regard to these proposed MAC limits.

DATES: Hearing: July 14, 1982 (10 a.m.–5 p.m.). End of comment period: June 28, 1982. End of period for submission of requests to appear at the hearing: June 28, 1982.

Interested persons and organizations are invited to submit in writing comments on the proposed MAC limits. All comments received by July 12, 1982 will be considered and will be maintained for public inspection in the Pharmaceutical and Medical Services Reimbursement Branch, Bureau of Program Policy, HCFA.

A Public hearing on the proposed MACs will be held on July 14, 1982. Persons or organizations wishing to make presentations must submit to the Board's Executive Secretary by July 12, 1982 at least 20 copies of the proposed oral presentation in its entirety together will all supporting studies and materials and the names and addresses of proposed participants. The Board will grant every request to appear if the presentation is relevant to the proposed MAC limits.

PLACE OF HEARING: Room 171, 1st Floor, Altmeyer Building, 6325 Security Boulevard, Baltimore, Maryland 21207.

FOR FURTHER INFORMATION CONTACT: Charles Spalding, Executive Secretary, Pharmaceutical Reimbursement Board, Health Care Financing Administration, 1–D–5 East Low Rise Building, 6325 Security Boulevard, Baltimore, Maryland 21207, (301) 594–5403.

SUPPLEMENTARY INFORMATION:

General Information

The Pharmaceutical Reimbursement Board has been established within the Health Care Financing Administration for the purpose of setting MAC limits on certain multiple source drugs for which reimbursement is provided under Medicaid, Medicare and other programs administered by the Department. In accordance with 45 CFR 19.5, the Pharmaceutical Reimbursement Board proposes the following MAC limits:

Butabarbital sodium, oral tablets, 30mg—$0.0109 per tablet
Chlorothiazide, oral tablets, 250mg—$0.0275 per tablet
Chlorothiazide, oral tablets, 500mg—$0.0475 per tablet
Lithium carbonate, oral capsules, 300mg—$0.0310 per capsule
Lithium carbonate, oral tablets, 300mg—$0.0310 per tablet
Methylphenidate HC1, oral tablets, 10mg—$0.0655 per tablet
Nystatin, vaginal tablets, 100,000 units—$0.1233 per tablet
Nystatin, oral tablets, 500,000 units—$0.0785 per tablet
Nystatin, topical cream, 100,000 units/Gm—$0.0900 per gram
Potassium gluconate, oral liquid, 20mEq/15ml—$0.0058 per milliliter
Sulfamethoxazole, oral tablets, 0.5Gm—$0.0495 per tablet
Sulfamethoxazole, oral tablets, 1Gm—$0.0950 per tablet

The Board has identified these multiple source drugs as drugs for which significant amounts of Federal funds are expended and for which there are significantly different prices. The Food and Drug Administration (FDA) has advised the Board that there is no regulatory action, either pending or under consideration, that would be a reason for delaying or withholding the establishment of MAC limits on the drugs listed above. In making the initial determination of the lowest unit price at which each of the drugs is widely and consistently available from any formulator or labeler, the Board relied on two sources: *Drug Topic Red Book* and the assurance of suppliers of these drugs. *Drug Topics Red Book* is an authoritative and recognized listing of advertised prices. HCFA receives this listing on computer tape which is delivered quarterly with monthly updates.

Specific Drugs Limits

1. *Butabarbital sodium, oral tablets, 30mg.* The Board proposes a MAC limit of $.0109 per tablet based on a selling price of $1.09 per 100 tablets package size. The *Redbook* lists Towne Paulsen as both a maunfacturer and supplier of this drug product at the $.0109 price level. Towne Paulsen, which has a national distribution system, has assured the Board that any increased demand for the product can be met and that the product can be provided at the $.0109 price. While competitively priced products have been available for over 20 years, little market penetration has occurred. While the most frequently purchased size is the 100 tablet package, most suppliers do not offer this product in the 100s size since the majority of all dollar sales are in the 1000s size. However, the large number of suppliers overall is an added indication that supply of this drug product will be adequate.

2. *Chlorothiazide, oral tablets, 250mg.* The Board proposes a MAC limit of $.0275 per tablet based on a selling price of $2.75 per 100 tablet package size. There are three approved manufacturers of this product. The *Redbook* lists seven suppliers who advertise this product at or below the $.0275 price level. Included among those suppliers are Interstate, Spencer Mead and Henry Schein. Spencer Mead has assured the Board that it can supply the Medicaid market with this drug product at the MAC price, and does not foresee a problem with an increased demand. Myland Pharmaceuticals presently manufactures

significant amounts of this product and currently services 50 accounts including Interstate and Henry Schein. Ninety percent of Myland Pharmaceuticals' current sales of the 250mg dosage form are in 100 tablet package size bottles. Mylan Pharmaceuticals has assured the Board that it can adequately supply the product at the MAC price to the Medicaid market and can meet any increased demand.

3. *Chlorothiazide, oral tablets, 500mg.* The Board proposes a MAC limit of $.0475 per tablet based upon a selling price of $4.75 per 100 tablet package size. The *Redbook* lists 11 suppliers who advertise the product at or below the $.0475 price level. Among these suppliers are Spencer Mead, Henry Schein and Interstate. Spencer Mead offers nationwide distribution and has assured the Board of its ability to supply the Medicaid market with this product. Myland Pharmaceuticals currently produces significant amounts of this product and services the accounts of Henry Schein and Interstate. Mylan Pharmaceuticals has assured the Board the production can be expanded to meet any increased demand.

4. *Lithium Carbonate, oral capsules, 300mg.* The Board proposes a MAC limit of $.0310 per tablet based upon a selling price of $3.10 per 100 capsule package size. Lithium carbonate, 300 mg, is available in both capsule and tablet form. There are four approved manufacturers of the capsule form of this product. Philips Roxane, one of the approved manufacturers, also distributes this product nationally. The Board has received assurance from Philips Roxane or the company's ability to supply the Medicaid market at the MAC price.

5. *Lithium Carbonate, oral tablets, 300mg.* The Board proposes a MAC limit of $.0310 per tablet based upon a selling price of $3.10 per 100 tablet package size. Philips Roxane lists this product in the *Redbook* at $3.10 per 100 tablet package size and distributes this product nationally. As indicated above, lithium carbonate is marketed in both tablet and capsule form in a 300mg strength. While the potential savings from the establishment of a MAC limit for the tablet dosage form is minimal, the Board has determined that a MAC limit should also be set on the tablet form of the product since the tablet and capsule forms may tend to be used interchangeably.

6. *Methylphenidate, oral tablets, 10mg.* The Board proposes a MAC limit of $.0655 based upon a selling price of $6.55 per 100 tablet package size. MD Pharmaceuticals, one of the two approved manufacturers of this product, lists its product in the *Redbook* at or below the $.0655 price level. MD Pharmaceuticals assured the Board of its ability to increase production of this product to meet the Medicaid demand at the MAC price. Spencer Mead and Henry Schein also list their products in the *Redbook* at or below the proposed price.

7. *Nystatin, vaginal tablet, 100,000 units.* The Board proposes a MAC limit of $.1233 per milliliter based upon a selling price of $1.85 per 15 package size. The *Redbook* lists six suppliers who advertise this product at or below the $.1233 price level. Among the six suppliers are Interstate, Henry Schein, Bioline and Spencer Mead, each of whom supply the product nationwide.

B. *Nystatin, oral tablets, 500,000 units.* The Board proposes a MAC limit of $.0785 per tablet based upon a selling price of $7.85 per 100 package size. Squibb, Lederle and Premo are the three approved manufacturers of this product. Premo has assured the Board of its ability to increase production of this product to meet the Medicaid demand at the MAC price. The *Redbook* lists four suppliers who advertise this product at or below the $.0785 price level. These four suppliers are Spencer Mead, Bioline, Columbia and Henry Schein, each of whom supply the product nationwide.

9. *Nystatin, topical cream, 100,000 units/GM.* The Board proposes a MAC limit of $.0900 per gram based upon a selling price of $1.35 per 15Gm package size. Lederle, Squibb and Premo are the three approved manufacturers of this product. The *Redbook* lists five suppliers who advertise this product at or below the $.0900 price level. Among these suppliers are Henry Schein, Spencer Mead and Interstate, each of whom supply the product nationwide.

10. *Potassium gluconate, oral liquid, 20mEq/15ml; 4.68Gm/15ml, 480Ml.* The Board proposes a MAC limit of $.0058 per milliliter based upon a selling price of $2.76 per 480 milliliter. The *Redbook* lists ten suppliers who advertise this product at or below the $.0058 price level. Among the ten suppliers are Henry Schein, Spencer Mead and Interstate, each of whom supply the product nationwide. Spencer Mead has assured the Board that it can meet any increased demand for this product and can supply the Medicaid market at the MAC price.

Sulfamethoxazole, oral tablets, .5Gm. The Board proposes a MAC limit of $.0495 per tablet based upon a selling price of $4.95 per 100 package size. The *Redbook* lists nine suppliers who advertise this product at or below the $.0495 price level. Among these suppliers are Henry Schein, Spencer Mead, Bioline and Interstate, each of whom supply this product nationwide. Spencer Mead has assured the Board that it can meet any increased demand for the product and can supply the Medicaid market at the MAC price.

12. *Sulfamethoxazole, oral tablets, 1Gm.* The Board proposes a MAC limit of $.0950 based upon a selling price of $9.50 per 100 package size. Three suppliers advertise this product in the *Redbook* at or below the $.0950 price level. Bioline, which supplies this product nationwide, has assured the Board of the company's ability to supply the product to the Medicaid market and to meet any increased demand for the product at the MAC price.

The FDA advice and the economic data listed above are available for inspection in the Pharmaceutical and Medical Services Reimbursement Branch, Bureau of Program Policy, HCFA. A limited number of copies are available upon written request.

Regulatory Burden Analysis

We have determined that this proposed notice does not meet the criteria for a major rule as defined by section 1(b) of Executive Order 12291. That is, this proposed notice will not change expenditures by over $100 million per year; or cause a major increase in costs or prices for consumers, government agencies, industry, or a geographic region; or cause significant adverse effects on business or employment. We estimate that the net effect of this notice in reducing program expenditures would be approximately $2.9 million in fiscal year 1983. This proposed determination would set forth a specific unit price at which each of these drugs is widely and consistently available. For these reasons, we believe no Regulatory Impact Analysis is required.

In addition, this notice does not meet the criteria set forth in the Regulatory Flexibility Act of 1980 (5 U.S.C. 605(b)), for preparing a regulatory flexibility analysis since we do not believe that it would result in a significant economic impact on a substantial number of small pharmacies or other business entities. The MAC process is fundamentally designed to assure wide and consistent availability of the drug products subject to MAC limits. In every case, the Board has reviewed data which have enabled the Board to determine that small and medium size pharmacies are able to acquire these drug products at or below the proposed MAC limits.

(Secs. 1814(b), 1861(v)(1)(A), and 1902(a)(30) of the Social Security Act; 42 U.S.C. 1395f(b), 1395x(v)(1)(A), and 1396a(a)(30))

Dated: April 20, 1982.

Peter J. Rodler,

Chairman, Pharmaceutical Reimbursement Board.

[FR Doc. 82-14504 Filed 5-27-82; 8:45 am]

BILLING CODE 4120-03-M

Medicaid Program; Cost Sharing Demonstrations

AGENCY: Health Care Financing Administration, (HCFA), HHS.

ACTION: General notice.

SUMMARY: HCFA is soliciting applications from State Medicaid agencies for demonstration projects that will permit States to apply cost sharing to any services for Medicaid eligible individuals. Currently, States are permitted to apply nominal cost sharing to any services for the medically needy, but only to optional services for the categorically needy.

Research on cost sharing for the general population indicates it can have an effect on utilization of medical services. By allowing the States greater flexibility to apply a variety of approaches to cost sharing under Medicaid, we expect that States will conduct demonstrations to provide additional, useful information to HCFA, and through HCFA, to all the States, on the effectiveness of several methods of cost sharing. This information should enable HCFA to determine whether alternative methods of cost sharing will further the objectives of the Medicaid program by enabling States to continue to provide medical services.

This solicitation also contains information about demonstration requirements and application procedures.

CLOSING DATE AND TIME FOR APPLICATIONS: The closing date for applications under this special solicitation is July 27, 1982, 4:30 p.m. Eastern Daylight Savings Time.

ADDRESS: Standard application forms and guidance for the completion of the forms are available from: Health Care Financing Administration, Project Grants Branch, Area E-1, Gwynn Oak Building, 6325 Security Blvd., Baltimore, Md. 21207, (301) 594-3332.

FOR FURTHER INFORMATION CONTACT: David Maletz, Health Care Financing Administration, Office of Research and Demonstrations, Office of Demonstrations and Evaluations, Area 1-E-5, Oak Meadows Building, 6325 Security Boulevard, Baltimore, Maryland 21207.

SUPPLEMENTARY INFORMATION:

This notice is published in accordance with HCFA's **Federal Register** notice of December 1, 1981 (46 FR 58368) which stated that a special solicitation on cost sharing in the Medicaid program would be issued. This special solicitation announces a HCFA initiative to implement demonstration projects in which States may apply cost sharing to any services for Medicaid individuals. Currently, States are limited to applying cost sharing to any services for the medically needy, but only to optional services for the categorically needy (individuals who are eligible for Medicaid and who meet the financial eligibility requirements of a related cash assistance program; for example, Aid to Families with Dependent Children).

Only the single State agency which administers the Medicaid program may apply, and the applications must be made under the authority of section 1115 of the Social Security Act. Section 1115 of the Act authorizes the Secretary to waive, to the extent and for the period the Secretary finds necessary, statutory Medicaid State plan requirements and to reimburse costs not otherwise matched with Federal funds, in order to enable State agencies to carry out significant demonstration projects which, in the Secretary's judgment promote the objectives of the Medicaid statute. We believe that allowing greater cost sharing will further the objective of promoting the timely and economic delivery of appropriate, quality health care to eligible beneficiaries. Under section 1115 of the Act, the States will share in the costs of the projects on the basis of their medical assistance matching rate.

I. Background

A. *General.* Medicaid has experienced rapidly increasing costs since its inception in 1966. These increasing costs have seriously affected both Federal and State budgets which intensifies the need to review ways in which appropriate health care can be made available to eligible beneficiaries. This includes review of the factors affecting utlization of services, since inappropriate utilization obviously has adverse program consequences. Overutilization of medical services provided in more expensive settings strains a State's ability to provide appropriate medical services to all eligible recipients. In addition to the high costs, inappropriate utilization places an unnecessary strain on some parts of the health care delivery system. For example, with more appropriate utilization, nonemergency medical care now provided in emergency rooms could be provided in more appropriate settings, such as health maintenance organizations. This would result in emergency rooms being able to concentrate on providing emergency medical care.

The primary purpose of this solicitation is to allow HCFA to explore various methods of cost sharing, which can effectively encourage appropriate utilization and contain costs in the Medicaid program without adversely impacting on health status. However, the Medicaid statute currently limits cost sharing requirements to optional services for the categorically needy and to all services for the medically needy; and current Medicaid regulations impose specific limits on cost sharing (paragraph B, below). States that want to test methods of cost sharing that differ from those permitted under current rules must seek waivers under section 1115 of the Act.

Cost sharing could result in savings and more appropriate utilization of medical services by permitting States to encourage the use of efficient, cost-effective delivery systems. By requiring cost sharing for medical services provided in expensive settings, such as emergency rooms and hospital outpatient departments, the State can promote the use of lower-cost delivery systems such as health maintenance organizations.

B. *Types of Cost Sharing.* Three major types of cost sharing are used in health insurance: deductibles, coinsurance and copayments. Each has special characteristics, as discussed below:

- A deductible refers to a requirement that the patient pay a specified amount for health care services before any benefits become payable under the health insurance plan. A deductible of $50 to $150 annually is typical of most private sector insurance plans which include this requirement. Appropriate deductibles under Medicaid would be less. The deductible may apply to all the health services under the insurance plan, or only to certain types such as outpatient services; in some instances separate deductibles may apply to different types of services. One argument frequently put forth on behalf of deductibles is that they reduce the amount of insurance funds spent on persons with minor expenses and thereby target the funds on persons with substantial medical expenses. However, in some cases deductibles might discourage early diagnosis and treatment of illness leading to a possible overall increase in program costs.
- Coinsurance refers to the requirement that the patient pay a percentage of the charges for services.

Often, coinsurance requirements are used jointly with deductibles and the coinsurance begins only after the deductible has been met in full. Coinsurance rates in the private sector are typically 10 to 25 percent of the charges. Advocates of coinsurance argue that a coinsurance requirement encourages use of lower cost alternative health services since the coinsurance payment varies according to the cost of the services. On the other hand, coinsurance requirements can impose financial hardship on patients when expensive services such as complex surgery are needed. Further, determination of coinsurance amounts may be administratively difficult to calculate, and may be confusing to the beneficiary.

• A copayment refers to a requirement that the patient pay a flat amount for each unit of health service provided. For example, for a Medicaid population, a copayment requirement might be $2 per physician visit, $1 per prescription drug, $1 per hospital day, and so forth. Thus, the copayment impacts most severely on those who use a large number of services, but does not vary with the cost of a given service. Advocates of copayment emphasize that it is relatively easy for the beneficiary and provider to understand and for the insurer to administer. Opponents indicate that copayments may not encourage the use of cost efficient services to a maximum extent because the patient's obligation is fixed ragardless of the cost of a service.

Annual limits on cost sharing are used by some private health insurance plans; for example, $1,000—after which no further payment is required even if additional services are used. An annual limit, if established, could be used with any of the three types of cost sharing described above and should be established at a level appropriate to the financial resources of Medicaid recipients.

Medicaid regulations at 42 CFR 447.51 through 447.58 contain the standards and conditions under which States may require cost sharing. Current limits on the magnitude of deductibles, coinsurance, and copayments are contained in § 447.54 and are as follows:

1. For noninstitutional services, any deductible may not exceed $2.00 per month per family; any coinsurance rate may not exceed 5 percent of the payment the Medicaid agency makes for the service; and any copayments the agency requires may not exceed the amounts shown in the following table:

State's payment for the services	Maximum copayment chargeable to beneficiaries
$10 or less	$0.50
$11 to $25	1.00
$26 to $50	2.00
$51 or more	3.00

2. For institutional services, the maximum deductible, coinsurance or copayment charge for each admission may not exceed 50 percent of the payment the agency makes for the first day of care in the institution.

Under the demonstration project, States may propose levels of deductibles, coinsurance, and copayments, and cost sharing on services, other than permitted under current regulations. However, a State must justify the level, and show, by projecting the financial impact, that it will not impose excessive financial hardship on the eligible population. In addition, States must assure that Medicaid beneficiaries have access to critically necessary services; for example, emergency services. Because States will have the opportunity to apply various methods of cost sharing, we expect these demonstrations to provide additional information to HCFA and the States on the relative effectiveness of several methods of cost sharing, as well as on various ways of administering cost sharing programs.

C. *Research Involving Cost Sharing*

1. *Copayments.* In 1972, the State of California initiated an 18-month copayment experiment under their Medi-Cal (Medicaid) program. Medically needy Medi-Cal recipients throughout the State were assessed copayments of $1 for each of the first two monthly doctor's visits and 50 cents for each of the first two drug prescriptions each month. The experiment showed that utilization rates were reduced up to 15 percent for some groups and that beneficiaries generally did not forego care for problems that they themselves felt were serious, or for medical conditions which were judged by a panel of physicians as significant. Utilization of preventive care was also reduced, suggesting that these services should probably be exempt from copayment. Such results support the hypothesis that even nominal copayments can be effective in directing the demand and distribution of services.

2. *Coinsurance.* The Rand Corporation has recently reported preliminary results from a carefully designed health insurance experiment. The experiment sought to test demand behavior under a number of experimental conditions and delivery systems. The results showed a distinct relationship between service utilization and size of coinsurance requirements. The Rand results indicated that total expenditures per capita (inpatient plus ambulatory, excluding dental services and outpatient mental health services) rise steadily as coinsurance falls.

In addition to the Rand results, data from earlier experiments demonstrate the effect of coinsurance on demand for health care services. In 1965 the Palo Alto Group Health Plan offered a comprehensive prepaid plan to employees of Stanford University. A year and a half later, in response to increased demand, the Plan increased its premium and instituted a coinsurance requirement of 25 percent for ambulatory services. The result was a 24 percent drop in utilization of physician services. Per capita costs decreased over 25 percent.

3. *Literature Concerning Cost Sharing Experiments.* J.P. Newhouse, senior staff economist with the Rand Corporation, prepared an extensive review of the literature concerning the effects of out-of-pocket payments on the provision of health insurance. The experiments described in paragraphs 1 and 2 above, are included in J.P. Newhouse's article "Insurance Benefits, Out-of-Pocket Payments, and the Demand for Medical Care," published in *Health and Medical Care Services Review,* volume 1, No. 4, July/August 1978, pps. 1–15.

II. Demonstration Objectives

We believe that allowing greater cost sharing will further the objective of promoting the timely and economic delivery of appropriate, quality health care to eligible beneficiaries. Specifically, HCFA seeks to gain more detailed information on the effects of cost sharing on utilization, cost and quality of health care, particularly with respect to the following areas:

A. *Effects of cost sharing requirements on patterns of service utilization under Medicaid.* The use of cost sharing can be an effective tool in promoting the use of efficient services and discouraging inefficient services. However, cost sharing requirements, if improperly designed, may lead to an increase in inpatient services at a net increase in program costs. Carefully developed plans for cost sharing should help to direct the demand for services to a mode that is consistent with the State Medicaid program's goal of cost effectiveness. The demonstration should provide information on additional ways to assure that cost sharing requirements have the intended result.

B. *Net savings resulting from a Medicaid cost sharing program.* By requiring Medicaid recipients to share costs, we expect net program costs to decrease. However, cost sharing could increase net costs to the program because—(1) demand may be shifted to more expensive services in lieu of less expensive, less intense, or preventive services; and (2) administrative costs of implementing and monitoring a cost sharing program could exceed savings realized from cost sharing and reduced utilization. We expect the additional information received from the demonstrations to be useful in assisting States to operate programs that will show decreases in net costs.

C. *Effect of cost sharing on quality of care furnished to Medicaid beneficiaries.* In evaluating the demonstrations, the States should determine any effect on access to care and appropriateness of care. As indicated above, previous demonstrations have shown that beneficiaries continued to receive appropriate services for significant conditions. We are interested in additional information on a variety of ways to assure maintenance of quality. (As explained in section III. Research and Evaluation Design, below, a State must assure HCFA that beneficiaries will not be denied access to critically necessary services.)

D. *Mechanisms for administering a Medicaid cost sharing program.* There are numerous ways to administer a cost sharing program. Administrative options include selection of magnitude and type of cost sharing, types of services and beneficiary categories subject to cost sharing, and mechanisms for collecting payments and program monitoring. Administrative costs would depend on a number of factors, including whether a State currently has a Medicaid Management Information system (a mechanized claims processing and information retrieval system), types of surveillance practices by the State Medicaid program, the mechanism for collecting cost sharing amounts, and frequency of bad debts under the program. We anticipate that the demonstrations will shed light on optimum ways to implement such programs.

III. Research and Evaluation Design

HCFA is interested in testing a variety of approaches to cost sharing and is seeking demonstrations that vary according to type of cost sharing (deductible, coinsurance, or copayment); the type of services for which cost sharing is imposed; and the amount of cost sharing.

A vaild research design is important in order to secure useful, policy-relevant information. This section addresses several issues concerning research and demonstration design requirements. We expect Medicaid agencies to establish a research and demonstration design that will permit the evaluation of the impact of cost sharing on their eligible populations.

A vaild research design requires the establishment of comparison groups. The most effective way to assign clients to the demonstration and comparison groups is through random assignment. Another method is to match clients from defined populations of two distinct geographic locations. These groups should be statistically comparable on all key demographic and health characteristics, such as race, age, urban-rural composition, etc. If the demonstration is implemented on a statewide basis, the research design must discuss how the impact of cost sharing can be distinguished from other concurrent cost containment programs the State is initiating.

In addition, States should consider a time series analysis whereby the demonstration objectives explained in Section II, above, would be measured before, during, and after the demonstration.

A second design issue concerns the methods of data collection. Wherever possible the existing program's record system, whether automated or manual, should be used. If the current system does not contain the needed information, the project should, in most cases, expand the system to provide this data. Reasonable attempts should be made to use the existing system for generating new data. We recognize that a State without a mechanized claims processing and information retrieval system may have difficulty generating adequate data.

A third design issue concerns sampling procedures. Whenever the number of clients, providers, etc. is sufficiently large, then sampling procedures should be considered. The size of the samples should be determined through the use of statistical formulas and should be sufficient to permit statistically valid conclusions.

The design of the demonstration project may require additional administrative tasks to implement and evaluate the demonstration. There must be a capability of gathering detailed management information in order to properly administer the project and assess its effectiveness. These tasks would include, but not be limited to, the following:

- Provide for and track the collection of cost sharing payments from Medicaid recipients.
- Provide for appropriate surveillance in order to avoid fraud and abuse, and, in States that permit providers to write off cost sharing amounts as bad debts, to minimize the number of write-offs. Widespread failure to collect cost sharing payments would dilute the effectiveness of the program (insofar as it seeks to influence utilization), even though the State Medicaid program would not be liable for the amount not collected.
- Ensure that Medicaid beneficiaries are clearly informed of their cost sharing obligations. It is important that recipients be fully informed of cost sharing plans so that they can be prepared to participate fully in the program.

The demonstration proposals should include in the project application an evaluation design that includes evaluation questions and a complete research design. Applications should indicate how each of the data requirements of the evaluation section will be met. Funds necessary to conduct an evaluation should be included in the budget. HCFA may decide to conduct an independent evaluation of all demonstrations awarded under this solicitation by requiring a uniform evaluation approach for the demonstrations.

All proposals must include a description of the precautions that will be used to assure that Medicaid beneficiaries will not be denied access to critically necessary services. For example, beneficiaries must continue to have access to emergency services.

IV. Waivers

It is possible to waive certain Federal statutes and regulations to allow cost sharing demonstrations. Projects must define the waivers which are required, discuss the impact of the waivers on program expenditures (that is, estimate service costs with and without the waivers), state the effect on Federal, state, and local laws, and discuss the impact on beneficiaries enrolled in the project.

All requirements of the Social Security Act, the Code of Federal Regulations, and other issuances that pertain to the title XIX categorical program are applicable to a project approved under section 1115 of the Act, except as specifically waived.

To conduct a cost sharing demonstration, a State Medicaid agency must seek a waiver of the cost sharing requirements that would otherwise

prohibit the methods of cost sharing a State wants to implement. Cost sharing requirements are located at section 1902(a)(14) of the Act and 42 CFR 447.51 through 447.58.

A State must also request waivers of any other requirements that would otherwise prohibit a cost sharing project. For example, a State may need to request a waiver of the statewideness requirements under section 1902(a)(1) of the Act and 42 CFR 431.50.

A State Medicaid agency should give special attention to the preparation of the budget (see HCFA–PG–11A, Instructions for Completion of Federal Assistance Application Form HCFA–PG–11).

V. Number and Duration of Demonstration Projects

A. *Number of Projects.* HCFA anticipates that between 5 and 15 demonstration projects will be implemented. We are seeking only section 1115 waiver applications. No grant funds are available for applications under this special solicitation.

B. *Duration of Projects.* Each demonstration project will be awarded for a 3-year period. Waivers will be granted for 1 year at a time, with second and third year waivers based on previous years' experience. Continuation of projects will be contingent upon applicants' ability to meet prior year objectives, and the continued relevance of the project to HCFA programs.

VI. Selection Procedures and Instructions for Applicants

A. *General Criteria.* The Director, Officer of Research and Demonstrations (ORD), determines which projects will be accepted. These decisions are based on the recommendations of technical review panels composed of advisers outside of ORD. Frequently, panels include other employees of HCFA, the Department and the States, and members of the private sector. The criteria employed in the selections include—

1. The adequacy of the demonstration design, methods, data base(s), and the experience and competence of the personnel;

2. Whether there is a realistic expectation that the demonstration objectives can be achieved within the time specified;

3. Whether the proposed project methodology is precise and consistent with what is generally agreed to be the state of the art;

4. Whether the overall budget, the personnel resources to be used, and the facilities and equipment are appropriate for the proposed project;

5. Documentation of a commitment of the parties necessary to the success of the planned project; and

6. Whether results would be of value in other State settings and are of national importance.

B. *Standard Project Requirements.* In addition to meeting the general criteria described above, the applications must also meet the specific requirements that follow:

1. The project goals and objectives must be clearly stated and should be measurable.

2. The research design, including the questions to be addressed, and the methods and the data to be used, must be explicitly described. The methodology must be well defined and scientifically valid.

3. The tasks and milestones must be clearly described and scheduled and must include a schedule of reports to be submitted to HCFA (See Section D. Reports, below).

4. Data that are collected under a HCFA demonstration project must be available to HCFA and its agents. However, the appalicant must ensure the confidentiality of any personally identifiable information collected under the auspices of any HCFA grant.

5. The application must include the qualifications and experience of the personnel and demonstrate how their qualifications make the indivisuals capable of performing the tasks in the project. The application must also specify how the personnel are to be organized in the project, to whom they report and how they will be used to accomplish specific objectives or portions of the project.

6. The application must specify the availability of adequate facilities and equipment for the project or clearly state how these are to be obtained.

7. Projects that require waivers (under section 1115 of the Act) must define the affected services, list the waivers, discuss the implications if those waivers are granted, state the effect on Federal, State, and local laws as well as the effect (beneficial or adverse) on individuals enrolled in the project.

In addition, these applications must estimate the amount of program and administrative expenditures that will occur under the waivers and compare these expenditures to those that currently occur in the programs. Particular emphasis must be given to this element.

8. Plans for utilization of the project's results must be discussed.

9. While HCFA does not require review under Office of Management and Budget Circular No. A–95, all applicants must nevertheless determine whether review by the appropriate State and areawide clearinghouse is required. This review is designed to promote coordination of Federal and Federally assisted programs and projects with each other and with State and local plans and programs.

10. Under Pub. L. 96–511, The Paperwork Reduction Act of 1980, the Department is required to submit to the Director of the Office of Management and Budget any Federally-sponsored information collection or recordkeeping requirements developed by the State agency for demonstration projects. Normally, an exemption is granted only when the information is collected from fewer than 10 members of the public. Before there are any data collections or recordkeeping imposed, either a clearance package or request for exemption must be submitted to HCFA's Office of Management and Budget.

C. *Specific Project Requirements.* The application must contain information describing the specific cost sharing model being proposed. The following issues should be addressed:

1. A description of the current Medicaid program, showing how the program would benefit through the inclusion of a cost sharing requirement.

2. A description and justification of the proposed cost requirement, including the services and eligibility categories to which it would apply. A detailed rationale should be provided indicating how the level of cost sharing was selected and why it would not result in an excessive financial hardship to beneficiaries.

3. A detailed description of how the cost sharing program would be administered, including monitoring, fraud and abuse concerns, quality control, beneficiary information, and an implementation strategy.

4. An estimate of the savings that the cost sharing program under Medicaid would generate.

5. A detailed description of the research design, including hypotheses to be tested.

6. An evaluation plan.

The narrative portion of all proposals must adhere to the following format:

1. Abstract or Executive Summary.
2. Project Description.
3. Evaluation Strategy.
4. Description of the Organization.
5. Project Personnel.
6. Workplan.

D. *Reports.* Quarterly and annual reports summarizing progress to date must be submitted to ORD and to the Project Grants Branch of HCFA's Office

of Management and Budget. The quarterly reports must contain a description of progress made in achieving the specific objectives stated in the project's work plan. When a project is completed, each applicant must submit a final report. The report must contain a project description, and must, at a minimum, include the following:

1. Identification of the project director, project number, and title of the project;
2. A complete description of initial hypotheses and objectives and the findings resulting from implementation of the project;
3. A list of the publications resulting from the project;
4. Acknowledgement of the support received from HCFA and a disclaimer to the effect that the findings do not necessarily reflect policies of HCFA; and
5. An executive summary of the report in camera-ready format.

VII. Application Procedure

A. *Submitting Applications.* When submitting the application, applicants must include a statement in the project title block that the application is in response to the special solicitation on Mediaid cost sharing. This designation must also be marked clearly on the outside of the package or envelope. Applications should be sent to the Project Grants Branch at the address shown in the Address section of this notice, above.

B. *Closing Date and Time.* Applications that are mailed must be postmarked (first class mail) by the closing date, and received by HCFA before the technical review panel concludes its review. Because of the importance of the postmark, we encourage applicants to request the post office to provide a legible postmark. If express, certified, or registered mail is used, the applicant should obtain a legible dated mailing receipt from the U.S. Postal Service. Private metered postmarks are not acceptable as proof of timely mailings. Applications that are submitted by any means except first class mail through the U.S. Postal Service must be received by the closing date and time.

C. Demonstration Projects. Projects are awarded through a competitive process based on a choice of applications submitted in response to this notice. HCFA reserves the right to undertake independent evaluations of any demonstrations undertaken as a result of this solicitation.

Other policies, including responsibilities, awarding and payment procedures, special provisions and assurances, are described in the following documents that are included in the application kit:

HCFA Grants Policy Handbook, DHEW Publication No. (HCFA) 79-04001 (Rev. 6/79), and 45 CFR Part 74, Administration of Grants.

(Sec. 1115 of the Social Security Act (42 U.S.C. 1315))

(Catalog of Federal Domestic Assistance Program No. 13766, Research and Demonstration Grants)

Approved: May 4, 1982.

Carolyne K. Davis,

Administrator, Health Care Financing Administration.

[FR Doc. 82-14658 Filed 5-27-82; 8:45 am]

BILLING CODE 4120-03-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 on May 21.

Public Health Service

Food and Drug Administration

Subject: Measuring Timeliness and Responsiveness of Letters to Consumers (OMB 0910-0128)—Extension
Respondents: Individuals or households
Subject: Food Canning Establishment Registration and Process Filing Forms (FDA 2541)—Extension
Respondents: Businesses or other institutions (except farms)
OMB Desk Officer: Fay S. Iudicello

National Institutes of Health

Subject: Survey of Practice in the Management of Febrile Seizures—New
Respondents: Physicians

Office of the Assistant Secretary for Health

Subject: Financial Status Report for Research and Training Grants SF-269—New
Respondents: Universities/hospitals/state or local governments/individuals
OMB Desk Officer: Richard Eisinger

Social Security Administration

Subject: Request for Reconsideration by an Individual Whose Rights May be Prejudiced by a Previous SSA Decision SSA-561-U2(2-82)—Revision
Respondents: Individuals or households
OMB Desk Officer: Milo Sunderhauf

Office of Human Development Services

Subject: HDS Grant Application (OMB 0980-0016)—Revision to include head start training and technical assistance grants
Respondents: Individuals/state or local governments/businesses or other institutions
OMB Desk Officer: Milo Sunderhauf

Health Care Finance Administration

Subject: Surveys for the Evaluation of the Health Maintenance Organization Capitation Demonstration (HCFA 346)—New
Respondents: Individuals or households
OMB Desk Officer: Fay S. Iudicello

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: May 20, 1982.

Dale W. Sopper,

Assistant Secretary for Management and Budget.

[FR Doc. 82-14390 Filed 5-27-82; 8:45 am]

BILLING CODE 4150-04-M

Public Health Service

Privacy Act of 1974; Addition of a New Routine Use to Systems of Records

AGENCY: Public Health Service, HHS.

ACTION: Notification of a proposal to add a routine use to 14 systems of records which are maintained by the National Institute for Occupational Safety and Health, Centers for Disease Control:

"Diagnosis of Occupational Disease by Analysis of Body Fluids or Tissues through Biochemical or Clinical Chemical Analysis," HHS/CDC/NIOSH, 09-20-0082;

"Diagnostic Methods for Identification of Occupational Diseases through Biopsy and/or Autopsy Specimens," HHS/CDC/NIOSH, 09–20–0083;
"Medical and Test Record Results of Individuals Involved in NIOSH Laboratory Studies," HHS/CDC/NIOSH, 09–20–0117;
"Study at Work-Sites where Agents Suspected of Being Occupational Hazards Exist," HHS/CDC/NIOSH, 09–20–0118;
"Occupational Health Epidemiological Studies," HHS/CDC/NIOSH, 09–20–0147;
"Results of Occupational Hearing Studies," HHS/CDC/NIOSH, 09–20–0148;
"General Industry Morbidity Studies," HHS/CDC/NIOSH, 09–20–0149;
"Morbidity Studies in Coal Mining Activities," HHS/CDC/NIOSH, 09–20–0150;
"Mortality Studies in Coal Mining Activities," HHS/CDC/NIOSH, 09–20–0151;
"Mortality Studies in Non-Coal Mining Activities," HHS/CDC/NIOSH, 09–20–0152;
"General Industry Mortality Studies," HHS/CDC/NIOSH, 09–20–0153;
"Medical and Laboratory Studies," HHS/CDC/NIOSH, 09–20–0154;
"Morbidity Studies in Metal and Non-Metal Mining Activities," HHS/CDC/NIOSH, 09–20–0155;
"Records of Subjects in Certification, Testing and Safety Studies of Personal Protective Devices for Hazardous Work Environments," HHS/CDC/NIOSH, 09–20–0159.

SUMMARY: In accordance with the requirements of the Privacy Act, the Public Health Service (PHS) is publishing notice of a proposal to add a new routine use to 14 systems of records to permit the National Institute for Occupational Safety and Health (NIOSH), Centers for Disease Control, to provide data collected in the course of epidemiological studies to collaborating researchers. A collaborating researcher is defined as a NIOSH contractor, grantee, or other Federal or State scientist who is collaborating with NIOSH in a research project. The researcher will then use the data to conduct further epidemiological studies in support of NIOSH objectives. Collaborating researchers will receive such data only in situations specifically approved by the Director, NIOSH. The Director, NIOSH, will approve such releases of data only when it has been determined: (a) That a study is important to the NIOSH mission and could not be cost-effectively accomplished through other mechanisms; (b) an acceptable research plan is presented to and approved by NIOSH; (c) the receiving group can and would be made legally accountable to NIOSH for that group's security program; (d) adequate security procedures are presented to and approved by NIOSH; (e) the receiving group would not release the data in individually identifiable form to a third party unless release to a third party is approved by NIOSH or required by a court-order; (f) NIOSH would be permitted to review any proposed publication of research findings to assure that data is aggregated and published in a form which will not identify individuals; and (g) the receiving group would return to NIOSH or destroy all of the data that were in identifiable form at an agreed-upon date.

PHS invites interested persons to submit comments on the proposed routine use on or before June 28, 1982.

DATES: We will adopt the new routine use without further notice 30 days after the date of publication unless we receive comments which would result in a contrary determination.

ADDRESS: Comments should be addressed to: NIOSH Privacy Act Coordinator, National Institute for Occupational Safety and Health, Room 8–48, 5600 Fishers Lane, Rockville, Maryland 20857. Comments received will be available for inspection at that address from 8:00 a.m. to 4:30 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Darlene Christian, NIOSH Privacy Act Coordinator, 5600 Fishers, Lane, Room 8–48, Rockville, Maryland 20857 (301) 443–4220.

SUPPLEMENTARY INFORMATION: The purpose of this routine use is to allow NIOSH to provide data collected in the course of epidemiological studies to collaborating researchers for the purposes of their conducting further studies in support of NIOSH objectives. This release will allow NIOSH to utilize the specialized skills of other researchers on specific studies which are governed by these 14 NIOSH system notices.

This recent change in NIOSH policy has been brought about mainly by three factors: (a) A significant increase over the last ten years in the number of individuals and institutions outside of NIOSH with sophisticated skills in conducting workplace-related epidemiological studies (partly as a result of NIOSH's programs for training occupational safety and health professionals); (b) a desire on the part of the recently appointed NIOSH director to simulate the conduct of occupational safety and health research, together with the development of epidemiological skills by other institutions outside of NIOSH; (c) the results of recent court decisions and subsequent advice received from NIOSH legal counsel which indicates that, if properly supervised by NIOSH, such extramural research efforts would not jeopardize NIOSH's access to the personnel and medical records of workers in the industries under study.

NIOSH has examined alternative means of accomplishing research disclosures, which include: (a) Requiring the researcher to obtain informed consent forms from the individual subjects prior to NIOSH releasing the data to the collaborating researchers; (b) providing the data to the collaborating researchers with individual identifiers removed. NIOSH will continue to use these two alternatives for certain kinds of epidemiological studies, but for other studies, e.g., those which require medical examination or determination of the vital status of an individual, such an approach is not practical for the following reasons:

1. For a large-scale study in which the study subjects are widely-dispersed, it may be too time-consuming and costly to obtain the written consent of each individual. In some cases, it may not be possible to obtain written consent because the individual's current address is not known.

2. Obtaining written consent may in some instances bias the results of the subsequent epidemiological study.

3. Providing data with individual identifiers removed will in some instances preclude further follow-up of the individual workers (e.g., collaborating researchers would not be able to determine their vital status or conduct further medical examinations without knowing the individual's name).

Therefore, we have concluded that this approach, i.e., adding a new routine use, is the most cost-effective method if judiciously applied, and that the small potential risk to personal privacy is outweighed by the potential benefits to worker health.

The routine use is as follows:

Disclosure may be made to NIOSH collaborating researchers (NIOSH contractors, grantees, or other Federal or State scientists) in order to accomplish the research purpose for which the records are collected. The collaborating researchers must agree in writing to comply with the confidentiality provisions of the Privacy Act and NIOSH must have determined that the researchers' data security procedures will protect confidentiality.

The proposed routine use would allow the Institute to perform the research effectively, and ensure that no disclosures of individually identified information are made for purposes which are not the same or compatible with those for which the information was originally collected.

The system notices were last published in the **Federal Register** on October 17, 1981, pages 52851–52898, and are republished in their entirety below to incorporate the proposed new routine use.

Dated: May 20, 1982.

Wilford J. Forbush,

Deputy Assistant Secretary for Health Operations and Director, Office of Management.

09–20–0082

SYSTEM NAME:

Diagnosis of Occupational Disease by Analysis of Body Fluids or Tissues through Biochemical or Clinical Chemical Anaylsis. HHS/CDC/NIOSH.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Division of Biomedical and Behavioral Science (DBBS), National Institute for Occupational Safety and Health (NIOSH), Robert A. Taft Laboratories, Cincinnati, Ohio 45226.

Also, occassionally data may be located at the facilities of collaborating researchers where analyses will be performed, data collected and reports written. A list of these facilities will be available upon request to the system manager. Data may be located only at those facilities that have an adequate data security program and the collaborating researcher must return the data to NIOSH or destroy individual identifiers at the conclusion of the project.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Industrial workers.

CATEGORIES OF RECORDS IN THE SYSTEM:

Medical Records, information necessary to interpret the medical records, and results of clinical laboratory tests.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Occupational Safety and Health Act section 20 (29 U.S.C. 669).

PURPOSE(S):

The purpose of this sytem is to maintain clinical laboratory results on individuals involved in NIOSH health hazard evaluations.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Test results furnished to physician who requests analysis.

Dicslosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

In the event of litigation where the defendant is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to present an effective defense, provided such disclosure is compatible with the purpose for which the records were collected. For example, records may be released to the Department of Justice in defending claims against the U.S. when the claim is based upon an individual's mental or physical condition and is alleged to have risen because of activities of the Public Health Service in connection with such individual.

Records subject to the Privacy Act will be disclosed to private firms for data entry, computer systems analysis and computer programming services. The contractors will promptly return all data entry records, and all computer work will be done on Government-owned computers. The contractors will be required to maintain Privacy Act safeguards.

In the event of litigation initiated at the request of NIOSH, the Institute may disclose such records as it deems desirable or necessary to the Department of Justice to enable the Department to effectively represent the Institute, provided such disclosure is compatible with the purpose for which the records were collected. The only types of litigative proceedings that NIOSH is authorized to request are (1) enforcement of subpoena issued to an employer to provide relevant information, or (2) contempt citation against an employer for failure to comply with a warrant obtained by the Institute.

Disclosure may be made to NIOSH collaborating researchers (NIOSH contractors, grantees, or other Federal or State scientists) in order to accomplish the research purpose for which the records are collected. The collaborating researchers must agree in writing to comply with the confidentiality provisions of the Privacy Act and NIOSH must have determined that the researcher's data security procedures will protect confidentiality.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Manual files.

RETRIEVABILITY:

Name or code is used to retrieve records from this system.

SAFEGUARDS:

Building guards

Personnel screening

RETENTION AND DISPOSAL:

Record copy maintained from three to ten years in accordance with retention schedules. Source documents for computer disposed of when no longer needed in the study as determined by the system manager, and as provided in the signed consent form, as appropriate.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Clinical and Biochemical Support Section, DBBS, NIOSH, Robert A. Taft Laboratories, 4676 Columbia Parkway, Cincinnati, Ohio 45226.

NOTIFICATION PROCEDURE:

To determine if a record exists, write to:

Director, DBBS, NIOSH, Robert A. Taft Laboratories, 4676 Columbia Parkway, Cincinnati, Ohio 45226.

An individual who requests notification of or access to a medical record shall, at the time the request is made, designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion.

RECORD ACCESS PROCEDURES:

Same as notification procedures. Requesters should also reasonably specify the record contents being sought.

CONTESTING RECORD PROCEDURES:

Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested.

RECORD SOURCE CATEGORIES:

Private and industrial physicians.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09-20-0083

SYSTEM NAME:

Diagnostic Methods for Identification of Occupational Diseases through Biopsy and/or Autopsy Specimens. HHS/CDC/NIOSH.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Division of Biomedical and Behavioral Science (DBBS) National Institute for Occupational Safety and Health (NIOSH) Robert A. Taft Laboratories, 4676 Columbia Parkway, Cincinnati, Ohio 45226.

Also, occasionally data may be located at the facilities of collaborating researchers where analyses will be performed, data collected and reports written. A list of these facilities will be available upon request to the system manager. Data may be located only at those facilities that have an adequate data security program and the collaborating researcher must return the data to NIOSH or destroy individual identifiers at the conclusion of the project.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Industrial workers.

CATEGORIES OF RECORDS IN THE SYSTEM:

Medical records, and information necessary to interpret the medical records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Occupational Safety and Health Act Section 20 (29 U.S.C. 669).

PURPOSE(S):

The purpose of this system is to diagnose occupational diseases by tissue examination and analysis.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Test results are furnished to the physician who requests analysis.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Portions of records (name, Social Security number if known, date of birth, and last known address) may be disclosed to one or more other sources selected from those listed in Appendix I, as applicable. This may be done solely for obtaining a determination as to whether or not an individual has died. The purpose of determining death is so that NIOSH may obtain death certificates, which state the cause of death, from the appropriate Federal, state, or local agency. Cause of death will enable NIOSH to evaluate whether excess occupationally related mortality is occurring.

In the event of litigation where the defendant is (a) the Department, any component of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it seems desirable or necessary to the Department of Justice to enable that Department to present an effective defense, provided such disclosure is compatible with the purpose for which the records were collected. For example, records may be released to the Department of Justice in defending claims against the U.S. when the claim is based upon an individual's mental or physical condition and is alleged to have arisen because of activities of the Public Health Service in connection with such individual.

Records subject to the Privacy Act will be disclosed to private firms for data entry, computer systems analysis and computer programming services. The contractors will promptly return all data entry records, and all computer work will be done on Government-owned computers. The contractors will be required to maintain Privacy Act safeguards.

In the event of litigation initiated at the request of NIOSH, the Institute may disclose such records as it deems desirable or necessary to the Department of Justice to enable the Department to effectively represent the Institute, provided such disclosure is compatible with the purpose for which the records were collected. The only types of litigative proceedings that NIOSH is authorized to request are (1) enforcement of a subpoena issued to an employer to provide relevant information, or (2) contempt citation against an employer for failure to comply with a warrant obtained by the Institute.

Disclosure may be made to NIOSH collaborating researchers (NIOSH contractors, grantees, or other Federal or State scientists) in order to accomplish the research purpose for which the records are collected. The collaborating researchers must agree in writing to comply with the confidentiality provisions of the Privacy Act and NIOSH must have determined that the researchers' data security procedures will protect confidentiality.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Manual files.

RETRIEVABILITY:

Name or code is used to retrieve records from this system.

SAFEGUARDS:

Building guards.

Personnel screening.

Computerized records are protected by locked computer rooms, locked tape vaults, and password protection.

RETENTION AND DISPOSAL:

Record copy maintained from three to ten years in accordance with retention schedules. Source documents for computer disposed of when no longer needed in the study, as determined by the System Manager, and as provided in the signed consent form, as appropriate.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Pathology Section, DBBS, NIOSH, Robert A. Taft Laboratories, 4676 Columbia Parkway, Cincinnati, Ohio 45226.

NOTIFICATION PROCEDURES:

An individual may learn if a record exists about herself/himself upon written request, with notarized signature if request is made by mail, or with suitable identification (i.e., driver's license, passport) if request is made in person. All individuals requesting records will be informed that anyone who knowingly and willfully requests access to a record pertaining to an individual under false pretenses is committing a criminal offense under the Act and subject to a maximum fine of 5,000 dollars.

To determine if a record exists, write to:

Director, DBBS, NIOSH, Robert A. Taft Laboratories, 4676 Columbia Parkway, Cincinnati, Ohio 45226.

An individual who requests notification of or access to medical records shall, at the time the request is made, (1) provide a written notarized request designating a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion, (2) supply

the name of the study, if known, (3) provide the approximate date and place of the study, if known, and (4) provide the approximate date and place of treatment or questionnaire administration.

RECORD ACCESS PROCEDURES:

Same as notification procedures. Requesters should also reasonably specify the record contents being sought.

CONTESTING RECORD PROCEDURES:

Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested.

RECORD SOURCE CATEGORIES:

Private and industrial physicians.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Appendix I

Potential Sources for Determination of Vital Status
Military Records
Appropriate State Motor Vehicle Registration Departments
Appropriate State Drivers License Departments
Appropriate State Government Divisions of Assistance Payments (Welfare), Social Services, Medical Services
Food Stamp Program, Child Support, Board of Corrections, Aging
Indian Affairs, Workman's Compensation, Disability Insurance
Veteran's Administration Files
Appropriate employee union or association records
Appropriate company pension or employment records
Company group insurance records
Appropriate State Vital Statistics Offices
Life Insurance Companies
Railroad Retirement Board
Area Nursing Homes
Area Indian Trading Posts
Mailing List Correction Cards (U.S. Postal Service)
Letters and telephone conversations with relatives
Letters and telephone conversations with former employees of the same establishment as cohort member
Appropriate local newspaper (obituaries)

09-20-0117

SYSTEM NAME:

Medical and Test Record Results of Individuals Involved in NIOSH Laboratory Studies, HHS/CDC/NIOSH.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATIONS:

Division of Biomedical and Behavioral Sciences (DBBS), National Institute for Occupational Safety and Health (NIOSH), Robert A. Taft Laboratories, 4676 Columbia Parkway, Cincinnati, Ohio 45228

Also, occasionally data may be located at the facilities of collaborating researchers where analyses will be performed, data collected and reports written. A list of these facilities will be available upon request to the system manager. Data may be located only at those facilities that have an adequate data security progams and the collaborating researcher must return the data to NIOSH or destroy individual identifiers at the conclusion of the project.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Volunteer subjects from the general population.

CATEGORIES OF RECORDS IN THE SYSTEM:

Occupational history, medical history, results of medical tests, demographic data, results of psychological and psychometric tests, and data necessary to interpret the medical results.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

occupational Safety and Health Act section 20 (29 U.S.C. 669).

PURPOSE(S):

This system is to develop composite data summaries to support the development of criteria for occupational safety and health standards, and to provide other recommendations for improving worker safety and health.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

In the event of litigation where the defendant is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to present an effective defense, provided such disclosure is compatible with the purpose for which the records were collected. For example, records may be released to the Department of Justice in defending claims against the U.S. when the claim is based upon an individual's mental or physical condition and is alleged to have arisen because of activities of the Public Health Service in connection with such individual.

Records subject to the Privacy Act will be disclosed to private firms for data entry, computer systems analysis and computer programming services. The contractors will promptly return all data entry records, and all computer work will be done on Government-owned computers. The contractors will be required to maintain Privacy Act safeguards.

In the event of litigation initiated at the request of NIOSH, the Institute may disclose such records as it deems desirable or necessary to the Department of Justice to enable the Department to effectively represent the Institute, provided such disclosure is compatible with the purpose for which the records were collected. The only types of litigative proceedings that NIOSH is authorized to request are (1) enforcement of a subpoena issued to an employer to provide relevant information, or (2) contempt citation against an employer for failure to comply with a warrant obtained by the Institute.

Disclosure may be made to NIOSH collaborating researchers (NIOSH contractors, grantees, or other Federal or State scientists) in order to accomplish the research purpose for which the records are collected. The collaborating researchers must agree in writing to comply with the confidentiality provisions of the Privacy Act and NIOSH must have determined that the researchers' data security procedures will protect confidentiality.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Manual files, computer cards, computer tapes, computer listings, microfilm.

RETRIEVABILITY:

Name and case number are the indexes used to retrieve records from this system.

SAFEGUARDS:

Evening guard service in building.
Locked building; locked rooms.
Personnel screening.
Locked computer room and computer tape vaults.

Locked file cabinets; password protection on computerized files.

Two or more of these safeguards are used for all records covered by this system notice. The particular safeguards used are selected as appropriate for the type of records required by each individual study.

RETENTION AND DISPOSAL:

Personnel identifiers are destroyed as soon as they are no longer necessary for the protection of the individuals involved. Computer tapes are erased; paper records are shredded or burned.

SYSTEM MANAGER(S) AND ADDRESS:

Staff Assistant, DBBS NIOSH, Robert A. Taft Laboratories, 4676 Columbia Parkway, Cincinnati, Ohio 45226.

NOTIFICATION PROCEDURE:

An individual may learn if a record exists about herself/himself upon written request, with notarized signature if request is made by mail, or with suitable identification (i.e., driver's license, passport) if request is made in person. All individuals requesting records will be informed that anyone who knowingly and willfully requests access to a record pertaining to an individual under false pretenses is committing a criminal offense under the Act and subject to a maximum fine of 5,000 dollars.

To determine if a record exists, write to: Director, DBBS, NIOSH, Robert A. Taft Laboratories, 4676 Columbia Parkway, Cincinnati, Ohio 45226.

An individual who requests notification of or access to medical records shall, at the time the request is made, (1) provide a written notarized request designating a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion, (2) supply the name of the study, if known, (3) provide the approximate date and place of the study, if known, and (4) provide the approximate date and place of treatment of questionnaire administration.

RECORD ACCESS PROCEDURES:

Same as notification procedures. Requesters should also reasonably specify the record contents being sought.

CONTESTING RECORD PROCEDURES:

Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested.

RECORD SOURCE CATEGORIES:

Information is obtained directly from the individual.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09-20-0118

SYSTEM NAME:

Study at Work-Sites where Agents Suspected of Being Occupational Hazards Exist. HHS/CDC/NIOSH.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Division of Biomedical and Behavioral Science, (DBBS), National Institute for Occupational Safety and Health (NIOH), Robert A. Taft Laboratories, 4676 Columbia Parkway, Cincinnati, Ohio 45226.

Also, occasionally data may be located at the facilities of collaborating researchers where analyses will be performed, data collected and reports written. A list of these facilities will be available upon request to the system manager. Data may be located only at those facilities that have an adequate data security program and the collaborating researcher must return the data to NIOSH or destroy individual indentifiers at the conclusion of the project.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Subjects employed at specific sites under study.

CATEGORIES OF RECORDS IN THE SYSTEM:

Occupational history, medical history, results of medical tests, demographic data, employee records, psychological and psychometric tests, and data necessary to interpret the medical results.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Occupational Safety and Health Act, section 20 (29 U.S.C. 669).

PURPOSES(S):

This system is to determine the relationship between worker exposure to hazardous agents or stressors and occupational disease. This information is used to recommend procedures to reduce the incidence of occupational disease.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosures may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

In the event of litigation where the defendant is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to present an effective defense, provided such disclosure is compatible with the purpose for which the records were collected. For example, records may be released to the Department of Justice in defending claims against the U.S. when the claim is based upon an individual's mental or physical condition and is alleged to have arisen because of activities of the Public Health Service in connection with such individual.

Records subject to the Privacy Act will be disclosed to private firms for data entry, computer systems analysis and computer programming services. The contractors will promptly return all data entry records, and all computer work will be done on Government-owned computers. The contractors will be required to maintain Privacy Act safeguards.

In the event of litigation initiated at the request of NIOSH, the Institute may disclose such records as it deems desirable or necessary to the Department of Justice to enable the Department to effectively represent the Institute, provided such disclosure is compatible with the purpose for which the records were collected. The only types of litigative proceedings that NIOSH is authorized to request are (1) enforcement of a subpoena issued to an employer to provide relevant information, or (2) contempt citation against an employer for failure to comply with a warrant obtained by the Institute.

Disclosure may be made to NIOSH collaborating researchers (NIOSH contractors, grantees, or other Federal or State scientists) in order to accomplish the research purpose for which the records are collected. The collaborating researchers must agree in writing to comply with the confidentiality provisions of the Privacy Act and NIOSH must have determined

that the researchers' data security procedures will protect confidentiality.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Manual files, computer cards, computer tapes, computer listings, microfilm.

RETRIEVABILITY:

Name and case number are the indexes used to retrieve records from this system.

SAFEGUARDS:

Evening guard service in building, Locked building; locked rooms, Personnel screening, Locked computer room and computer tape vaults, Locked file cabinets; password protection on computer files.

Two or more of these safeguards are used for all records covered by this system notice. The particular safeguards used are selected as appropriate for the type of records required by each individual study.

RETENTION AND DISPOSAL:

Personal identifiers are destroyed as soon as the system has stabilized, and statistical summaries can be run. Computer tapes are erased; paper records are shredded or burned.

SYSTEM MANAGER(S) AND ADDRESS:

Staff Assistant, DBBS, NIOSH, Robert A. Taft Laboratories, 4676 Columbia Parkway, Cincinnati, Ohio 45226.

NOTIFICATION PROCEDURE:

An individual may learn if a record exists about herself/himself upon written request, with notorized signature if request is made by mail, or with suitable identification (i.e., driver's license, passport) if request is made in person. All individuals requesting records will be informed that anyone who knowingly and willfully requests access to a record pertaining to an individual under false pretenses is committing a criminal offense under the Act and subject to a maximum fine of 5,000 dollars.

To determine if a record exists, write to: Director, DBBS, NIOSH, Robert A. Taft Laboratories, 4676 Columbia Parkway, Cincinnati, Ohio 45226.

An individual who requests notification of or access to medical records shall, at the time the request is made, (1) provide a written notorized request designating a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion, (2) supply the name of the study, if known, (3) provide the approximate date and place of the study, if known, and (4) provide the approximate date and place of treatment or questionnaire administration.

RECORD ACCESS PROCEDURES:

Same as notification procedures. Requesters should also reasonably specify the record contents being sought.

CONTESTING RECORD PROCEDURES:

Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested.

RECORD SOURCE CATEGORIES:

Information is obtained directly from the individual and from employee records.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09-20-0147

SYSTEM NAME:

Occupational Health Epidemiological Studies. HHS/CDC/NIOSH.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Division of Surveillance, Hazard Evaluation, and Field Studies (DSHEFS), National Institute for Occupational Safety and Health (NIOSH), 4676 Columbia Parkway, Cincinnati, Ohio 45526.

Federal Records Center, Dayton, Ohio 45438.

Parklawn Computer Center, Production Control Section, Tape Library, Room 2-B-70, 5600 Fishers Lane, Rockville, Maryland 20857.

Also, occasionally data may be located at the facilities of collaborating researchers where analyses will be performed, data collected and reports written. A list of these facilities will be available upon request to the system manager. Data may be located only at those facilities that have an adequate data security program and the collaborating researcher must return the data to NIOSH or destroy individual identifiers at the conclusion of the project.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Industrial workers exposed to physical and/or chemical agents that may damage the human body in any way. Some examples are: (1) Organic carcinogens, (2) inorganic carcinogens, (3) muscosal or dermal irritants, (4) fibrogenic materials, (5) acute toxic agents including sensitizing agents, (6) neurotoxic agents, (7) mutogenic (male and female) and teratogenic agents, (8) bio-accumulating non-carcinogen agents, and (9) chronic vascular disease causing agents.

CATEGORIES OF RECORDS IN THE SYSTEM:

Physical exams, sputum cytology results, questionnaires, demographic information, smoking history, occupational histories, previous and current employment records, urine test records, X-rays, medical history, pulmonary function test records, medical disability forms, blood test records, drivers license data, hearing test results, spirometry results. The specific types of records to be collected and maintained are determined by the needs of the individual study.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Public Health Service Act, section 301 [42 U.S.C. 241]; Occupational Safety and Health Act section 20 (20 U.S.C. 669); Coal Mine Health and Safety Act section 501 (30 U.S.C. 951).

Studies carried out under this system are to evaluate mortality of occupationally related diseases to determine the cause and prevention of diseases of industrial origin, and lead toward future prevention of occupationally related diseases.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Portions of records (name, Social Security number if known, date of birth, and last known address) may be disclosed to one or more other sources selected from those listed in Appendix I, as applicable. This may be done solely for obtaining a determination as to whether or not an individual has died. The purpose of determining death is so the NIOSH may obtain death certificates, which state the cause of death, from the appropriate Federal, state of local agency. Cause of death will enable NIOSH to evaluate whether excess occupationally related mortality is occurring.

In the event of litigation where the defendant is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines

that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to present an effective defense, provided such disclosure is compatible with the purpose for which the records were collected. For example, records may be released to the Department of Justice in defending claims against the U.S. when the claim is based upon an individual's mental or physical condition and is alleged to have arisen because of activities of the Public Health Service in connection with such individual.

Records subject to the Privacy Act will be disclosed to private firms for data entry, computer systems analysis and computer programming services. The contractors will promptly return all data entry records, and all computer work will be done on Government-owned computers. The contractors will be required to maintain Privacy Act safeguards.

Test data which would indicate the existence of cancer may be provided to the State Cancer Register where the State has a legally constituted cancer registry program which provides for the confidentiality of information.

Certain communicable diseases may be reported to State and/or local Health Departments where the State has a legally constituted reporting program for communicable diseases and which provides for the confidentiaity of the information.

In the event of litigation initiated at the request of NIOSH, the Institute may disclose such records as it deems desirable or necessary to the Department of Justice to enable the Department to effectively represent the Institute, provided such disclosure is compatible with the purpose for which the records were collected. The only types of litigative proceedings that NIOSH is authorized to request are (1) enforcement of a subpoena issued to an employer to provide relevant information, or (2) contempt citation against an employer for failure to comply with a warrant obtained by the Institute.

Disclosure may be made to NIOSH collaborating researchers (NIOSH contractors, grantees, or other Federal or State scientists) in order to accomplish the research purpose for which the records are collected. The collaborating researchers must agree in writing to comply with the confidentiality provisions of the Privacy Act and NIOSH must have determined that the researchers' data security procedures will protect confidentiality.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Manual files, computer files, card files, microfilm, microfiche, and other files as appropriate.

RETRIEVABILITY:

Name, assigned number, plant name, year tested are some of the indices used to retreive records from these systems. Other retrieval methods are utilized as individual research dictates.

SAFEGUARDS:

Locked buildings, locked rooms, locked file cabinets, personnel screening, locked computer room and computer tape vaults, 24-hour guard service, password protection of computerized records, limited access to only authorized personnel. Two or more of the safeguards are used for all records covered by this system notice. The particular safeguards used are selected as appropriate for the type of records covered by an individual study.

RETENTION AND DISPOSAL:

Records will be maintined from three to twenty years in accordance with retention schedules. Every attempt will be made to strip personal identifiers from records and destroy the records when they are no longer needed. Any paper records which are disposed of will be shredded or burned and computer tapes will be erased.

SYSTEM MANAGER(S) AND ADDRESSES:

Program Management Officer (PMO), DSHEFS, F–1, 4676 Columbia Parkway, Cincinnati, Ohio 45226.

NOTIFICATION PROCEDURE:

An individual may learn if a record exists about herself/himself upon written request, with notarized signature if request is made by mail, or with suitable identification (i.e., driver's license, passport) if request is made in person. All individuals requesting records will be informed that anyone who knowingly and willfully requests access to a record pertaining to an individual under false pretenses is committing a criminal offense under the Act and subject to a maximum fine of 5,000 dollars.

To determine if a record exists, write to: Director, DSHEFS, F–1, 4676 Columbia Parkway, Cincinnati, Ohio 45226.

An individual who requests notification of or access to medical records shall, at the time the request is made, (1) provide a written notarized request designating a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion, (2) supply the name of the study, if known, (3) provide the approximate date and place of the study, if known, and (4) provide the approximate date and place of treatment or questionnaire administration.

RECORD ACCESS PROCEDURES:

Same as notification procedures. Requesters should also reasonably specify the record contents being sought.

CONTESTING RECORD PROCEDURES:

Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested.

RECORD SOURCE CATEGORIES:

Vital status information is obtained from Federal, state and local governments and other available sources selected from those listed in Appendix I. Information is obtained directly from the individual and employer records, whenever possible.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Appendix I—Potential Sources for Determination of Vital Status

Military Records
Appropriate State Motor Vehicle Registration Departments

APPROPRIATE STATE DRIVERS LICENSE DEPARTMENTS

Appropriate State Government Divisions of:
Assistance Payments (Welfare), Social Services, Medical Services; Food Stamp Program, Child Support, Board of Corrections, Aging; Indian Affairs, Workman's Compensation, Disability Insurance
Retail Credit Association Follow up
Veteran's Administration Files
Appropriate employee union or association records
Appropriate company pension of employment records
Company group insurance records
Appropriate State Vital Statistics Office
Life Insurance Companies
Railroad Retirement Board
Area Nursing Homes
Area Indian Trading Posts
Mailing List Correction Cards (U.S. Postal Service)
Letters and telephone conversations with relatives

Letters and telephone conversations with former employees of the same establishment as cohort member
Appropriate local newspaper (obituaries)
Social Security Administration
Internal Revenue Service

09-20-0148

SYSTEM NAME:

Results of Occupational Hearing Studies. HHS/CDC/NIOSH.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Division of Biomedical and Behavioral Science (DBBS), National Institute for Occupational Safety and Health (NIOSH), Robert A. Taft Laboratories, 4676 Columbia Parkway, Cincinnati, Ohio 45226.

Also, occasionally data may be located at the facilities of collaborating researchers where analyses will be performed, data collected and reports written. A list of these facilities will be available upon request to the system manager. Data may be located only at those facilities that have an adequate data security program and the collaborating researcher must return the data to NIOSH or destroy individual identifiers at the conclusion of the project.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Workers exposed to noise at a harmful or potentially hazardous level and individuals selected as control groups.

CATEGORIES OF RECORDS IN THE SYSTEM:

Physical examinations, results of laboratory tests (physiological, acceleration measures, performance tests); results of hearing tests, hearing acuity tests, occupational histories, medical history, demographic data, related medical information. The specific types of records to be collected and maintained are determined by the needs of the individual study.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Occupational Safety and Health Act, section 20 (29 U.S.C. 669); Federal Coal Mine Safety and Health Act (30 U.S.C. 669 section 20).

PURPOSE(S):

This system is to assist in the develoment of standards for occupational exposure to hazards.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

In the event of litigation where the defendant is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department of any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to present an effective defense, provided such disclosure is compatible with the purpose for which the records were collected. For example, records may be released to the Department of Justice in defending claims against the U.S. when the claim is based upon an individual's mental or physical condition and is alleged to have arisen because of activities of the Public Health Service in connection with such individual.

Records subject to the Privacy Act will be disclosed to private firms for data entry, computer systems analysis and computer programming services. The contractors will promptly return all data entry records, and all computer work will be done on Government-owned computers. The contractors will be required to maintain Privacy Act safeguards.

In the event of litigation initiated at the request of NIOSH, the Institute may disclose such records as it deems desirable or necessary to the Department of Justice to enable the Department to effectively represent the Institute, provided such disclosure is compatible with the purpose for which the records were collected. The only types of litigative proceedings that NIOSH is authorized to request are (1) enforcement of a subpoena issued to an employer to provide relevant information, or (2) contempt citation against an employer for failure to comply with a warrant obtained by the Institute.

Disclosure may be made to NIOSH collaborating researchers (NIOSH contractors, grantees, or other Federal or State scientists) in order to accomplish the research purpose for which the records are collected. The collaborating researchers must agree in writing to comply with the confidentiality provisions of the Privacy Act and NIOSH must have determined that the researchers' data security procedures will protect confidentiality.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Manual files, computer tapes, microfilm, computer cards, index audiogram files, audiogram questionnaire forms.

RETRIEVABILITY:

Name, case number and study number are the indices used to retrieve records from this system.

SAFEGUARDS:

24-hour guard service in buildings, locked buildings, personnel screening, access limited to authorized personnel. In most instances information is related to individual identifiers by case numbers. The file of individual case number relationships is available to a limited group of people. Computerized records are protected by locked computer rooms, locked computer tape vaults, and password protection.

RETENTION AND DISPOSAL:

Record copy mainained from three to ten years in accordance with retention schedules. Source documents for computer disposed of when no longer needed in the study, as determined by the system manager, and as provided in the signed consent form as appropriate. Disposal methods include erasing computer tapes and burning or shredding printouts.

SYSTEM MANAGER(S) AND ADDRESS:

Industrial Hygiene Engineer, Noise Section, Physical Agents Effects Branch, DBBS, NIOSH, 4676 Columbia Parkway, Cincinnati, Ohio 45226.

NOTIFICATION PROCEDURE:

An individual may learn if a record exists about herself/himself upon written request, with notarized signature if request is made by mail, or with suitable identification (i.e., driver's license, passport) if request is made in person. All individuals requesting records will be informed that anyone who knowingly and willfully requests access to a record pertaining to an individual under false pretenses is committing a criminal offense under the Act and subject to a maximum fine of 5,000 dollars.

To determine if a record exists, write to: Director, DBBS, NIOSH, 4676

Columbia Parkway, Robert A. Taft Laboratories, Cincinnati, Ohio 45226.

An individual who requests notification of or access to medical records shall, at the time the request is made, (1) provide a written notarized request designating a responsible representative who will be willing to review the record and inform the subject individual of its content at the representative's discretion, (2) supply the name of the study, if known, (3) provide the approximate date and place of the study, if known, and (4) provide the approximate date and place of treatment or questionnaire administration.

RECORD ACCESS PROCEDURE:

Same as notification procedures.

CONTESTING RECORD PROCEDURES:

Contact the official at the address specified under notification procedures above.

RECORD SOURCE CATEGORIES:

Information is obtained directly from the individual, and employee records. Many of the hearing test results were obtained from Doctors Memorial Hospital Hearing and Speech Center, Atlanta, Ga.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09-20-0149

SYSTEM NAME:

General Industry Morbidity Studies. HHS/CDC/NIOSH.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Division of Respiratory Disease Studies (DRDS) National Institute for Occupational Safety and Health (NIOSH) Morgantown, West Virginia 26505.

Also, occasionally data may be located at the facilities of collaborating researchers where analyses will be performed, data collected and reports written. A list of these facilities will be available upon request to the system manager. Data may be located only at those facilities that have an adequate data security program and the collaborating researcher must return the data to NIOSH or destroy individual identifiers at the conclusion of the project.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons working, or having worked at workplaces not identified as surface mining or below ground mining operations and exposed or potentially exposed to substances which are known or suspected respiratory irritants or carcinogens. Also included are those individuals in the general population who have been selected as a control group.

CATEGORIES OF RECORDS IN THE SYSTEM:

Previous and current employment records, medical and occupational histories, demographic data, X-rays, smoking histories, results of medical tests such as pulmonary function data and spirometry test results, permission forms, industrial environmental data, and questionnaires. The specific types or records to be collected and maintained are determined by the research needs of the specific study.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Occuptional Safety and Health Act section 20 (29 U.S.C. 669); Federal Coal Mine Health and Safety Act, section 501 (30 U.S.C. 951).

PURPOSE(S):

The purpose of the system is to investigate occupationally related diseases and to determine the cause and prevention of such diseases.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Data may be sent to State Vital Statistics Divisions to obtain death certificates, and to Missing Person Location Agencies to find those individuals who cannot otherwise be located.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

In the event of litigation where the defendant is (a) the Department, any component of the Department, or any employee of the Department in his or her offical capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to present an effective defense, provided such disclosure is compatible with the purpose for which the records were collected. For example, records may be released to the Department of Justice in defending claims against the U.S. when the claim is based upon an individual's mental or physical condition and is alleged to have arisen because of activities of the Public Health Service in connection with such individual.

Records subject to the Privacy Act will be disclosed to private firms for data entry, computer systems analysis and computer programming services. The contractors will promptly return all data entry records, and all computer work will be done on Government-owned computers. The contractors will be required to maintain Privacy Act safeguards.

Test data which would indicate the existence of cancer may be provided to the State Cancer Registry where the State has a legally constituted cancer registry program which provides for the confidentiality of information.

Certain communicable diseases may be reported to State and/or local Health Departments where the State has a legally constituted reporting program for communicable diseases and which provides for the confidentiality of the information.

In the event of litigation initiated at the request of NIOSH, the Institute may disclose such records as it deems desirable or necessary to the Department of Justice to enable the Department to effectively represent the Institute, provided such disclosure is compatible with the purpose for which the records were collected. The only types of litigative proceedings that NIOSH is authorized to request are (1) enforcement of a subpoena issued to an employer to provide relevant information, or (2) contempt citation against an employer for failure to comply with a warrant obtained by the Institute.

Disclosure may be made to NIOSH collaborating researchers (NIOSH contractors, grantees, or other Federal or State scientists) in order to accomplish the research purpose for which the records are collected. The collaborating researchers must agree in writing to comply witht the confidentiality provisions of the Privacy Act and NIOSH must have determined that the researchers' data security procedures will protect confidentiality.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Computer tape, cards, and printouts; microfiche; X-rays; and manual files.

RETRIEVABILITY:

Plant name, study, name, and/or assigned numerical identifiers are some of the indices used to retrieve records from this system. Social Security numbers, supplied on a voluntary basis may occasionally be used for data retrieval.

SAFEGUARDS:

24-hour guard service in buildings, locked buildings, locked rooms, personnel screening, locked computer rooms and tape vaults, password protection of computerized records, limited access to only authorized personnel. Two or more of these safeguards are used for all records covered by this system notice. The particular safeguards used are selected as appropriate for the type of records covered by each individual study.

RETENTION AND DISPOSAL:

Record copy maintained in accordance with retention schedules. Source documents for computer disposed of when no longer needed in the study, as determined by the system manager, and as provided in the signed consent form, as appropriate. Disposal methods include burning or shredding paper materials, and erasing computed tapes.

SYSTEM MANAGER(S) AND ADDRESS:

Program Management Officer (PMO), DRDS, NIOSH, 944 Chestnut Ridge Road, Morgantown, West Virginia 26505.

NOTIFICATION PROCEDURE:

An individual may learn if a record exists about herself/himself upon written request, with notarized signature if request is made by mail, or with suitable identification (i.e., driver's license, passport) if request is made in person. All individuals requesting records will be informed that anyone who knowingly and willfully requests access to a record pertaining to an individual under false pretenses is committing a criminal offense under the Act and subject to a maximum fine of 5,000 dollars.

To determine if a record exists, write to: Director, DRDS, NIOSH, 944 Chestnut Ridge Road, Morgantown, West Virginia 26505.

An individual who requests notification of or access to medical records shall, at the time the request is made, (1) provide a written notarized request designating a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion, (2) supply the name of the study, if known, (3) provide the approximate date and place of the study, if known, and (4) provide the approximate date and place of treatment or questionnaire administration.

RECORD ACCESS PROCEDURES:

Same as notification procedures.

CONTESTING RECORD PROCEDURES:

Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested.

RECORD SOURCE CATEGORIES:

Information is obtained directly from the individual and from employee records.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09-20-0150

SYSTEM NAME:

Morbidity Studies in Coal Mining Activities. HHS/CDC/NIOSH.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Division of Respiratory Disease Studies (DRDS) National Institute for Occupational Safety and Health (NIOSH), 944 Chestnut Ridge Road, Morgantown, West Virginia 26505.

Also, occasionally data may be located at the facilities of collaborating researchers where analyses will be performed, data collected and reports written. A list of these facilities will be available upon request to the system manager. Data may be located only at those facilities that have an adequate data security program and the collaborating research must return the data to NIOSH or destroy individual identifiers at the conclusion of the project.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons working or having worked at coal mining operations and exposed or potentially exposed to substances which are known or suspected respiratory irritants or carcinogens. Also included are those individuals in the general population who have been selected as a control group.

CATEGORIES OF RECORDS IN THE SYSTEM:

Previous and current employment records, medical and occupational histories, demographic data, X-rays, smoking histories, results of medical tests such as pulmonary function data, spirometry test results, permission forms, industrial environmental data, and questionnaires. The specific types of records to be collected and maintained are determined by the research needs of the specific study.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Coal Mine Health and Safety Act section 501 (30 U.S.C. 9511); section 203 (30 U.S.C. 843); Occupational Safety and Health Act section 20 (29 U.S.C. 669).

PURPOSE(S):

The purpose of this system is to investigate occupationally related diseases and to determine the cause and prevention of such diseases.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

In the event of litigation where the defendant is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to present an effective defense, provided such disclosure is compatible with the purpose for which the records were collected. For example, records may be released to the Department of Justice in defending claims against the U.S. when the claim is based upon an individual's mental or physical condition and is alleged to have arisen because of activities of the Public Health Service in connection with such individual.

Some data is sent to the Mining Enforcement and Safety Administration, Department of the Interior to report incidence of pneumoconiosis.

Records subject to the Privacy Act will be disclosed to private firms for data entry, computer systems analysis and computer programming services. The contractors will promptly return all data entry records, and all computer work will be done on Government-owned computers. The contractors will

be required to maintain Privacy Act safeguards.

Test data which would indicate the existence of cancer may be provided to the State Cancer Registry where the state has a legally constituted cancer registry program which provides for the confidentiality of information.

Certain communicable diseases may be reported to state and/or local Health Departments where the state has a legally constituted reporting program for communicable diseases and which provides for the confidentiality of the information.

In the event of litigation initiated at the request of NIOSH, the Institute may disclose such records as it deems desirable or necessary to the Department of Justice to enable the Department to effectively represent the Institute, provided such disclosure is compatible with the purpose for which the records were collected. The only types of litigative proceedings that NIOSH is authorized to request are (1) enforcement of a subpoena issued to an employer to provide relevant information, or (2) contempt citation against an employer for failure to comply with a warrant obtained by the Institute.

Disclosure may be made to NIOSH collaborating researchers (NIOSH contractors, grantees, or other Federal or State scientists) in order to accomplish the research purpose for which the records are collected. The collaborating researchers must agree in writing to comply with the confidentiality provisions of the Privacy Act and NIOSH must have determined that the researchers' data security procedures will protect confidentiality.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Computer tape, cards, and printouts; microfiche; X-rays, and manual files.

RETRIEVABILITY:

Plant name, study, name, and/or assigned numerical identifiers are some of the indices used to retrieve records from this system. Social Security numbers, supplied on a voluntary basis, may occasionally be used for data retrieval.

SAFEGUARDS

24-hour service in buildings, locked buildings, locked rooms, personnel screening, locked computer room and tape vaults, password protection of computerized records, limited access to only authorized personnel. Two or more of these safeguards are used for all records covered by this system notice. The particular safeguards used are selected as appropriate for the type of records covered by each individual study.

RETENTION AND DISPOSAL:

Record copy maintained in accordance with retention schedules. Source documents for computer disposed of when no longer needed in the study, as determined by the system manager, and as provided in the signed consent form, as appropriate, Disposal methods include burning or shredding paper materials, and erasing computer tapes.

SYSTEM MANAGER(S) AND ADDRESS:

Program Management Officer (PMO), DRDS, NIOSH, 944 Chestnut Ridge Road, Morgantown, West Virginia 26505.

NOTIFICATION PROCEDURE:

An individual may learn if a record exists about herself/himself upon written request, with notarized signature if request is made by mail, or with suitable identification (i.e., driver's license, passport) if request is made in person. All individuals requesting records will be informed that anyone who knowingly and willfully requests access to a record pertaining to an individual under false pretenses is committing a criminal offense under the Act and subject to a maximum fine of 5,000 dollars.

To determine if a record exists, write to: Director, DRDS, NIOSH, 944 Chestnut Ridge Road, Morgantown, West Virginia 26505.

An individual who requests notification of or access to medical records shall, at the time the request is made, (1) provide a written notarized request designating a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion, (2) supply the name of the study, if known, (3) provide the aproximate date and place of the study, if known, and (4) provide the approximate date and place of treatment or questionnaire administration.

RECORD ACCESS PROCEDURES:

Same as notification procedures.

CONTESTING RECORD PROCEDURES:

Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested.

RECORD SOURCE CATEGORIES:

Information is obtained directly from the individual and from employee records.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09-20-0151

SYSTEM NAME:

Mortality Studies in Coal Mining Activities. HHS/CDC/NIOSH.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Division of Respiratory Disease Studies (DRDS), National Institute for Occupational Safety and Health (NIOSH), 944 Chestnut Ridge Road, Morgantown, West Virginia 26505.

Also, occasionally data may be located at the facilities of collaborating researchers where analyses will be performed, data collected and reports written. A list of these facilities will be available upon request to the system manager. Data may be located only at those facilities that have an adequate data security program and the collaborating researcher must return the data to NIOSH or destroy individual identifiers at the conclusion of the project.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons working, or having worked at coal mining operations and exposed or potentially exposed to substances which are known or suspected respiratory irritants or carcinogens. Also included are those indivduals in the general population who have been selected as a control group.

CATEGORIES OF RECORDS IN THE SYSTEM:

Previous and current employment records, medical and occupational histories, demographic data, X-rays, smoking histories, results of medical tests such as pulmonary function data and spirometry test results, permission forms, industrial environmental data, and questionnaires. The specific types of records to be collected and maintained are determined by the research needs of the specific study.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Public Health Service Act, section 301 (42 U.S.C. 241). Coal Mine Health and Safety Act, section 501 (30 U.S.C. 951).

PURPOSE(S):

The purpose of this system is to investigate occupationally related diseases and to determine the cause and prevention of such diseases.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Data may be sent to State Vital Statistics Divisions to obtain death certificates, and to Missing Person Location Agencies to find those individuals who cannot otherwise be located.

Disclosure may be made to a congessional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Portions of records (name, social security number if known, date of birth, and last known address) may be disclosed to one or more other sources selected from those listed in Appendix I, as applicable. This may be done solely for obtaining a determination as to whether or not an individual has died. The purpose of determining death is so that NIOSH may obtain death certificates, which state the cause of death, from the appropriate Federal, State, or local agency. Cause of death will enable NIOSH to evaluate whether excess occupationally-related mortality is occurring.

In the event of litigation where the defendants is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to present an effective defense, provided such disclosure is compatible with the purpose for which the records were collected. For example, records may be released to the Department of Justice in defending claims against the U.S., when the claim is based upon an individual's mental or physical condition and is alleged to have arisen because of activities of the Public Health Service in connection with such individual.

Records subject to the Privacy Act will be disclosed to private firms for data entry, computer systems analysis and computer programming services. The contractors will promptly return all data entry records, and all computer work will be done on Government-owned computers. The contractors will be required to maintain Privacy Act safeguards.

In the event of litigation initiated at the request of NIOSH, the Institute may disclose such records as it deems desirable or necessary to the Department of Justice to enable the Department to effectively represents the Institute, provided such disclosure is compatible with the purpose for which the records were collected. The only types of litigative proceedings that NIOSH is authorized to request are (1) enforcement of a subpoena issued to an employer to provide relevent information, or (2) contempt citation against an employer for failure to comply with a warrant obtained by the Institute.

Disclosure may be made to NIOSH collaborating researchers (NIOSH contractors, grantees, or other Federal or State scientists) in order to accomplish the research purpose for which the records are collected. The collaborating researchers must agree in writing to comply with the confidentiality provisions of the Privacy Act and NIOSH must have determined that the researchers' data security procedures will protect confidentiality.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Computer tape, cards, and printouts; microfiche; X-rays; and manual files.

RETRIEVABILITY:

Plant name, study, name, and/or assigned numerical identifiers are some of the indicies used to retrieve records from this system. Social security numbers, supplied on a voluntary basis may occasionally be use for data retrieval.

SAFEGUARDS:

Locked buildings, locked rooms, 24 hour guard service, locked file cabinets, locked computer rooms and tape vaults, password protection of computerized records, limited access to only authorized personnel. Two or more of these safeguards are used for all records covered by this system notice. The particular safeguards used are selected as appropriate for the type of records covered by an individual study.

RETENTION AND DISPOSAL:

Record copy maintained in accordance with retention schedules. Source documents for computer disposed of when no longer needed in the study, as determined by the system manager, and as provided in the signed consent form, as appropriate. Disposal methods include burning or shredding paper materials and erasing computer tapes.

SYSTEM MANAGER(S) AND ADDRESS:

Program Management Office (PMO), DRDS, NIOSH, 944 Chestnut Ridge Road, Morgantown, West Virginia 26505.

NOTIFICATION PROCEDURE:

An individual may learn if a record exists about herself/himself upon written request, with notarized signature if request is made by mail, or with suitable identification (i.e., driver's license, passport) if request is made in person. All individual requesting records will be informed that anyone who knowingly and willfully requests access to a record pertaining to an individual under false pretenses is committing a criminal offense under the Act and subject to a maximum fine of 5,000 dollars.

To determine if a record exists, write to: Director, DRDS, NIOSH, 944 Chestnut Ridge Road, Morgantown, West Virginia 26505.

An individual who requests notification of or access to medical records shall, at the time the request is made, (1) provide a written notarized request designating a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion, (2) supply the name of the study, if known, (3) provide the approximate date and place of the study, if known, and (4) provide the approximate date and place of treatment or questionnaire administration.

RECORD ACCESS PROCEDURES:

Same as notification procedures.

CONTESTING RECORD PROCEDURES:

Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested.

RECORD SOURCE CATEGORIES:

Information is obtained directly from the individual and from death certificates.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Appendix I—Potential Sources for Determination of Vital Status

Military Records

Appropriate State Motor Vehicle Registration Departments
Appropriate State Drivers License Departments
Appropriate State Government Divisions of:
Assistance Payments (Welfare), Social Services, Medical Services;
Food Stamp Program, Child Support, Board of Corrections, Aging; Indian Affairs, Workman's Compensation, Disability Insurance
Veteran's Administration Files
Appropriate employee union or association records
Appropriate company pension or employment records
Company group insurance records
Appropriate State Vital Statistics Offices
Life Insurance Companies
Railroad Retirement Board
Area Nursing Homes
Area Indian Trading Posts
Mailing List Correction Cards (U.S. Postal Service)
Letters and telephone conversations with relatives
Letters and telephone conversations with former employees of the same establishment as cohort member
Appropriate local newpaper (obituaries)
Social Security Administration
Internal Revenue Service

09-20-0152

SYSTEM NAME:

Mortality Studies in Non-Coal Mining Activities. HHS/CDC/NIOSH.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Division of Respiratory Disease Studies (DRDS), National Institute for Occupational Safety and Health (NIOSH), 944 Chestnut Ridge Road, Morgantown, West Virginia 26505.

Also, occasionally data may be located at the facilities of collaborating researchers where analyses will be performed, data collected and reports written. A list of these facilities will be available upon request to the system manager. Data may be located only at those facilities that have an adequate data security program and the collaborating researcher must return the data to NIOSH or destroy individual identifiers at the conclusion of the project.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons working, or having worked at mining operations other than coal operations and exposed or potentially exposed to substances which are known or suspected respiratory irritants or carcinogens. Also included are those individuals in the general population who have been selected as a control group.

CATEGORIES OF RECORDS IN THE SYSTEM:

Previous and current employment records, medical and occupational histories, demographic data, X-rays, smoking histories, results of medical tests such as pulmonary function data and spirometry test results, permission forms, industrial environmental data, and questionnaires. The specific types of records to be collected and maintained are determined by the research needs of the specific study.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Public health Service Act section 301 (42 U.S.C. 241); Federal Metal and Nonmetallic Mine Safety Act section 4 (30 U.S.C. 723); Occupational Safety and Health Act, section 20 (29 U.S.C. 669).

PURPOSE(S):

The purpose of the system is to investigate occupationally related diseases and to determine the cause and prevention of such diseases.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Data may be sent to State Vital Statistics Divisions to obtain death certificates, and to Missing Person Location Agencies to find those individuals who cannot otherwise be located.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Portions of records (name, Social Security number if known, date of birth, and last known address) may be disclosed to one or more other sources selected from those listed in Appendix I, as applicable. This may be done solely for obtaining a determination as to whether or not an individual has died. The purpose of determining death is so that NIOSH may obtain death certificates, which state the cause of death, from the appropriate Federal. State, or local agency. Cause of death will enable NIOSH to evaluate whether excess occupationally related mortality is occurring.

In the event of litigation where the defendant is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to present an effective defense, provided such disclosure is compatible with the purpose for which the records were collected. For example, records may be released to the Department of Justice in defending claims against the U.S. when the claim is based upon an individual's mental or physical condition and is alleged to have arisen because of activities of the Public Health Service in connection with such individual.

Records subject to the Privacy Act will be disclosed to private firms for data entry, computer systems analysis and computer programming services. The contractors will promptly return all data entry records, and all computer work will be done on Government-owned computers. The contractors will be required to maintain Privacy Act safeguards.

In the event of litigation initiated at the request of NIOSH, the Institute may disclose such records as it deems desirable or necessary to the Department of Justice to enable the Department to effectively represent the Institute, provided such disclosure is compatible with the purpose for which the records were collected. The only types of litigative proceedings that NIOSH is authorized to request are (1) enforcement of a subpoena issued to an employer to provide relevant information, or (2) contempt citation against an employer for failure to comply with a warrant obtained by the Institute.

Disclosure may be made to NIOSH collaborating researchers (NIOSH contractors, grantees, or other Federal or State scientists) in order to accomplish the research purpose for which the records are collected. The collaborating researchers must agree in writing to comply with the confidentiality provisions of the Privacy Act and NIOSH must have determined that the researchers' data security procedures will protect confidentiality.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Computer tape, cards and printouts; microfiche; X-rays; and manual files.

RETRIEVABILITY:

Plant name, study, name and/or assigned numerical identifiers are some of the indices used to retrieve records from this system. Social security

numbers, supplied on a voluntary basis may occasionally be used for data retrieval.

SAFEGUARDS:

24-hour guard service in buildings, locked buildings, locked rooms, personnel screening, locked computer rooms and tape vaults, password protection of computerized records, limited access to only authorized personnel. Two or more of these safeguards are used for all records covered by this system notice. The particular safeguards used are selected as appropriate for the type of records covered by each individual study.

RETENTION AND DISPOSAL:

Record copy maintained in accordance with retention schedules. Source documents for computer disposed of when no longer needed in the study, as determined by the system manager, and as provided in the signed consent form as appropriate. Disposal methods include erasing computer tapes and burning or shredding paper materials.

SYSTEM MANAGER(S) AND ADDRESS:

Program Management Officer (PMO), DRDS, NIOSH, 944 Chestnut Ridge Road, Morgantown, West Virginia 26505.

NOTIFICATION PROCEDURE:

An individual may learn if a record exists about herself/himself upon written request, with notarized signature if request is made by mail, or with suitable identification (i.e., driver's license, passport) if request is made in person. All individuals requesting records will be informed that anyone who knowingly and willfully requests access to a record pertaining to an individual under false pretenses is committing a criminal offense under the Act and subject to a maximum fine of 5,000 dollars.

To determine if a record exists, write to: Director, DRDS, NIOSH, 944 Chestnut Ridge Road, Morgantown, West Virginia 26505.

An individual who requests notification of or access to medical records shall, at the time the request is made, (1) provide a written notarized request designating a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion, (2) supply the name of the study, if known, (3) provide the approximate date and place of the study, if known, and (4) provide the approximate date and place of treatment or questionnaire administration.

RECORD ACCESS PROCEDURES:

Same as notification procedures. Requesters should also reasonably specify the record contents being sought.

CONTESTING RECORD PROCEDURES:

Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested.

RECORD SOURCE CATEGORIES:

Information is obtained from the individual, company personnel records, from death certificates, and from industry and union records.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Appendix I—Potential Sources for Determination of Vital Status

Military Records
Appropriate State Motor Vehicle Registration Departments
Appropriate State Drivers License Departments
Appropriate State Government Division of:
Assistance Payments (Welfare), Social Services, Medical Services; Food Stamp Program, Child Support, Board of Corrections, Aging; Indian Affairs, Workman's Compensation, Disability Insurance
Veteran's Administration Files
Appropriate employee union or association records
Appropriate company pension or employment records
Company group insurance records
Appropriate State Vital Statistics Offices
Life Insurance Companies
Railroad Retirement Board
Area Nursing Homes
Area Indian Trading Posts
Mailing List Correction Cards (U.S. Postal Service)
Letters and telephone conversions with relatives
Letters and telephone conversion with former employees of the same establishment as cohort member
Appropriate local newspaper (obituaries)
Social Security Administration
Internal Revenue Service

09-20-0153

SYSTEM NAME:

General Industry Mortality Studies. HHS/CDC/NIOSH.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Division of Respiratory Disease Studies (DRDS) National Institute for Occupational Safety and Health (NIOSH), 944 Chestnut Ridge Road, Morgantown, West Virginia 26505.

Also, occasionally data may be located at the facilities of collaborating researchers where analyses will be performed, data collected and reports written. A list of these facilities will be available upon request to the system manager. Data may be located only at those facilities that have an adequate data security program and the collaborating researcher must return the data to NIOSH or destroy individual identifiers at the conclusion of the project.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons working or having worked at workplaces not identified as surface mining or below ground mining operations and exposed or potentially exposed to substances which are known or suspected respiratory irritants or carcinogens. Also included are those individuals in the general population who have been selected as a control group.

CATEGORIES OF RECORDS IN THE SYSTEM:

Previous and current employment records, medical and occupational histories, demographic data, X-rays, smoking histories, results of medical tests such as pulmonary function data, spirometry test results, permission forms, industrial environmental data, and questionnaires. The specific types of records to be collected and maintained are determined by the research needs of the specific study.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Occupational Safety and Health Act section 20 (29 U.S.C. 669); Public Health Service Act; section 301 (42 U.S.C. 141).

PURPOSE(S):

The purpose of this system is to investigate occupationally related diseases and to determine the cause and prevention of such diseases.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Data may be sent to State Vital Statistics Divisions to obtain death certificates, and to Missing Person Location Agencies to find those individuals who cannot otherwise be located.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Portions of records (name, Social Security number if known, date of birth, and last known address) may be disclosed to one or more other sources selected from those listed in Appendix I, as applicable. This may be done solely for obtaining a determination as to whether or not an individual has died. The purpose of determining death is so that NIOSH may obtain death certificates, which state the cause of death, from the appropriate Federal, State, or local agency. Cause of death will enable NIOSH to evaluate whether excess occupationally related mortality is occuring.

In the event of litigation where the defendant is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to present an effective defense, provided such disclosure is compatible with the purpose for which the records were collected. For example, records may be released to the Department of Justice in defending claims against the U.S. when the claim is based upon an individual's mental or physical condition and is alleged to have arisen because of activities of the Public Health Service in connection with such individual.

Records subject to the Privacy Act will be disclosed to private firms for data entry, computer systems analysis and computer programming services. The contractors will promptly return all data entry records, and all computer work will be done on Government-owned computers. The contractors will be required to maintain Privacy Act safeguards.

In the event of litigation initiated at the request of NIOSH, the Institute may disclose such records as it deems desirable or necessary to the Department of Justice to enable the Department to effectively represent the Institute, provided such disclosure is compatible with the purpose for which the records were collected. The only types of litigative proceedings that NIOSH is authorized to request are (1) enforcement of a subpoena issued to an employer to provide relevant information, or (2) contempt citation against an employer for failure to comply with a warrant obtained by the Institute.

Disclosure may be made to NIOSH collaborating researchers (NIOSH contractors, grantees, or other Federal or State scientists) in order to accomplish the research purpose for which the records are collected. The collaborating researchers must agree in writing to comply with the confidentiality provisions of the Privacy Act and NIOSH must have determined that the researchers' data security procedures will protect confidentiality.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Computer tape cards, and printouts; microfiche; X-rays; and manual files.

RETRIEVABILITY:

Plant name, study, name, and/or assigned numerical identifiers are some of the indices used to retrieve records for this system. Social Security numbers, supplies on a voluntary basis many occasionally be used for data retrieval.

SAFEGUARDS:

24-hour guard service in buildings, locked buildings, locked rooms, personnel screening, locked computer room and tape vaults, password protection of computerized records, limited access to only authorized personnel. Two or more of these safeguards are used for all records covered by this system notice. The particular safeguards used are selected as appropirate for the type of records covered by such individual study.

RETENTION AND DISPOSAL:

Record copy maintained in accordance with retention schedules. Source documents for computer disposed of when no longer needed in the study, as determined by the system manager, and as provided in the signed consent form, as appropriate. Disposal methods include burning or shredding paper materials and erasing computer tapes.

SYSTEM MANAGER(S) AND ADDRESS:

Program Management Officer (PMO), DRDS, NIOSH, 944 Chestnut Ridge Road, Morgantown, West Virginia 26505.

NOTIFICATION PROCEDURE:

An individual may learn if a record exists about herself/himself upon written request, with notarized signature if request is made by mail, or with suitable identification (i.e., driver's license, passport) if request is made in person. All individuals requesting records will be informed that anyone who knowingly and willfully requests access to a record pertaining to an individual under false pretenses is committing a criminal offense under the Act and subject to a maximum fine of 5,000 dollars.

To determine if a record exists, write to: Director, DRDS, NIOSH, 944 Chestnut Ridge Road, Morgantown, West Virginia 26505.

An individual who requests notification of or access to medical records shall, at the time the request is made, (1) provide a written notarized request designating a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representatives's discretion, (2) supply the name of the study, if known, (3) provide the approximate date and place of the study, if known, and (4) provide the approximate date and place of treatment or questionnaire administration.

RECORD ACCESS PROCEDURES:

Same as notification procedures.

CONTESTING RECORD PROCEDURES:

Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested.

RECORD SOURCE CATEGORIES:

Information is obtained directly from the individual, from employee records, from death certificates, and from industry and trade union records.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Appendix I—Potential Sources for Determination of Vital Status

Military Records
Appropriate State Motor Vehicle Registration Departments
Appropriate State Drivers License Departments
Appropriate State Government Divisions of: Assistant Payment (Welfare), Social Services, Medical Services; Food Stamp Program, Child Support, Board of Corrections, Aging; Indian Affairs, Workman's Compensation, Disability Insurance
Veterans' Administration Files
Appropriate employee union or association records
Appropriate company pension or employment records
Company group insurance records
Appropriate State Vital Statistics Offices
Life Insurance Companies

Railroad Retirement Board
Area Nursing Homes
Area Indian Trading Posts
Mailing List Correction Cards (U.S. Postal Service)
Letters and telephone conversations with relatives
Letters and telephone conversations with former employees of the same establishment as cohort member
Appropriate local newspaper (obituaries)
Social Security Administration
Internal Revenue Service

09-20-0154

SYSTEM NAME:

Medical and Laboratory Studies, HHS/CDC/NIOSH.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Division of Respiratory Disease Studies (DRDS), National Institute for Occupational Safety and Health (NOISH), 944 Chestnut Ridge Road, Morgantown, West Virginia 26505.

Also, occasionally data may be located at the facilties of collaborating researchers where analyses will be performed, data collected and reports written. A list of these facilities will be available upon request to the system manager. Data may be located only at those facilities that have an adequate data security program and the collaborating researcher must return the data to NIOSH or destroy individual identifiers at the conclusion of the project.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who have had physical examinations at DRDS or who have had biochemical tests done on various samples submitted to DRDS.

CATEGORIES OF RECORDS IN THE SYSTEM:

Analysis of biochemical data, occupational and medical histories, and results of medical tests. The specific types of records to be collected and maintained are determined by the needs of the individual study.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Coal Mine Health and Safety Act section 501 (30 U.S.C. 951), Occupational Safety and Health Act section 20 (29 U.S.C. 669). Occupational Safety and Health Act section 22(d) (29 U.S.C. 671(d)); Federal Coal Mine Health and Safety Act section 427(b).

PURPOSE(S):

The purpose of this system is to perform medical and epidemiological research, statistical analysis, and to identify early indicators of occupationally related diseases (biochemical indices); data is given to other NIOSH units for biochemical and epidemiological studies.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Data may be sent to State Vital Statistics Division to obtain death certificates, and to Missing Person Location Agencies to find those individuals who cannot otherwise be located.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

In the event of litigation where the defendant is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to present an effective defense, provided such disclosure is compatible with the purpose for which the records were collected. For example, records may be released to the Department of Justice in defending claims against the U.S. when the claim is based upon an individual's mental or physical condition and is alleged to have arisen because of activities of the Public Health Service in connection with such individual.

Records subject to the Privacy Act will be disclosed to private firms for data entry, computer systems analysis and computer programming services. The contractors will promptly return all data entry records, and all computer work will be done on Government-owned computers. The contractors will be required to maintain Privacy Act safeguards.

Test data which would indicate the existence of cancer may be provided to the State Cancer Registry where the State has a legally constituted cancer registry program which provides for the confidentiality of information.

Certain communicable diseases may be reported to State and/or local Health Departments where the State has a legally constituted reporting program for communicable diseases and which provides for the confidentiality of the information.

In the event of litigation initiated at the request of NIOSH, the Institute may disclose such records as it deems desirable or necessary to the Department of Justice to enable the Department to effectively represent the Institute, provided such disclosure is compatible with the purpose for which the records were collected. The only types of litigative proceedings that NIOSH is authorized to request are (1) enforcement of a subpoena issued to an employer to provide relevant information, or (2) contempt citation against an employer for failure to comply with a warrant obtained by the Institute.

Disclosure may be made to NIOSH collaborating researchers (NIOSH contractors, grantees, or other Federal or State scientists) in order to accomplish the research purpose for which the records are collected. The collaborating researchers must agree in writing to comply with the confidentiality provisions of the Privacy Act and NIOSH must have determined that the researchers' data security procedures will protect confidentiality.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Computer tape, cards, and printouts; microfiche; X-rays; and manual files.

RETRIEVABILITY:

Name and case number are the indices used to retrieve records from this system.

SAFEGUARDS:

24-hour guard service in buildings, locked buildings, locked rooms, personnel screening, locked computer room and tape vaults, password protection of computerized records, limited access to only authorized personnel. Two or more of these safeguards are used for all records covered by this system notice. The particular safeguards used are selected as appropriate for the type of records covered by such individual study.

RETENTION AND DISPOSAL:

Record copy maintained in accordance with retention schedules. Source documents for computer disposed of when no longer needed in the study, as determined by the system manager, as provided in the signed consent form as appropriate. Disposal methods include erasing computer tapes

and burning or shredding paper materials.

SYSTEM MANAGER(S) AND ADDRESS:

Project Management Officer, DRDS, NIOSH, 944 Chestnut Ridge Road, Morgantown, West Virginia 26505.

NOTIFICATION PROCEDURE:

An individual may learn if a record exists about herself/himself upon written request, with notarized signature if request is made by mail, or with suitable identification (i.e., driver's license, passport) of request is made in person. All individuals requesting records will be informed that anyone who knowingly and willfully requests access to a record pertaining to an individual under false pretenses is committing a criminal offense under the Act and subject to a maximum fine of $5,000.

To determine if a record exists, write to: Director, DRDS, NIOSH, 944 Chestnut Ridge Road, Morgantown, West Virginia 26505.

An individual who requests notification of or access to medical records shall, at the time the request is made, (1) provide a written notarized request designating a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion, (2) supply the name of the study, if known, (3) provide the approximate date and place of the study, if known, and (4) provide the approximate date and place of treatment or questionnaire administration.

RECORD ACCESS PROCEDURES:

Same as notification procedures. Requesters should also reasonably specify the record content being sought.

CONTESTING RECORD PROCEDURES:

Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested.

RECORD SOURCE CATEGORIES:

Information is obtained directly from the individual.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09-20-0155

SYSTEM NAME:

Morbidity Studies in Metal and Non-Metal Mining Activities. HHS/CDC/NIOSH

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Division of Respiratory Disease Studies (DRDS), National Institute For Occupational Safety and Health (NIOSH),

Also, occasionally data may be located at the facilities of collaborating researchers where analyses will be performed, data collected and reports written. A list of these facilities will be available upon request to the system manager. Data may be located only at those facilities that have an adequate data security program and the collaborating researcher must return the data to NIOSH or destroy individual identifiers at the conclusion of the project.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons working, or having worked at mining operations other than coal mining operations and exposed or potentially exposed to substances which are known or suspected respiratory irritants or carcinogens. Also included are those individuals in the general population who have been selected as a control group.

CATEGORIES OF RECORDS IN THE SYSTEM:

Previous and current employment records, medical and occupational histories, demographic data X-rays, smoking histories, results of medical tests such as pulmonary function data and spirometry test results, permission forms, industrial environmental data, and questionnaires. The specific types of records to be collected and maintained are determined by the research needs of the specific study.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Occupational Safety and Health Act section 20 (29 U.S.C. 669); Public Health Service Act section 301 (42 U.S.C. 241).

PURPOSE(S):

The purpose of this system is to investigate occupationally related diseases and to determine the cause and prevention of such diseases.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Data may be sent to State Vital Statistics Divisions to obtain death certificates, and to Missing Person Location Agencies to find those individuals who cannot otherwise be located.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the the request of that individual.

In the event of litigation where the defendant is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to present an effective defense, provided such disclosure is compatible with the purpose for which the records were collected. For example, records may be released to the Department of Justice in defending claims against the U.S. when the claim is based upon an individual's mental or physical condition and is alleged to have arisen because of activities of the Public Health Service in connection with such individual.

Records subject to the Privacy Act will be disclosed to private firms for data entry, computer systems analysis and computer programming serivce. The contractors will promptly return all data entry records, and all computer work will be done on Government-owned computers. The contractors will be required to maintain Privacy Act safeguards.

Test data which would indicate the existence of cancer may be provided to the State Cancer Registry where the state has a legally constituted cancer registry program which provides for the confidentiality of information.

Certain communicable diseases may be reported to state and/or local Health Departments where the state has a legally constituted reporting program for communicable diseases and which provides for the confidentiality of the information.

In the event of litigation initiated at the request of NIOSH, the Institute may disclose such records as it deems desirable or necessary to the Department of Justice to enable the Department to effectively represent the Institute, provided such disclosure is compatible with the purpose for which the records were collected. The only types of litigation proceedings that NIOSH is authorized to request are (1) enforcement of a subpoena issued to an employer to provide relevant information, or (2) contempt citation

against an employer for failure to comply with a warrant obtained by the Institute.

Disclosure may be made to NIOSH collaborating researchers (NIOSH contractors, grantees, or other Federal or State scientists) in order to accomplish the research purpose for which the records are collected. The collaborating researchers must agree in writing to comply with the confidentiality provisions of the Privacy Act and NIOSH must have determined that the researchers' data security procedures will protect confidentiality.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Computer tape, cards, and printouts; microfiche; X-rays; and manual files.

RETRIEVABILITY:

Plant name, study name, and/or assigned numerical identifiers are some of the indices used to retrieve records from this system. Social Security numbers, supplied on a voluntary basis, may occasionally be used for data retrieval.

SAFEGUARDS:

24-hour guard service in buildings, locked buildings, locked rooms, personnel screening, locked computer room and tape vaults, password protection of computerized records, limited access to only authorized personnel. Two or more of these safeguards are used for all records covered by this system notice. The particular safeguards used are selected as appropriate for the type of records covered by such individual study.

RETENTION AND DISPOSAL:

Record copy maintained in accordance with retention schedules. Source documents for computer disposed of when no longer needed in the study, and as determined by the system manager, as provided in the signed consent form as appropriate. Disposal methods include computer tapes and burning or shredding paper material.

SYSTEM MANAGER(S) AND ADDRESS:

Program Management Officer, DRDS, NIOSH, 944 Chestnut Ridge Road, Morgantown, West Viginia 26505.

NOTIFICATION PROCEDURE:

An individual may learn if a record exists about herself/himself upon written request, with notarized signature if request is made by mail, or with suitable identification (i.e., driver's license, passport) if request is made in person. All individuals requesting records will be informed that anyone who knowingly and willfully requests access to a record pertaining to an individual under false pretenses is committing a criminal offense under the Act and subject to a maximum fine of $5,000.

To determine if a record exists, write to: Director, DRDS, NIOSH, 944 Chestnut Ridge Road, Morgantown, West Virginia 26505.

An individual who requests notification of or access to medical records shall, at the time the request is made, (1) provide a written notarized request designating a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion, (2) supply the name of the study, if known, (3) provide the approximate date and place of the study, if known, and (4) provide the approximate date and place of treatment or questionnaire administration.

RECORD ACCESS PROCEDURES:

Same as notification procedures. Requesters should also reasonably specify the record contents being sought.

CONTESTING RECORD PROCEDURES:

Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested.

RECORD SOURCE CATEGORIES:

Vital status information is obtained from Federal, state and local governments and other available sources. Information is obtained from the individual and from employer records.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09-20-0159

SYSTEM NAME:

Records of Subjects in Certification, Testing and Safety Studies of Personal Protective Devices for Hazardous Work Environments, HHS/CDC/NIOSH.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Division of Safety Research (DSR), National Institute for Occupational Safety and Health (NIOSH), 944 Chestnut Ridge Road, Morgantown, West Virginia 26505.

Also, occasionally data may be located at the facilities of collaborating researchers where analyses will be performed, data collected and reports written. A list of these facilities will be available upon request to the system manager. Data may be located only at those facilities that have an adequate data security program and the collaborating researcher must return the data to NIOSH or destroy individual identifiers at the conclusion of the project.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals exposed to hazardous work environments and individuals selected as control groups will be covered by this system. Additionally, the system pertains to individuals selected to test the interaction between people, personal protection or safety equipment, users of such equipment, and a hazardous environment. Some examples include individuals selected to: perform respirator facepiece fit tests, evaluate hearing protectors, perform lifting and manual materials handling studies, perform strength test studies, and perform hand speed tests.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system will contain such records as physical examinations, questionnaires, results of laboratory tests (physiological acceleration measures, and performance tests), workplace performance records, results of hearing tests, occupational histories, medical histories, demographic data, and related medical information. The specific types of records to be collected and maintained are determined by the needs of the individual study.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The Public Health Service Act, section 301 (42 U.S.C. 241); the Occupational Safety and Health Act section 20 (29 U.S.C. 669); and the Coal Mine Health and Safety Act, section 501 (30 U.S.C. 951).

PURPOSE(S):

The purpose of this system is to permit acquisition of information related to certification of personal protective equipment, hazard-measuring devices, and safety research studies.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosures may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office, made at the request of that individual.

In the event of litigation where the defendant is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to present an effective defense, provided such disclosure is compatible with the purpose for which the records were collected. For example, records may be released to the Department of Justice in defending claims against the U.S. when the claim is based upon an individual's mental or physical condition and is alleged to have arisen because of activities of the Public Health Service in connection with such individual.

In the event of litigation initiated at the request of NIOSH, the Institute may disclose such records as it deems desirable or necessary to the Department of Justice to enable the Department to effectively represent the Institute, provided such disclosure is compatible with the purpose for which the records were collected. The only types of litigative proceedings that NIOSH is authorized to request are (1) enforcement of a subpoena issued to an employer to provide relevant information, or (2) contempt citation against an employer for failure to comply with a warrant obtained by the Institute.

Portions of records (name, Social Security number if known, date of birth, and last known address) may be disclosed to one or more sources selected from those listed in Appendix I. This may be done to determine if the individual has died so that a death certificate can be obtained. Knowing the cause of death will enable NIOSH to evaluate whether excess occupationally-related mortality is occuring.

Records subject to the Privacy Act will be disclosed to private firms for data entry, computer systems analysis, and computer programming services. The contractors will promptly return all data entry records, and all computer work will be done on Government-owned computer. The contractors will be required to maintain Privacy Act safeguards.

Disclosure may be made to NIOSH collaborating researchers (NIOSH contractors, grantees, or other Federal or State scientists) in order to accomplish the research purpose for which the records are colleced. The collaborating researchers must agree in writing to comply with the confidentiality provisions of the Privacy Act and NIOSH must have determined that the researchers' data security procedures will protect confidentiality.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Manual files, computer tape, microfilm, computer cards, index audiogram files, audiograms, questionnaire forms.

RETRIEVABILITY:

Name, assigned number, plant name, and year tested are some of the indices used to retrieve records from these systems. Other retrieval methods are utilized as individual research dictates.

SAFEGUARDS:

Locked buildings, locked rooms, locked file cabinets, personnel screening, locked computer room and computer tape vaults, 24-hour guard service, limited access only to authorized personnel. The particular safeguards used are selected as appropriate for the type of records covered by an individual study. For computerized records, safeguards are in accordance with Part 6, ADP Systems Security, of the HHS/ADP Systems Manual. Safeguards for non-automated records are in accordance with the NIOSH Sensitive Data Security Program Briefing Booklet.

RETENTION AND DISPOSAL:

Records will be maintained from three to twenty years in accordance with retention schedules. Personal identifiers will be stripped from records, and records will be destroyed when they are no longer needed. All paper records which are disposed of will be shredded or burned and computer tapes will be erased.

SYSTEM MANAGER(S) AND ADDRESS:

Program Management Officer (PMO), Division of Safety Research, NIOSH, 944 Chestnut Ridge Road, Morgantown, WV 26505.

NOTIFICATION PROCEDURE:

An individual may learn if a record exists about herself/himself upon written request, with notarized signature if request is made by mail, or with suitable identification (i.e., driver's license, passport) if request is made in person. All individuals requesting records will be informed that anyone who knowingly and willfully requests access to a record pertaining to an individual under false pretenses is committing a criminal offense under the Act and subject to a maximum fine of 5,000 dollars.

To determine if a record exists, write to: Director, Division of Safety Research, NIOSH, 944 Chestnut Ridge Road, Morgantown, WV 26505.

An individual who requests notification of or access to medical records shall, at the time the request is made, (1) provide a written notarized request designating a responsible representative who will be willing to review the record and inform the subject individual of its contents at the represenative's discretion, (2) supply the name of the study , if known, (3) provide the approximate date and place of the study, if known, and (4) provide the approximate date and place of treament or questionnaire administration.

RECORD ACCESS PROCEDURES:

Same as notification procedures.

CONTESTING RECORD PROCEDURES:

Contact the official at the address specified under notification procedures above and reasonably indentify the record and specify the information to be contested.

RECORD SOURCE CATEGORIES:

Information needed is obtained either directly from the individual, or from employee records whenever possible. Other sources may include those listed in Appendix I.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Appendix I

Potential Sources for Determination of Vital Status
Military Records
Appropriate State Motor Vehicle Registration Departments
Appropriate State Drivers License Departments
Appropriate State Government Division of: Assistance Payments (Welfare), Social Service, Medical Services, Food Stamp Program, Child Support, Board of Corrections, Aging, Indian Affairs, Workmen's Compensation, Disability Insurance.
Veteran's Administration Files
Appropriate employee union or association records
Appropriate company pension or employment records
Company group insurance records
Appropriate State Vital Statistics Offices
Life Insurance Companies
Railroad Retirement Board
Area Nursing Homes

Area Indian Trading Posts
Mailing List Correction Cards (U.S. Postal Service)
Letters and telephone conversations with relatives
Letters and telephone conversations with former employees of the same establishment as cohort member
Appropriate Local Newspaper (Obituaries)
Social Security Administration
Internal Revenue Service

[FR Doc. 82-14623 Filed 5-27-82; 8:45 am]

BILLING CODE 4160-19-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AA-39904 and AA-39921]

Alaska Native Claims

In FR Doc. 82-12492 appearing on page 19798 in the issue of Friday, May 7, 1982, make the following correction:

On page 19798, third column, in the 19th line from the top of the page, "Sec. 3, lot 1, SE¼, NW¼" should have read "Sec. 3, lot 1, SE¼NW¼".

BILLING CODE 1505-01-M

Intent To Prepare a Planning Amendment for the Cedar Planning Unit MFP

In accordance with 43 CFR 1601.3, notice is given that the Bureau of Land Management in the State of Utah, Cedar City District, intends to amend the Cedar Management Framework Plan (MFP).

The amendment is in response to inquiries concerning disposal by public sale of 320 acres of isolated public land in T37S, R10W, Sec. 13, SLM, Utah. The existing MFP recommended this isolated tract along with others in the planning unit be retained in public ownership and blocked into manageable units by exchange. This plan was completed in 1974 and to date no exchange proposals have been consummated.

The general issues related to disposal of this tract are suitability of the area for intensive development, impacts of development on local scenery, watershed, county services, and wildlife.

The following planning, criteria will be used by BLM to analyze alternatives and recommend the area as suitable or unsuitable for disposal.

Planning Criteria

1. Consistency with other plans.
2. Suitability of the tract for retention and management under Federal ownership.
3. Most beneficial use of the tract.
4. Local social and economic effects.
5. Public comment.

Disciplines to be represented on the interdisciplinary team preparing the planning amendment are: range, wildlife, recreation, watershed, land use planning and socioeconomics. Public input is invited to identify additional issues and planning criteria related to disposal of this tract. Comments will be accepted until June 30, 1982. Other public participation activities will include review of the draft planning amendment or environmental assessment and an open house to receive comments on the draft. Dates, times, and locations will be announced through local media and mailing to interested parties.

Dennis Curtis may be contacted at the address below for further information regarding this amendment. Comments on issues or criteria should be sent to: District Manager, Cedar City BLM District, P.O. Box 724, Cedar City, Utah 84720.

May 21, 1982.

Morgan S. Jensen,

District Manager.

[FR Doc. 82-14456 Filed 5-27-82; 8:45 am]

BILLING CODE 4310-84-M

Fish and Wildlife Service

Endangered Species Permit; Receipt of Application

Applicant: Duke University Primate Center, Durham, NC—PRT 2-6368.

The applicant requests an amendment to their permit to allow import of an additional six (6) sifakas (*Propithecus verreauxi*) from Madagascar. Dr. Voara Randrianasolo, Chef de Department de Sciences Naturelles du Centre National de Recherches, Madagascar, supports the Primate Center request for additional sifakas to increase the gene pool at the Center and to enhance the propagation and survival of the species.

Applicant: Steve W. Klan, Maynard, OH—PRT 2-9169.

The applicant requests a permit to purchase in interstate commerce 2 pairs of captive-bred masked bobwhite quail (*Colinus virginianus ridgwayi*) and one pair of captive-bred Attwater's greater prairie chicken (*Tympanuchus cupido attwateri*) for enhancement of propagation.

Applicant: Virgil W. Brack, Purdue University, W. Lafayette, IN—PRT 2-9170.

The applicant requests a permit to trap and tag Indiana bats (*Myotis sodalis*) and gray bats (*M. grisescens*) throughout the range of these species as part of a cooperative agreement with the Soil Conservation Service and Purdue University for scientific research.

Applicant: USFWS, Regional Director, Region 2, Albuquerque, NM—PRT 2-2588.

The applicant requests an amendment to his permit to conduct activities outlined in the Service's program advice or in approved recovery plans for scientific research or enhancement of propagation or survival with the following species: Ozark big-eared bat (*Plecotus townsendii ingens*), San Marcos salamander (*Eurycea nana*), Arizona trout (*Salmo apache*), bonytail chub (*Gila elegans*), Amistad gambusia (*gambusia amistadenis*), San Marcos gambusia (*G. georgei*), and Leon Springs pupfish (*Cyprinodon bovinus*).

Applicant: Honolulu Zoo, Honolulu, HI—PRT 2-9190.

The applicant requests a permit to import one female captive-born Asian elephant (*Elephas maximus*) from the Nehru Zoological Park, Hyderabad, India for enhancement of propagation.

Humane care and treatment during transport has been indicated by the applicants.

Documents and other information submitted with this application are available to the public during normal business hours in Room 601, 1000 N. Glebe Road, Arlington, Virginia, or by writing to the U.S. Fish and Wildlife Service, Federal Wildlife Permit Office, P.O. Box 3654, Arlington, VA 22203.

Interested persons may comment on these applications on or before June 28, 1982, by submitting written data, views, or arguments to the above address. Please refer to the file number when submitting comments.

Dated: May 25, 1982.

R. K. Robinson,

Chief, Branch of Permits, Federal Wildlife Permit Office.

[FR Doc. 82-14647 Filed 5-27-82; 8:45 am]

BILLING CODE 4310-55-M

NATIVE HAWAIIANS STUDY COMMISSION

Public Meeting

Notice is hereby given that the Native Hawaiians Study Commission will hold a public meeting of the Commission at 9:00 a.m. on June 3, 1982, at the Department of Interior Building, 18th & C Sts., N.W., Washington, D.C., Room 6120. The Commission was created by Public Law 96-656. The agenda for the meeting on June 3 is as follows:

I. Convening of Meeting
A. Roll call

B. Adoption of Minutes, 9 January 1982 Meeting
II. Unfinished Business
A. Status Report: Gannett Case
B. Congressional Budget Hearings Report
III. Commission Committee Reports
A. Socioeconomic and Cultural Committee
B. Committee on Federal, State and Local Relationships
IV. Commission Discussion
A. Committee Reports
B. August Meeting Preparation
V. Adjournment

The Commission is composed of 9 members, appointed by President Reagan, as follows: Representative Kina'u Boyd Kamali's (Chairwoman), Minority Leader, Hawaii, House of Representatives; Stephen P. Shipley (Vice Chairman), U.S. Department of Interior; Carl A. Anderson, U.S. Department of Health and Human Services; Winona K. D. Beamer, Kamehameha Schools; H. Rodger Betts, County of Maui; Carol E. Dinkins, U.S. Department of Justice; James C. Handley, U.S. Department of Agriculture; Diane K. Morales, U.S. Department of Interior; Glenn R. Schleede, New England Electric.

Further information may be obtained by calling Mary Lyon-Allen at 202–343–3107.

Mary Lyon-Allen,

Executive Director.

[FR Doc. 82–14718 Filed 5–27–82; 8:45 am]

BILLING CODE 6820–BE–M

DEPARTMENT OF THE INTERIOR

National Park Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before May 25, 1982. Pursuant to § 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, U.S. Department of the Interior, Washington, DC 20243. Written comments should be submitted by June 14, 1982.

Carol D. Shull,

Acting Keeper of the National Register.

NORTH CAROLINA

Johnston County

Selma, *Edgerton, Noah Edward, House (Selma, North Carolina Multiple Resource Area)* 301 W. Railroad St.

UTAH

San Juan County

Blanding vicinity, *Grand Gulch Archeological District*

[FR Doc. 82–14638 Filed 5–27–82; 8:45 am]

BILLING CODE 4310–70–M

Office of Surface Mining Reclamation and Enforcement

Information Collection Submitted to OMB for Review

May 25, 1982.

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed information collection requirement and explanatory material may be obtained by contacting the Bureau's clearance officer; Darlene Grose at (202) 343–5447. Comments and suggestions on the requirement should be made directly to the Bureau clearance officer and the Office of Management and Budget reviewing official, Mr. William T. Adams, at 202–395–7340.

Carson W. Culp,

Acting Assistant Director Management and Budget.

- *Title:* Quantitative Program Management Information.
- *Bureau Form Number:* OSM–51C
- *Frequency:* Semi-annually and Annually
- *Description of Respondents:* State Government
- *Annual Responses:* 90
- *Annual Burden Hours:* 135
- *Title:* Report of Government Property.
- *Bureau Form Number:* OSM–60
- *Frequency:* On occasion
- *Description of Respondents:* State Governments.
- *Annual Responses:* 200
- *Annual Burden Hours:* 400
- *Title:* Financial Status Report.
- *Bureau Form Number:* SF–269
- *Frequency:* Quarterly and Semi-annually
- *Description of Respondents:* State Government
- *Annual Responses:* 580
- *Annual Burden Hours:* 4,640
- *Title:* Outlay Report and Request for Reimbursement for Construction Programs
- *Bureau Form Number:* SF–271
- *Frequency:* Quarterly & Semi-annually
- *Description of Respondents:* State Government
- *Annual Responses:* 700
- *Annual Burden Hours:* 12,880
- *Title:* Budget Information—Construction.
- *Bureau Form Number:* OSM–48
- *Frequency:* Annually
- *Description of Respondents:* State Government
- *Annual Responses:* 715
- *Annual Burden Hours:* 11,440
- *Title:* Performance Report/Program Narrative Statement.
- *Bureau Form Number:* OSM–51
- *Frequency:* Quarterly, Semi-annually and Annually
- *Description of Respondents:* State Government
- *Annual Responses:* 3,030
- *Annual Burden Hours:* 24,240
- *Title:* Quantitative Program Management Information.
- *Bureau Form Number:* OSM–51A
- *Frequency:* Semi-annually and Annually
- *Description of Respondents:* State Government
- *Annual Responses:* 90
- *Annual Burden Hours:* 135
- *Title:* Quantitative Program Management Information.
- *Bureau Form Number:* OSM–51B
- *Frequency:* Semi-annually and Annually
- *Description of Respondents:* State Government
- *Annual Responses:* 90
- *Annual Burden Hours:* 135
- *Title:* Application for Federal Assistance.
- *Bureau Form Number:* SF–424
- *Frequency:* On occasion and Annually
- *Description of Respondents:* State Governments.
- *Annual Responses:* 300
- *Annual Burden Hours:* 450

[FR Doc. 82–14687 Filed 5–27–82; 8:45 am]

BILLING CODE 4310–05–M

[Federal Lease No. M–073109]

Availability of Draft Environmental Impact Statement and Public Hearing on the Proposed Rosebud Area C Mine, Rosebud County, Montana

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

ACTION: Notice of availability of Draft Environmental Impact Statement (OSM–EIS–8) and public hearing.

SUMARY: Pursuant to § 1506.6 of Title 40, Code of Federal Regulations, notice is hereby given that the Office of Surface Mining (OSM), Western Technical Service Center, has prepared a draft environmental impact statement (EIS)

on the proposed Rosebud Area C Mine. The EIS has been written to assist the Department in making a decision on Western Energy Company's application to surface mine about 24 million tons of coal over a period of 5 years. The proposed site is 5 miles west of the Town of Colstrip, and 30 miles south of Forsyth, Montana. The mine would encompass 3,104 acres of State, private and Federal lands, of which 1,877 acres would be disturbed for mining, roads, and facilities. The coal produced from Area C would be used exclusively in Coldstrip Generating Units 3 and 4, and would be transported by conveyor belt approximately 4½ miles from the mine site to the generating units.

Copies of the draft EIS may be obtained from OSM or the Montana Department of State Lands (DSL) at the locations listed under **"ADDRESSES."** Copies are also available for public review at the locations given below. A public hearing will be held and all interested parties are invited to attend to give their comments. See **"DATES"** and **"ADDRESSES"** for time and location. Written comments should be sent to the Office of Surface Mining or the Department of State Lands. Because of differences in the Federal and State public comment periods, OSM and DSL request that comments be submitted prior to the closing of their respective comment periods, as indicated under **"DATES"** below.

DATES: A public hearing will be held on June 14, 1982, at 7:00 p.m. All written comments should be received by the Office of Surface Mining no later than July 2, 1982, and by the Montana Department of State Lands no later than July 1, 1982, at the locations listed below.

ADDRESSES: A public hearing on the draft EIS will be held at the Colstrip Community Center, Colstrip, Montana.

Copies of the draft EIS may be obtained from and comments should be addressed to: Walter Swain, Office of Surface Mining, Brooks Towers, 1020 15th Street, Denver, Colorado 80202; or Kit Walther, Department of State Lands EIS Team, Capitol Station, Helena, Montana 59620.

Copies of the draft EIS are available for public review at the following locations:

OSM Area Office, 935 Pendell Blvd., Mills, Wyoming; the Rosebud County Library Forsyth, Montana; and the Montana Department of State Lands, 1625 11th Avenue, Helena, Montana.

FOR FURTHER INFORMATION CONTACT: Walter Swain, Office of Surface Mining, Brooks Towers, 1020 15th Street, Denver, Colorado 80202 (telephone: 303/837-5656).

SUPPLEMENTARY INFORMATION: The EIS evaluates three alternative actions the Department could take on the mining and reclamation plan which has been submitted to OSM and the State of Montana. Those alternatives are approval, disapproval, and no action.

OSM has identified as the preferred alternative the approval of the mine plan when found to be in compliance with the Federal Lands Program requirements of the Surface Mining Control and Reclamation Act of 1977 (SMCRA).

OSM and the State of Montana have analyzed the impacts of the alternatives. Public comments are sought on this analysis as presented in the EIS. All substantive comments, written or oral, will be considered in preparing the final EIS and in the final recommendation for action on the subject mining and reclamation plan. See **"DATES"** and **"ADDRESSES"** for information on the hearing and comments.

The proposed Rosebud Area C Mine has been previously discussed in two EIS's: Colstrip Project, Units 3 and 4, Rosebud County, Montana EIS (July 1979) and the Powder River Regional Coal Leasing EIS (December 1981).

Dated: May 26, 1982.

J. Steven Griles,

Acting Director, Office of Surface Mining.

[FR Doc. 82-14791 Filed 5-27-82; 8:45 am]

BILLING CODE 4310-05-M

INTERSTATE COMMERCE COMMISSION

[Docket No. AB-101 (Sub-No. 3)]

Duluth, Missabe and Iron Range Railway Co.—Abandonment—Between Embarrass and Ely, MN; Findings

Notice is hereby given pursuant to 49 U.S.C. 10903 that the Commission, Review Board Number 3, has issued a certificate authorizing the Duluth, Missabe and Iron Range Railway Company to abandon its rail line between Embarrass and Ely, a distance of 34.91 miles in St. Louis County, MN, subject to certain conditions. Since no investigation was instituted, the requirement of § 1121.38(b) of the regulations that publication of notice of abandonment decisions in the **Federal Register** be made only after such a decision becomes administratively final was waived.

Upon receipt by the carrier of an actual offer of financial assistance, the carrier shall make available to the offeror the records, accounts, appraisals, working papers, and other documents used in preparing Exhibit I (§ 1121.45 of the regulations). Such documents shall be made available during regular business hours at a time and place mutually agreeable to the parties.

The offer must be filed with the Commission and served concurrently on the applicant, with copies to Louis Gitomer, Acting Deputy Director, Room 5417, Interstate Commerce Commission, Washington, DC 20423, no later than 10 days from publication of this Notice. The offer, as filed, shall contain information required pursuant to § 1121.38(b) (2) and (3) of the regulations. If no such offer is received, the certificate of public convenience and necessity authorizing abandonment shall become effective 30 days from the service date of the certificate.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-14663 Filed 5-27-82; 8:45 am]

BILLING CODE 7035-01-M

Intent to Engage in Compensated Intercorporate Hauling Operations

This is to provide notice as required by 49 U.S.C. 10524(b)(1) that the named corporations intend to provide or use compensated intercorporate hauling operations as authorized in 49 U.S.C. 10524(b).

1. Parent corporation and address of principal office:

The Sherwin-Williams Company, 101 Prospect Ave., Cleveland, OH 44115.

2. Wholly-owned subsidiaries which will participate in the operations and State(s) of incorporation:

(i) Contract Transportation Systems Co., a Delaware Corporation.

(ii) Gray Drug Fair, an Ohio Corporation.

1. Parent corporation and address of principal office:

Southern Film Extruders, Inc., 2327 English Rd., High Point, NC 27261.

2. Wholly-owned subsidiary which will participate in the operations:

Interpak, Inc., d.b.a. SFE Packaging, Inc., 4010 W. Osborne Ave., Tampa, FL 33614.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-14629 Filed 5-27-82; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Finance Applications; Decision-Notice

The following applications, filed on or after July 3, 1980, seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control of motor carriers

pursuant to 49 U.S.C. 11343 or 11344. Also, applications directly related to these motor finance applications (such as conversions, gateway eliminations, and securities issuances) may be involved.

The applications are governed by Special Rule 240 of the Commission's rules of practice (49 CFR 1100.240). See Ex Parte 55 (Sub-No. 44), *Rules Governing Applications Filed by Motor Carriers Under 49 U.S.C. 11344 and 11349*, 363 I.C.C. 740 (1981). These rules provide among other things, that opposition to the granting of an application must be filed with the Commission in the form of verfied statements within 45 days after the date of notice of filing of the application is published in the **Federal Register.** Failure seasonably to oppose will be construed as a waiver of opposition and participation in the proceeding. If the protest includes a request for oral hearing, the request shall meet the requirements of Rule 242 of the special rules and shall include the certification required.

Person wishing to oppose in application must follow the rules under 49 CFR 1100.241. A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00, in accordance with 49 CFR 1100.241(d).

Amendments to the request for authority will not be accepted after the date of this publication. However, the Commission may modify the operating authority involved in the application to conform to the Commission's policy of simplifying grants of operating authority.

We find, with the exception of those applications involving impediments (e.g., jurisdictional problems, unresolved fitness questions, questions involving possible unlawful control, or improper divisions of operating rights) that each applicant has demonstrated, in accordance with the applicable provisions of 49 U.S.C. 11301, 11302, 11343, 11344, and 11349, and with the Commission's rules and regulations, that the proposed transaction should be authorized as stated below. Except where specifically noted this decision is neither a major Federal action significantly affecting the quality of the human environment nor does it appear to qualify as a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests as to the finance application *or* to any application directly related thereto filed within 45 days of publication (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (unless the application involves impediments) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, the duplication shall not be construed as conferring more than a single operating right.

Applicant(s) must comply with all conditions ser forth in the grant or grants of authority within the time period specified in the notice of effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

Dated: May 24, 1982.

By the Commission, Review Board Number 3, Members Krock, Joyce and Dowell.

MC–F–14852, filed April 30, 1982. FRED TAYLOR COMPANY, INC. (Fred Taylor) (2700 Palmyra Rd., P.O. Box 1156, Albany, GA 31702)—control—A&G EXPRESS, INC. (A&G) (4807 Millbrooke Rd., Albany, GA 31707). Representative: Sol H. Proctor, 1101 Blackstone Bldg., Jacksonville, FL 32202. Fred Taylor seeks authority to acquire control of A&G through the purchase of all issued outstanding common stock. James F. Taylor, who owns all the stock of Fred Taylor, seeks to control A&G through this transaction. A&G is authorized under Permit No. MC–146891 (Sub-No. 2) to haul pulp, paper and related products and cellulose products, between points in the United States under continuing contract(s) with the Proctor & Gamble Paper Products Company of Cincinnati, OH. Permit No. MC–146891 (Sub-No. 3) authorizes (1) agricultural chemicals and (2) materials and supplies used in the manufacture and distribution of agricultural chemicals, between points in the United States under a continuing contract with Helena Chemical Company of Memphis. TN. Certificate No. MC–146891 (Sub-No. 5) authorizes general commodities, wich usual exceptions, between points in GA, on the one hand, and, on the other, points in the United States. Fred Taylor, a non-carrier, controls Container Express, Inc., a carrier authorized to conduct operations under MC–152180.

MC–F–14856, filed May 13, 1982. TRANSPORTATION, INC. (TI) (P.O. Box 362, Ottawa, KS 66067)—Lease—Grain Belt Transportation Company (Jon H. Gjovig, Secured Party) (10417 Grant Lane, Overland Park, KS 66212). Representative: Warren H. Sapp, P.O. Box 30010, Kansas City, MO 64112. TI seeks authority to lease the interstate operating rights of Grain Belt, Certificate No. MC–109692 (Sub-No. 89)X, which supersedes all previously issued authority, and which authorizes the transportation of general commodities between various points in KS and NE, including Kansas City, MO–KS and St. Joseph, MO, commercial zones, and specified commodities, such as but not limited to, food and related products, farm products, chemicals and related products, metal products, machinery, coal and coal products, building materials, petroleum, natural gas and their products, pulp, paper and related products, and Mercer commodities, throughout specified points in the U.S. TI is authorized to operate as a common carrier under MC–149088 and a contract carrier under MC–117519. *Conditions:* (1) As soon as the transfer of Grain Belt's operating rights to Gjovig Transportation Inc., is approved and authorized, applicants must seek modification of approval of this lease. (2) Final approval and authorization of this transaction will be withheld pending the receipt of an affidavit signed by Delores M. Bones and Fred Bones Trust "B" First National Bank, stating that they are the persons in control of TI and that they join in this application. (3) Approval of this lease is limited to a one-year period.

Note.—(1) TA has been filed. (2) In Docket No. MC–FC–79823, Gjovig Transportation, Inc., seeks to acquire the interstate operating rights of Grain Belt. Notice of approval of that application is being published in this same **Federal Register** issue.

As indicated by the findings below, the Commission has approved the following applications filed under 49 U.S.C. 10924, 10926, 10931 and 10932.

We Find

Each transaction is exempt from section 11343 (formerly section 5) of the Interstate Commerce Act, and complies with the appropriate transfer rules.

This decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

Petitions seeking reconsideration must be filed within 20 days from the date of this publication. Replies must be filed within 20 days after the final date for filing petitions for reconsiderations; any interested person may file and serve a reply upon the parties to the proceeding. Petitions which do not comply with the relevant transfer rules at 49 CFR 1132.4 may be rejected.

If petitions for reconsideration are not timely filed, and applicants satisfy the conditions, if any, which have been imposed, the application is granted and

they will receive an effective notice. The notice will indicate that consummation of the transfer will be presumed to occur on the 20th day following service of the notice, unless either applicant has advised the Commission that the transfer will not be consummated or that an extension of time for consummation is needed. The notice will also recite the compliance requirements which must be met before the transferee may commence operations.

Applicants must comply with any conditions set forth in the following decision-notices within 30 days after publication, or within any approved extension period. Otherwise, the decision-notice shall have no further effect.

It is ordered

The following applications are approved, subject to the conditions stated in the publication, and further subject to the administrative requirements stated in the effective notice to be issued hereafter.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC–FC–79823. By decision of May 20, 1982, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132, Review Board Number 3 approved the transfer to GJOVIG TRANSPORTATION, INC., of Overland Park, KS, of Certificate No. MC–109692 (Sub-No. 89)X, which supersedes all previously issued authority, issued to GRAIN BELT TRANSPORTATION COMPANY, of Kansas City, MO, which authorizes the transportation of general commodities between various points in KS and NE, including the Kansas City, MO–KS and St. Joseph, MO, commercial zones, and specified commodities, such as but not limited to, food and related products, farm products, chemicals and related products, metal products, machinery, coal and coal products, building materials, petroleum, natural gas and their products, pulp, paper and related products, and Mercer commodities, throughout specified points in the U.S. Representative: Warren H. Sapp, P.O. Box 30010, Kansas City, MO 64112.

Note.—Transferee is not a carrier. In conjunction with this application, applicants have filed an application under 49 U.S.C. 11343, including TA lease, in which Transportation, Inc., seeks authority to lease the interstate operating rights of Grain Belt. That application has been has been docketed No. MCF–14856, and is being published in this same **Federal Register** issue.

Condition: Final approval of this transaction will be withheld pending receipt of the $100 filing fee.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82–14630 Filed 5–27–82; 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 be 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 become unopposed), appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Agatha L. Mergenovich,

Secretary.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Please direct status inquiries to the Ombudsman's Office, (202) 275–7326.

Volume No. OP1–89

Decided: May 18, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 161831, filed May 4, 1982. Applicant: RICHARD S. WEBSTER, 21052 Laguna Canyon Rd., Laguna Beach, CA 92651. Representative: Richard S. Webster (same address as applicant), (714) 494–0163. 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 161851, filed May 6, 1982. Applicant: MENOMONIE AG TRUCKING, INC., Route 3—Box 178, Menomonie, WI 54751. Representative: Barry Weintraub, Suite 510, 8133 Leesburg Pike, Vienna, VA 22180, (703) 442–8330. Transporting *food and other edible products and by-products intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

MC 161870, filed May 7, 1982. Applicant: STEVEN TAYLOR & DEON

C. JOHNSON, d.b.a. T & J TRUCKING, 9725 S. 520 E, Sandy, UT 84070. Representative: Irene Warr, 311 S. State St., Ste. 280, Salt Lake City, UT 84111, (801) 531–1300. 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 161890, filed May 7, 1982. Applicant: WID WILMOT TRANSPORT, 7511 130th N.E., Kirkland, WA 98033. Representative: Orville A. Wilmot (same address as applicant), (206) 822–7987. Transporting *food and other edible products and by-products intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers and other soil conditioners*, by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

MC 161891, filed May 7, 1982. Applicant: PAUL HOWARD, Box 542, 800 North Nebraska St., Salem, SD 57058. Representative: A. J. Swanson, P.O. Box 1103, Sioux Falls, SD 57101, (605) 335–1777. Transporting *food and other edible products and by-products intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers and other soil conditioners*, by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

MC 161931, filed May 10, 1982. Applicant: CHARLES O. MORRISON, INC., P.O. Box 4617, Santa Rosa, CA 95402. Representative: Matthew F. Hunziker, 2306 Gifford Ct., Santa Rosa, CA 05401, (707) 528–4259. Transporting, for or on behalf of the U.S. Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S.

Volume No. OP3-081

Decided: May 21, 1982.

By the Commission, Review Board No. 2, Members Carleton, Fisher, and Williams.

MC 162004, filed May 13, 1982. Applicant: WELCH'S BUILDING SUPPLIES, 1069 5th St., Kirkland, WA 98033. Representative: George L. Welch (same address as applicant), (206) 827–1298. 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 HI).

MC 161995, filed May 14, 1982. Applicant: D & D TRANSPORT OF WISCONSIN, INC., R. R. 2, Mondovi, WI 54735. Representative: Stanely C. Olsen, Jr., 5200 Willson Rd., Suite 307, Edina, MN 55424, (612) 927–8855. Transporting, for or on behalf of the U.S. Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S. (except AK and HI).

[FR Doc. 82-14631 Filed 5-27-82; 8:45 am]

BILLING CODE 7035-01-M

[Volume No. 260]

Motor Carriers; Permanent Authority Decisions; Restriction Removals Decision-Notice

Decided: May 21, 1982.

The following restriction removal applications, filed after December 28, 1980, are governed by 49 CFR Part 1137. Part 1137 was published in the **Federal Register** of December 31, 1980, at 45 FR 86747.

Persons wishing to file a comment to an application must follow the rules under 49 CFR 1137.12. A copy of any application can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the restriction removal applications are not allowed.

Some of the applications may have been modified prior to publication to conform to the special provisions applicable to restriction removal.

Canadian carrier applicants: In the event an application to transport property, filed by a Canadian domiciled motor carrier, is unopposed, it will be reopened on the Commission's own motion for receipt of additional evidence and further consideration in light of the record developed in Ex Parte No. MC–157, *Investigation Into Canadian Law and Policy Regarding Applications of American Motor Carriers For Canadian Operating Authority.*

Findings

We find, preliminarily, that each applicant has demonstrated that its requested removal of restrictions or broadening of unduly narrow authority is consistent with the criteria set forth in 49 U.S.C. 10922(h).

In the absence of comments filed within 25 days of publication of this decision-notice, appropriate reformed authority will be issued to each applicant. Prior to beginning operations under the newly issued authority, compliance must be made with the normal statutory and regulatory requirements for common and contract carriers.

By the Commission, Restriction Removal Board, Members Shaffer, Ewing, and Williams.

Agatha L. Mergenovich,

Secretary.

MC 41635 (Sub-54)X, filed February 1, 1982, and previously noticed in the **Federal Register** of February 25, 1982, republished as corrected this issue. Applicant: SHALE AUTO TRANSPORT, INC., 4430 Roosevelt Hwy., College Pk, GA 30349. Representative: Paul M. Danielle, P.O. Box 872, Atlanta, GA 30301. Sub 53, broaden: from tractors, to "machinery."

MC 52464 (Sub-15)X, filed May 6, 1982. Applicant: EVANS TRUCKING CO., 8384 Market St., Youngstown, OH 44512. Representative: A. Charles Tell, 100 E. Broad St., Columbus, OH 43215. Lead (1) broaden (a) iron and steel articles, machinery, electrical equipment, iron castings, and empty reels to "metal products, machinery, and electrical equipment and supplies," (b) iron and steel articles, including copper-covered iron and steel articles to "metal products," (c) empty reels used in transporting wire to "lumber and lumber products," (d) iron castings to "metal products," (e) sand in dump vehicles to "clay, concrete, glass or stone products," (f) alloys, in bulk, in dump vehicles, to "metal products," (g) scrap ferro-alloys and ferro-alloy fines, in bulk, in dump vehicles to "metal products," (h) refractories, crucibles, grinding wheels, refractory cement, alloys, and abrasive grains to "clay, concrete, glass or stone products and metal products", general commodities (with exceptions) to "general commodities (except classes A and B explosives, household goods as defined by the Commission and commodities in bulk);" (2) to radial authority; (3) authorize service to all intermediate points; (4) broaden off-route points to counties; (a) within three miles of Latrobe, PA, to "Westmoreland County", (b) Cook, Donegal, Fairfield, Ligonier, and St. Clair Townships, Westmoreland County, PA, to "Westmoreland County"; (5) broaden cities to counties (irregular-routes): (a) Glassport, PA, to Allegheny County; (b) Greensburg, PA, to Westmoreland County (c) Phalanx, OH, to Stark County; (d) Blasdell, Hamburg, Kellogg, and Lackawanna, NY, to Erie County; (e) Niagara Falls, NY, to Niagara County, (f) Bay City, MI, to Bay County; (6) delete plantsite restrictions, (7) delete the in bulk, in dump vehicle

exceptions; and (8) remove restriction of commodities requiring special equipment.

MC 93837 (Sub-4)X, filed May 7, 1982. Applicant: INTERNATIONAL VAN LINES, INC., 95 Madison Avenue, New York, NY 10016. Representative: Morton E. Kiel, Two World Trade Center, Suite 1832, New York, NY 10048. Lead: broaden (1) business machines, uncrated, to "machinery"; household goods to "household goods and furniture and fixtures"; (2) broaden (a) points in NY, NJ, and CT within 60 miles of Columbus Circle, New York, NY, to New Haven and Fairfield Counties, CT, Nassau, Suffolk, Westchester, Putnam, Dutchess, Rockland, Orange, Sullivan, and Ulster Counties, NY, New York, NY, and points in NJ in and north of Ocean and Burlington Counties, NJ, (b) Philadelphia, PA to Philadelphia, Montgomery, Chester, Delaware, and Bucks Counties, PA, Hunterdon, Mercer, Monmouth, Burlington, Camden, Gloucester, and Salem Counties, NJ, and New Castle County, DE.

MC 112223 (Sub-136)X, filed February 10, 1982, previously noticed in the **Federal Register** of March 3, 1982, republished. Applicant: QUICKIE TRANSPORT COMPANY, 1700 N.E. New Brighton Blvd., Minneapolis, MN 55413. Representative: Val M. Higgins, 1600 TCF Tower, Minneapolis, MN 55402. Applicant seeks to remove restrictions in Subs 2, 4, 6, 8, 31, 34, 35, 36, 38, 41, 43, 45, 47, 49, 52, 54, 57, 59, 60, 63, 64, 65, 67, 71, 73, 78, 79, 81, 83, 85, 86, 87, 88, 91, 92, 93, 97, 98, 100, 103, 104, 105, 108F, 109F, 111F, 113F, 115F, 116F, 121F, 123F, 125F, 126F, 130, 131F, 132, 133F, and 134F, certificates as previously noticed, and, in addition, to remove restriction against service to Minneapolis, MN, and points in its commercial zone, from authority to serve Dakota, Scott, Hennepin, and Ramsey Counties, MN in Sub 98. The purposed of this republication is to correct the above inadvertent omission.

MC 148976 (Sub-4)X, filed May 10, 1982. Applicant: H & W TRANSFER AND CARTAGE SERVICE, INC., 611 S. Main St., Cedartown, GA 30125. Representative: Bruce E. Mitchell, 3390 Peachtree Rd., N.E., Atlanta, GA 30326. Sub-No. 2F: Delete (1) the exceptions against commodities of unusual value and those requiring special equipment in its general commodities authority and (2) restriction to the transportation of traffic having an immediate prior or subsequent movement by rail.

[FR Doc. 82-14632 Filed 5-27-82; 8:45 am]

BILLING CODE 7035-01-M

Motor Carrier Permanent Authority Decisions; Decision-Notice

Correction

In FR Doc. 82-9315, published at page 14970, on Wednesday, April 7, 1982, on page 14973, in the third column, in the third paragraph "MC 151333 (sub-3)", in the eleventh line, "NM, OR," should be corrected to read "NM, NV, OR,".

BILLING CODE 1505-01-M

DEPARTMENT OF LABOR

Employment and Training Administration

Dismissals of Applications for Reconsideration of Negative Determinations Regarding Eligibility To Apply For Worker Adjustment Assistance

Pursuant to 29 CFR 90.18 applications for administrative reconsideration were filed with the Director of the Office of Trade Adjustment Assistance in the cases listed below. In each case, the review indicated that the applications contained no new substantial information which would bear importantly on the Department's determination. Therefore, dismissals of the applications were issued.

TA-W-12,647; Young Timers, Incorporated, New York, NY

Dated: May 3, 1982, Robert O. Deslongchamps, Acting Deputy Administrator, Unemployment Insurance Service.

TA-W-11,289; McCord Corporation, Wyandotte, MI

Dated: May 3, 1982, Stephen A. Wandner, Research, Legislation and Program Policies.

I hereby certify that the aforementioned determinations were issued on May 3, 1982. Copies of these determinations are available for inspection in Room 10,332, U.S. Department of Labor, 601 D Street, NW, Washington, D.C. 20213 during normal business hours or will be mailed to persons who write to the above address.

Dated: May 20, 1982.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 82-14255 Filed 5-27-82; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-12,301]

H. W. Carter & Sons, Lebanon, New Hampshire; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on February 23, 1981 in response to a petition received on February 12, 1981 which was filed by the Amalgamated Clothing and Textile Workers Union on behalf of workers at H. W. Carter & Sons, Lebanon, New Hampshire.

The petitioner, the Amalgamated Clothing and Textile Workers Union, does not represent the workers of the Lebanon, New Hampshire plant of H. W. Carter & Sons. Workers at the Lebanon plant are represented by the United Garment Workers of America. Since the petitioner is not a duly authorized representative of the workers, the investigation has been terminated.

Signed at Washington, D.C., this 6th day of May 1982.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 82-14663 Filed 5-27-82; 8:45 am]

BILLING CODE 4510-30-M

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to Section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not late than June 7, 1982.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to

the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than June 7, 1982.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 601 D Street, NW., Washington, D.C. 20213.

Signed at Washington, D.C. this 10th day of May 1982.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Arbaba Sportswear, Inc. (ILGWU)	New York, NY	4/26/82	4/22/82	TA-W-13,437	Dresses, skirts & pants—ladies.
Avondale Mills (company)	Union Springs, AL	3/24/82	3/19/82	TA-W-13,438	Yarn—cotton.
Century Inks Corp. (workers)	Park Ridge, IL	4/20/82	4/16/82	TA-W-13,439	Offices—administrative.
Century Inks Corp. (workers)	Beltsville, MD	4/20/82	4/16/82	TA-W-13,440	Printing, lithographic.
Century Inks Corp. (workers)	Glendale, WI	4/20/82	4/16/82	TA-W-13,441	Do.
Century Inks Corp. (workers)	Minneapolis, MN	4/20/82	4/16/82	TA-W-13,442	Do.
Century Inks Corp. (workers)	Pennsauken, NJ	4/20/82	4/16/82	TA-W-13,443	Do.
Century Inks Corp. (workers)	Fenton, MO	4/20/82	4/16/82	TA-W-13,444	Do.
City Machine Tool & Die Co., Inc	Muncie, IN	4/29/82	4/26/82	TA-W-13,445	Machines—metal, cutting, tools, fixtures & dies.
Guterl Special Steel Corp. (USWA)	Lockport, NY	4/26/82	4/23/82	TA-W-13,446	Steel—alloy, high, stainless bar.
Trace Fork Coal Co., Trace Fork Mine (UMWA)	Premier, WV	4/26/82	4/20/82	TA-W-13,447	Coal—Metallurgical.
Hadron, Inc. (workers)	Lake Orion, MI	5/7/82	4/21/82	TA-W-13,448	Machines—automation, transferline.
Hanna Furnace Corp. (workers)	Buffalo, NY	4/20/82	4/16/82	TA-W-13,449	Iron—pig, merchant.
International Shoe Co. (ACTWU)	Batesville, AK	4/26/82	4/15/82	TA-W-13,450	Shoes and boots—men's.
Michigan Screw Products (workers)	Centerline, MI	4/28/82	4/19/82	TA-W-13,451	Fasteners—automotive.
Shannon Pocahontas Mining Co., Shannon Branch Mine (UMWA).	Capels, WV	4/26/82	4/20/82	TA-W-13,452	Coal—metallurgical.
U.S. Steel Corp., Homestead Works, Blast Furnace Div., Carrier Furnace (USWA).	Rankin, PA	5/7/82	4/29/82	TA-W-13,453	Metal—hot furnace, blast.
Wickes Co., Inc., Wickes Machine Tool Group (Allied Industrial Workers).	Saginaw, MI	4/28/82	4/21/82	TA-W-13,454	Machines—cast, die lathes—engine.

[FR Doc 82-14661 Filed 5-27-82; 8:45 am]

BILLING CODE 4510-30-M

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221 (a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to Section 221 (a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than June 7, 1982.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than June 7, 1982.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 601 D Street, N.W., Washington, D.C. 20213.

Signed at Washington, D.C. this 17th day of May 1982.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
American Bosch Corp. (IUE)	Springfield, MA	4/29/82	4/22/82	TA-W-13,455	Injectors—diesel & pumps.
Amperex Electronic Corp. (company)	Lincoln, RI	5/10/82	4/30/82	TA-W-13,456	Tubes—magnetron, electro optical, tubs, special, semiconductor and components, ferrite.
Anaconda Minerals Co. (workers)	Tooele, Utah	5/11/82	5/3/82	TA-W-13,457	Copper ore, gold, silver.
Chrysler Corp., New Process Gear Div. (UAW)	Syracuse, NY	4/9/82	4/6/82	TA-W-13,458	Transmission, transaxles.
Fashion Hall, Inc. (ILGWU)	Brooklyn, NY	4/29/82	4/23/82	TA-W-13,459	Blouses—ladies.
Flora Fashions (ILGWU)	Stanehope, NJ	5/6/82	4/29/82	TA-W-13,460	Coats—ladies.
General Motors Assembly Div., Willow Run Plant (UAW).	Ypsilanti, MI	4/26/82	4/21/82	TA-W-13,461	Skylarks and Omega.
Mount Vernon Mills, Inc. (company)	Greenville, S.C	5/11/82	5/5/82	TA-W-13,462	Corporate offices.
Mount Vernon Mills, Inc. (company)	New York, NY	5/11/82	5/5/82	TA-W-13,463	Sales offices.
Noranda Mining, Inc. Ontario Project (wkrs)	Park City, UT	5/11/82	5/5/82	TA-W-13,464	Zinc—lead, silver, ore.
Rockwell International, Auto Supply Div., Metal Castings (USWA).	Chattanooga, TN	5/3/82	4/4/82	TA-W-13,465	Castings—iron, ductile iron.
Trio Knitting Mills, Inc. (ILGWU)	New York, New York	4/30/82	4/27/82	TA-W-13,466	Suits, skirts sets—ladies.
W.R. Grace & Co., Evans Chemetics Div. (company).	Waterloo, New York	5/11/82	5/7/82	TA-W-13,467	Acid, thioglycolic.

APPENDIX—Continued

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Midway Lincoln-Mercury, Inc. D.B.A. Chrysler Plymouth (company).	Franklin, Ohio	4/29/82	4/3/82	TA-W-13,468	Auto dealership.
Easy Made Manufacturing Co., Inc. (workers)	Bronx, NY	4/20/82	4/16/82	TA-W-13,469	Coats, jackets and blazers—ladies.
Perfection Heat Treating (wkrs and UAW)	Detroit, MI	5/5/82	4/29/82	TA-W-13,470	Wheel bolts, ball joint sockets, tie rods, turn signal levers, carburetors linkage and assorted levers—heat treat.

[FR Doc. 82-14662 Filed 5-27-82; 8:45 am]
BILLING CODE 4510-30-M

[TA-W-12,517]

Marcraft Recreation Corp., Garfield, New Jersey; Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on March 23, 1981 in response to a petition received on March 18, 1981 which was filed on behalf of workers at Marcraft Recreation Corporation, Garfield, New Jersey.

The workers produce paddles for racquetball, paddleball, platform tennis and table tennis.

The petitioning firm requested in a letter that the petition be withdrawn. On the basis of this request, continuing the investigation would serve no purpose. Consequently, the investigation has been terminated.

Signed at Washington, D.C. this 6th day of May 1982.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 82-14665 Filed 5-27-82; 8:45 am]
BILLING CODE 4510-30-M

[TA-W-12,319]

Woman's Haberdashers, Woodside, New York; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on February 23, 1981 in response to a worker petition received on February 9, 1981 which was filed on behalf of workers at Woman's Haberdashers, Woodside, New York. The workers produced women's coats, suits, dresses and blouses.

The Department of Labor has been unsuccessful in locating any officials of Woman's Haberdashers. The company closed in May 1980. It has not been possible to contact any company officials or to gain access to records, ledgers or documents necessary for a determination to be made. Consequently, the investigation has been terminated.

Signed at Washington, D.C. this 6th day of May 1982.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 82-14664 Filed 5-27-82; 8:45 am]
BILLING CODE 4510-30-M

Office of the Secretary

The Steering Subcommittee of the Labor Advisory Committee For Trade Negotiations And Trade Policy; Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463 as amended), notice is hereby given of a meeting of the Services Sector Subcommittee of the Labor Advisory Committee for Trade Negotiations and Trade Policy.

Date, time and place: June 8, 1982, 9:30 a.m., N3437 A & B Frances Perkins, Department of Labor Building, 200 Constitution Avenue, NW., Washington, D.C. 20210.

Purpose: To discuss trade negotiations and trade policy of the United States.

This meeting will be closed under the authority of Section 10(d) of the Federal Advisory Committee Act. The Committee will hear and discuss sensitive and confidential matters concerning U.S. trade negotiations and trade policy.

For further information, contact: Joseph S. Papovich, Executive Secretary, Labor Advisory Committee, Phone: (202) 523-6171.

Signed at Washington, D.C. this 19th day of May 1982.

Robert W. Searby,

Deputy Under Secretary, International Affairs.

May 19, 1982.

[FR Doc. 82-14256 Filed 5-27-82 8:45 am]
BILLING CODE 4510-28-M

NATIONAL ADVISORY COMMITTEE ON OCEANS AND ATMOSPHERE

Meeting

May 25, 1982.

Pursuant to section 10(a)(2), of the Federal Advisory Committee Act, 5 U.S.C. App. (1976), notice is hereby given that the Weather Services Panel of the National Advisory Committee on Oceans and Atmosphere (NACOA) will meet on Monday and Tuesday, June 7 and 8, 1982. The Panel will meet in Boulder, CO at the University Corporation for Atmospheric Research (UCAR), Fleischmann Building, 1850 Table Mesa Drive. The sessions, which will be open to the public, will convene at 8:30 a.m. and adjourn at 5:00 p.m. on Monday, June 7, and convene at 8:30 a.m. and adjourn at 2:00 p.m. on Tuesday, June 8. The panel will review the draft report on the Nation's weather services.

Persons desiring to attend will be admitted to the extent seating is available. Persons wishing to make formal statements should notify the Chairperson of the Weather Services Panel, Dr. Warren M. Washington. The Chairperson retains the prerogative to impose limits on the duration of oral statements and discussion. Written statements may be submitted before or after each session.

Additional information concerning this meeting may be obtained through the NACOA Executive Director, Mr. Steven N. Anastasion, or James A. Almazan, the Staff Member for the Weather Services Panel. The mailing address is: NACOA, 3300 Whitehaven Street, NW., (Suite 438, Page Building #1), Washington, D.C. 20235. The telephone number is: 202/653-7818.

Dated: May 25, 1982.

James A. Almazan,

Staff Physical Scientist.

Dated: May 25, 1982.

Stephanie Y. Hughes,

Administrative Assistant.

[FR Doc. 82-14673 Filed 5-27-82; 8:45 am]

BILLING CODE 3510-25-M

NATIONAL SCIENCE FOUNDATION

Availability of Draft Environmental Impact Statement; 10-Meter, Submillimeter and Millimeter Wave Telescope Project

In accordance with the National Environmental Policy Act of 1969 and the Council on Environmental Quality Regulations of 1978 (40 CFR Parts 1500–1508), the National Science Foundation has prepared a Draft Environmental Impact Statement (DEIS) on the proposed Mauna Kea, Hawaii, site for the California Institute of Technology 10-meter, submillimeter and millimeter wave telescope. The Foundation is hereby requesting comments on this DEIS within 45 days of this announcement.

This proposed project envisions the installation of an existing 10-meter diameter submillimeter and millimeter wave telescope in a 60-foot diameter dome to be constructed in the Mauna Kea Science Reserve on the island of Hawaii. This site was chosen for its altitude, atmospheric characteristics and geographic location that all contribute to making Mauna Kea an exceptional site for astronomical observation. The schedule for installation is dependent on available funding; however, construction and installation of the dome and telescope as proposed would begin in 1982 or early 1983, with operations beginning in 1985.

Possible alternatives to the proposed action are: no action; alternative site; or alternative site at the Mauna Kea summit.

The National Science Foundation is acting as a joint lead agency (see 40 CFR 1501.5 and 1506.2) with the State of Hawaii for the purposes of the environmental review of this project. The University of Hawaii has been designated as the responsible State agency. Copies of the DEIS are available from: University of Hawaii, Vice President for Administration, 2444 Dole Street, Honolulu, Hawaii 96882, Attention: Walter Muraoka. All comments on the DEIS should be submitted by July 15, 1982 to the above address.

For the National Science Foundation.

Francis S. Johnson,

Assistant Director for Astronomical, Atmospheric, Earth, and Ocean Sciences.

[FR Doc. 82-14625 Filed 5-27-82; 8:45 am]

BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards, Subcommittee on Human Factors; Postponed Meeting

The ACRS Subcommittee on Human Factors scheduled for June 1, 1982 has been postponed to July 6, 1982, 8:30 a.m., Room 1046, 1717 H Street, NW, Washington, DC. The Subcommittee will review the Nuclear Regulatory Commission's proposed FY 84–85 programs and budget and will develop specific comments on the NRC's Long-Range Research Plan as each relates to the area of Human Factors.

All other items regarding this meeting remain the same as announced in the **Federal Register** published Friday, May 14, 1982 (47 FR 20889).

Further information about 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, David Fischer (telephone 202/634–1414) between 8:15 a.m. and 5:00 p.m., e.d.t.

Dated: May 24, 1982.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 82-14643 Filed 5-27-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-409; License No. DPR-45; EA 81-80]

Dairyland Power Cooperative LaCrosse Boiling Water Reactor; Order Imposing a Civil Monetary Penalty

I

Diaryland Power Cooperative (the "licensee") is the holder of Operating License No. DPR-45 (the "license") issued by the Nuclear Regulatory Commission (the "Commission"). The license authorizes operation of the LaCrosse Boiling Water Reactor. The facility is located at the licensee's site in Genoa, Wisconsin. The license was issued on August 28, 1973.

II

As a result of an inspection of the licensee's facility by the Nuclear Regulatory Commission Office of Inspection and Enforcement during the period May 1–31, 1981, the NRC staff determined that a pressure sensing line from the Containment Building had been modified. The installation of this modification resulted in the temporary disablement of the automatic (high containment pressure) actuation signal for three safety-related components. The NRC served the licensee a written Notice of Violation and Notice of Proposed Imposition of Civil Penalty by letter dated October 22, 1981. The Notice stated the nature of the violations, the provisions of the Nuclear Regulatory Commission regulations, and the amount of the civil penalty proposed. The licensee responded with a letter dated December 23, 1981, with enclosures, to the Notice of Violation and Notice of Proposed Imposition of Civil Penalty.

III

Upon consideration of Dairyland Power Cooperative's response (December 23, 1981) and the statements of fact, explanation, and argument in denial or mitigation contained therein as set forth in the Appendix to this Order, the Director of the Office of Inspection of Enforcement determined that a civil penalty for the violation designated in the Notice of Violation should be imposed. However, after consideration of the circumstances surrounding this event the amount of the civil penalty has been reduced.

IV

In view of the foregoing and pursuant to Section 234 of the Atomic Energy Act of 1954, as amended, 42 U.S.C. 2282, PL 96–295, and 10 CFR 2.205, it is hereby ordered that:

The licensee pay a civil penalty in the total amount of $25,000 within thirty days of the date of this Order, by check, draft, or money order payable to the Treasurer of the United States and mailed to the Director of the Office of Inspection and Enforcement.

V

The licensee may within thirty days of the date of this Order request a hearing. A request for a hearing shall be addressed to the Director, Office of Inspection and Enforcement, USNRC, Washington, D.C. 20555. A copy of the hearing request shall be sent to the Executive Legal Director, USNRC, Washington, D.C. 20555. If a hearing is requested, the Commission will issue an Order designating the time and place of

hearing. Should the licensee fail to request a hearing within thirty days of the date of this Order, the provisions of this Order shall be effective without further proceeding and, if payment has not been made by that time, the matter may be referred to the Attorney General for collection.

VI

In the event the licensee requests a hearing as provided above, the issues to be considered at such a hearing shall be:

(a) Whether the licensee was in violation of the Commission's regulations as set forth in the Notice of Violation referenced in Section II above, and

(b) Whether on the basis of such violation the Order should be sustained.

Dated at Bethesda, Maryland this 18th day May 1982.

For the Nuclear Regulatory Commission.

James H. Sniezek,

Acting Director, Office of Inspection and Enforcement.

[FR Doc. 82-14640 Filed 5-27-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-263]

Northern States Power Co.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 10 to Facility Operating License No. DPR-22, issued to Northern States Power Company, which revised Technical Specifications for operation of the Monticello Nuclear Generating Plant (the facility) located in Wright County, Minnesota. The amendment is effective as of its date of issuance.

The amendment modifies the Technical Specifications on the Scram Discharge Volume to include surveillance requirements for the Scram Discharge Volume vent and drain valves, Limiting Conditions of Operation/Surveillance Requirements for the Reactor Protection System and Control Rod Block Scram Discharge Volume limit switches. Certain editorial changes are also included.

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 10, 1980, (2) Amendment No. 10 to License No. DPR-22, 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 Environmental Conservation Library, Minneapolis Public Library, 300 Nicollet Mall, Minneapolis, Minnesota. 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 10th day of May 1982.

For the Nuclear Regulatory Commission.

Domenic B. Vassallo,

Chief, Operating Reactors Branch No. 2, Division of Licensing.

[FR Doc. 82-14641 Filed 5-27-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-259, 50-260, and 50-296

Tennessee Valley Authority; Issuance of Amendments to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 83 to Facility Operating License No. DPR-33, Amendment No. 80 to Facility Operating License No. DPR-52, and Amendment No. 54 to Facility Operating License No. DPR-68 issued to Tennessee Valley Authority (the licensee), which revised Technical Specifications for operation of the Browns Ferry Nuclear Plant, Units 1, 2, and 3, located in Limestone County, Alabama. The amendments are effective as of the date of issuance.

These amendments change the Technical Specifications to provide additional surveillance requirements for the scram discharge volume (SDV) vent and drain valves and additional limiting conditions for operation and surveillance requirements on the SDV limit switches as requested by NRC's generic letter of July 7, 1980 to all licensees of operating boiling water reactors.

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 the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an invironmental 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 applicaton for amendments dated October 16, 1980, as supplemented by letter dated November 18, 1981, (2) Amendment No. 83 to License No. DPR-33, Amendment No. 80 to License No. DPR-52, and Amendment No. 54 to License No. DPR-68, and (3) the Commission's related Safety evaluation including the Franklin Research Center Report TER-C-5506-67/71/76 enclosed therewith. 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 Athens Public Library, South and Forrest, Athens, Alabama 35611. 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 19th day of May 1982.

For the Nuclear Regulatory Commission.

Domenic B. Vassallo,

Chief, Operating Reactors Branch No. 2, Division of Licensing.

[FR Doc. 82-14642 Filed 5-27-82; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF PERSONNEL MANAGEMENT

Excepted Service

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: This gives notice of positions placed or revoked under Schedules A, B, and C in the excepted service, as

required by Civil Service Rule VI, Exceptions from the Competitive Service.

FOR FURTHER INFORMATION CONTACT: William Bohling, 202–632–6000.

SUPPLEMENTARY INFORMATION: The Office of Personnel Management published a notice updating appointing authorities established or revoked under the Excepted Service provisions of 5 CFR Part 213 on April 27, 1982 (47 FR 18082). Individual authorities established or revoked under Schedules A, B, or C between April 1, 1982 and April 28, 1982 appear in a listing below. Future notices will be published on the fourth Tuesday of each month. A consolidated listing of all authorities will be published as of June 30 of each year.

Schedule A

The following exceptions are established:

In the Department of the Interior, positions in the Youth Conservation Corps for which pay is fixed at the Federal minimum wage rate. Employment under this authority may not exceed 10 weeks. Effective April 15, 1982.

In the Department of Health and Human Services, Public Health Service, twelve positions of Therapeutic radiologic Technician Trainee in the Radiation Oncology Branch, National Cancer Institute. Employment under this authority shall not exceed 1 year for any individual. This authority shall be applied only to positions with compensation fixed under 5 U.S.C 5351–5356. Effective April 27, 1982.

The following exceptions are revoked:

In the Department of Defense, Office of the Secretary, five Special Advisors with responsibility for studies and recommendations in broad program area; revoked effective April 12, 1982, because the authority is no longer used.

In the Department of Defense, Office of the Secretary, positions assigned exclusively to Communications Intelligence Activities; revoked effective April 14, 1982, because the authority is no longer used.

In the Department of Defense, Office of the Secretary, positions assigned to or in support of special classified training activities; revoked effective April 14, 1982, because the authority is no longer used.

In the Department of Defense, Office of the Secretary, three Staff Assistants; revoked effective April 14, 1982, because the authority is no longer used.

In the Department of Defense, Office of the Secretary, one Director, intelligence Resources and Programs, OASD (Administration); revoked effective April 12, 1982, because the authority is no longer used.

In the Department of Defense, Interdepartmental Activities, positions in support of National Security Programs and Space Council Activities, revoked effective April 12, 1982, because the authority is no longer used.

In the Department of Labor, Office of Federal Contract Compliance, all positions at GS–15 and below involving performance of the functions of the program known as Plans for Progress; revoked effective April 19, 1982, because the authority is no longer used.

In the National Endowment for the Humanities, one Director, Office of Planning and policy Assessment; revoked effective April 19, 1982, because the authority is no longer used.

In the National Endowment for the Humanities, two positions of Special Assistants to the Deputy Chairman; revoked effective April 19, 1982, because the authority is no longer used.

In the National endowment for the Humanities, one Planning Officer, Office of Planning and policy Assessment; revoked effective April 19, 1982, because the authority is no longer used.

In the National Endowment for the Arts, one Special Constituencies Coordinator, Office of the Deputy Chairman for Policy and Planning; revoked effective April 21, 1982, because the position is no longer used.

In the National Endowment for the Arts, two Assistant Directors of Federal-State Partnerships; revoked effective April 21, 1982, because the positions are no longer used.

In the National Endowment for the Arts, one Crafts Coordinator; revoked effective April 21, 1982, because the position is no longer used.

In the National Endowment for the Arts, one Director for Partnership Programming; revoked effective April 21, 1982, because the position is no longer used.

In the Department of Commerce, Agents to take and transmit meterological observations in connection with aviation; revoked effective April 21, 1982, because the authority is no longer used.

In the Department of the Air Force, Air Force Systems Command, up to 12 positions of Engineer, GS–14–15, at the Aeronautical Systems Division; revoked effective April 26, 1982, because the authority is no longer used.

In the Department of the Air Force, Office of the Secretary, three Special Assistants in the Office of the Secretary of the Air Force; revoked effective April 26, 1982, because the authority is no longer used.

In the Department of Agriculture, any local veterinarian employed on a fee basis or a part-time basis; revoked effective April 28, 1982, because the authority is no longer needed.

In the Department of Agriculture, up to 25 professional, scientific or technical positions filled by State or univeristy employees for one year; revoked effective April 28, 1982, because the authority is no longer needed.

In the Department of Agriculture, Office of the Secretary, Special Livestock Loans Committeemen; revoked effective April 28, 1982, because the authority is no longer needed.

In the Department of Agriculture, Office of the Secretary, alternate members of the Board of Forest Appeals; revoked effective April 28, 1982, because the authority is no longer needed.

In the Department of Agriculture, Forest Service, temporary, intermittent, or seasonal positions filled by persons dependent for livelihood primarily upon employment available within the national forest; revoked effective April 28, 1982, because the authority is no longer needed.

In the Department of Agriculture, Farmers Homes Administration, State Committeemen; revoked effective April 28, 1982, because the authority is no longer needed.

In the Department of Agriculture, Agricultural Research Service, field employees on programs conducted under the terms of cooperative agreements; revoked effective April 28, 1982, because the authority is no longer needed.

In the Department of Agriculture, Foreign Agricultural Service, Agricultural Attache 1, positions at grade GS–16 and above; revoked effective April 28, 1982, because the positions are now in the Senior Executive Service.

In the Department of Agriculture, Animal and Plant Health Inspection Service, field employees under cooperative agreements; revoked effective April 28, 1982, because the authority is no longer needed.

In the Department of Agriculture, Food and Nutrition Service, temporary positions in grade GS–4 and below, at Food Commodity Distribution Centers; revoked effective April 28, 1982, because the authority is no longer needed.

In the Department of State, Office of the Secretary, Executive Officer, Executive Secretariat; revoked effective April 28, 1982, because the authority is no longer needed.

In the Department of the Navy, one Staff Assistant to the Naval Aide to the

President; revoked effective April 28, 1982, because the authority is no longer needed.

In the Department of the Navy, Naval Home, positions of orderly when filled by the appointment of beneficiaries of the Home; revoked effective April 28, 1982, because the authority is no longer needed.

In the Department of the Army, Joint Brazil–U.S. Defense Commission, one position of clerk—stenographer—translator or civilian aide requiring a knowledge of English, Portuguese, and Spanish; revoked effective April 28, 1982, because the authority is no longer needed.

In the Department of the Army, Corps of Engineers, land appraisers employed on a temporary basis for one year; revoked effective April 28, 1982, because the authority is no longer needed.

In the Department of the Army, Transportation Corps, longshoremen and stevedores employed at ports of embarkation in the United States, and all positions on vessels operated by the Transportation Corps; revoked effective April 28, 1982, because the authority is no longer needed.

In the Department of the Army, student occupational therapist positions in Army hospitals; revoked effective April 28, 1982, because the authority is no longer needed.

In the Department of the Army, positions assigned exclusively to Army Communications Intelligence Activities; revoked effective April 28, 1982, because the authority is no longer needed.

In the Department of the Army, trainee student medical technologist (intern) positions at the Rodriguez Army Hospital, Fort Brooks, Puerto Rico; revoked effective April 28, 1982, because the authority is no longer needed.

In the Department of the Army, up to 350 positions of members of treatment and counseling teams, to assist in the alcohol and drug abuse program; revoked effective April 28, 1982, because the authority is no longer needed.

Schedule B

The following exception is established:

In the Department of the Labor, positions of Chairman and Member, Wage Appeals Board. Effective April 1, 1982.

The following exceptions are revoked:

In the Department of Defense, Office of the Secretary, one Assistant for Counter-Insurgency, Office of the Assistant Secretary; revoked effective April 12, 1982, because the authority is no longer needed.

In the Executive Office of the President, Office of Management and Budget, seventy-five positions of senior staff member, GS–15, and staff member, GS–11/14, under the President's reorganization project; revoked effective April 12, 1982, because the authority has expired by its own terms.

In ACTION, Office of Domestic and Anti-Poverty Operations, up to ten positions of Regional Director, GS–15; revoked effective April 13, 1982, because the authority is no longer needed.

In the Smithsonian Institution, Office of Fellowships and Grants, positions at grades GS–4/11 filled in support of projects conducted under the Research Awards Program; revoked effective April 16, 1982, because the authority is no longer needed.

In the National Endowment for the Humanities, one Humanist Administrator, Pilot Grants, Institutional Grants, Division of Education Programs; revoked effective April 19, 1982, because the position is no longer needed.

In the National Endowment for the Humanities, one Special Projects Officer, Division of Special Programs; revoked effective April 19, 1982, because the position is no longer needed.

In the National Endowment for the Humanities, one Humanist Administrator for the Implementation Grants Program, GS–1701–12, Division of Education Programs; revoked effective April 19, 1982, because the position is no longer needed.

In the Department of the State, persons formerly employed abroad in the Foreign Service; revoked effective April 28, 1982, because the authority is no longer needed.

In the Department of the State, Director and Deputy Director, Foreign Buildings Operations; revoked effective April 28, 1982, because the authority is no longer needed.

Schedule C

The following exceptions are established:

In ACTION, one Special Assistant to the Assistant Director. Effective April 8, 1982.

In ACTION, one Special Assistant to the Director. Effective April 16, 1982.

In ACTION, one Special Assistant to the Assistant Director for Policy and Planning. Effective April 15, 1982.

In the Agency for International Development, one Special Assistant to the Assistant Administrator. Effective April 15, 1982.

In the Agency for International Development, one Special Assistant to the Director of Legislative Affairs. Effective April 5, 1982.

In the Agency for International Development, one Special Assistant to the Assistant Administrator for Program and Policy Coordination. Effective April 1, 1982.

In the Department of Agriculture, one Deputy Director, Office of Transportation. Effective April 1, 1982.

In the Arms Control and Disarmament Agency, one Special Assistant to the Assistant Director of the Strategic Programs Bureau. Effective April 6, 1982.

In the Department of the Army, one Staff Assistant to the Special Assistant to the President. Effective April 2, 1982.

In the Department of the Army, one Executive Director to the Deputy Assistant Secretary of Defense (Reserve Affairs). Effective April 12, 1982.

In the Department of the Army, one Special Assistant to the Deputy Assistant to the President. Effective April 1, 1982.

In the Department of the Commerce, one Special Assistant to the Director, Bureau of Census. Effective April 1, 1982.

In the Department of Commerce, one Confidential Assistant to the Deputy Assistant Secretary, International Trade Administration. Effective April 1, 1982.

In the Department of Commerce, one Director, Office of Public Affairs. Effective April 15, 1982.

In the Department of Commerce, Office of Productivity, Technology and Innovation, one Confidential Assistant. Effective April 16, 1982.

In the Department of Commerce, Economic Development Administration, one Special Assistant for Public Affairs. Effective April 19, 1982.

In the Department of Commerce, International Trade Administration, one Special Assistant to the Deputy Assistant Secretary for Import Administration. Effective April 1, 1982.

In the Department of Commerce, one Confidential Assistant to the Special Assistant to the Secretary. Effective April 8, 1982.

In the Department of Commerce, International Trade Administration, one Confidential Assistant to the Assistant Secretary for International Economic Policy. Effective April 28, 1982.

In the Consumer Product Safety Commission, one Secretary (Typing) to the Special Assistant to the Chairman. Effective April 1, 1982.

In the Consumer Product Safety Commission, one Supervisory Public Affairs Specialist. Effective April 26, 1982.

In the Department of Defense, one Special Assistant to the Deputy Assistant Secretary of Defense (Civilian Personnel Policy). Effective April 1, 1982.

In the Department of Defense, one Special Assistant to the Assistant

Secretary of Defense (International Security Policy). Effective April 1, 1982.

In the Department of Defense, one Special Assistant to the Assistant Secretary of Defense (Public Affairs). Effective April 19, 1982.

In the Department of Defense, one Deputy Assistant to the Secretary and Deputy Secretary of Defense. Effective April 12, 1982.

In the Department of Defense, one Special Assistant to the Deputy Assistant Secretary of Defense (Near Eastern, African, and South Asian Affairs). Effective April 15, 1982.

In the Department of Defense, one Staff Assistant to the Deputy Assistant Secretary of Defense (European and NATO Policy). Effective April 27, 1982.

In the Department of Education, one Confidential Assistant to the Director of the National Institute of Education. Effective April 1, 1982.

In the Department of Education, one Personal Assistant to the Deputy Under Secretary for Management. Effective April 1, 1982.

In the Department of Education, one Special Assistant to the Comptroller. Effective April 12, 1982.

In the Department of Education, one Confidential Assistant to the Director of Billingual Education and Minority Language Affairs. Effective April 12, 1982.

In the Environmental Protection Agency, one Special Assistant to the Regional Administrator (Philadelphia). Effective April 13, 1982.

In the Environmental Protection Ageny, one Assistant Director for State/Indian Affairs. Effective April 12, 1982.

In the Environmental Protection Ageny, one Special Assistant to the Associate Administrator, Office of Policy and Resources Management. Effective April 12, 1982.

In the Environmental Protection Agency, one Special Assistant to the Regional Administrator (Dallas). Effective April 21, 1982.

In the Department of Health and Human Resources, one Confidential Secretary to the Chief of Staff. Effective April 1, 1982.

In the Department of Health and Human Services, one Confidential Secretary to the General Counsel. Effective April 19, 1982.

In the Department of Health and Human Services, one Special Assistant to the Director, Office of Program Coordination and Review. Effective April 22, 1982.

In the Department of Housing and Urban Development, one Staff Assistant to the Assistant to the Secretary for Public Affairs. Effective April 1, 1982.

In the Department of Housing and Urban Development, one Intergovernmental Relations Officer. Effective April 26, 1982.

In the Department of Housing and Urban Development, one Staff Assistant to the Assistant Secretary for Fair Housing and Equal Opportunity. Effective April 22, 1982.

In the Department of Housing and Urban Development, one Staff Assistant to the Deputy Assistant Secretary for Multifamily Housing Programs. Effective April 6, 1982.

In the Department of the Interior, one Special Assistant to the Assistant Secretary for Indian Affairs. Effective April 9, 1982.

In the Department of the Interior, one Special Assistant to the Director, Office of Water Policy. Effective April 9, 1982.

In the Department of the Interior, one Special Assistant to the Assistant Secretary for Territorial and International Affairs. Effective April 27, 1982.

In the International Communication Agency, one Staff Assistant to the Special Assistant, Private Sector Liaison. Effective April 15, 1982.

In the International Communication Agency, one Staff Assistant to the Director. Effective April 27, 1982.

In the International Communication Agency, one Staff Assistant to the Director, Office of Public Liaison. Effective April 15, 1982.

In the Department of Justice, one Special Assistant (Security) to the Commissioner, Immigration and Naturalization Service. Effective April 9, 1982.

In the Department of Justice, one Staff Assistant to the Director, Office of Public Affairs. Effective April 27, 1982.

In the Department of Justice, one Secretary (Stenography) to the Assistant Attorney General, Office of Legislative Affairs. Effective April 2, 1982.

In the Department of Justice, one Staff Assistant to the Assistant Attorney General, Antitrust Division. Effective April 19, 1982.

In the Department of Justice, one Special Assistant to the Director, Office of Public Affairs. Effective April 28, 1982.

In the Department of Labor, one Research Assistant to the Deputy Under Secretary for Legislation and Intergovernmental Relations. Effective April 7, 1982.

In the Department of the Navy, one Staff Assistant to the Deputy Under Secretary (Financial Management). Effective April 1, 1982.

In the Small Business Administration, one Confidential Program Assistant to the Special Assistant. Effective April 21, 1982.

In the Small Business Administration, one Special Assistant to the Administrator. Effective April 22, 1982.

In the Department of State, one Special Assistant to the Assistant Secretary, Bureau of International Narcotics Matters. Effective April 12, 1982.

In the Department of State, one Secretary (Stenography) to the Chairman. Effective April 12, 1982.

In the Department of Transportation, one Staff Assistant to the Assistant Secretary for Governmental Affairs. Effective April 16, 1982.

In the Department of Transportation, one Staff Assistant to the Director, Office of Civil Rights. Effective April 12, 1982.

In the Department of Transportation, one Specisl Assistant to the Federal Highway Administrator. Effective April 15, 1982.

In the Department of Transportation, Urban Mass Transportation Administration, one Special Assistant to the Administrator. Effective April 8, 1982.

In the Department of Transportation, National Highway Traffic Safety Administration, one Director, Executive Staff to the President's Commission on Drunk Driving. Effective April 13, 1982.

In the Department of Transportation, Federal Railroad Administration, one Special Assistant to the Administrator. Effective April 27, 1982.

In the Department of Treasury, Customs Service, one Executive Assistant to the Special Assistant to the Commission, Legislative and Public Affairs. Effective April 28, 1982.

In the Department of Treasury, Office of the Comptroller of the Currency, one Staff Assistant to the Senior Deputy Comptroller. Effective April 8, 1982. The following exceptions are revoked:

In ACTION, Office of Policies and Plans, one Deputy Assistant Director; revoked effective April 16, 1982, because the position no longer exists.

In the Department of Agriculture, one Confidential Assistant to the Director of Economics, Policy Analysis, and Budget; revoked effective April 30, 1982, because the position no longer exists.

In the Department of Agriculture, one Confidential Assistant to the Administrator; revoked effective April 16, 1982, because the position no longer exists.

In the Department of the Army, one Staff Assistant to the Deputy Director; revoked effective April 25, 1982, because the position no longer exists.

In the Department of Commerce, one Special Assistant to the Assistant Secretary; revoked effective April 16, 1982, because the position no longer exists.

In the Department of Commerce, one Special Assistant to the Director, Bureau of Census; revoked effected April 17, 1982, because the position no longer exists.

In the Commission on Civil Rights, one Secretary (Stenography) to the Staff Director; revoked effective April 28, 1982, because the position no longer exists.

In the Department of Defense, one Special Assistant to the Assistant Secretary for Public Affairs; revoked effective April 3, 1982, because the position no longer exists.

In the Department of Education, one Special Assistant to the Assistant Secretary for Vocational and Adult Education; revoked effective April 17, 1982, because the position no longer exists.

In the Department of Education, one Executive Assistant to the Assistant Secretary for Planning and Budget; revoked effective April 17, 1982, because the position no longer exists.

In the Department of Energy, one Confidential Assistant to the Director, Congressional and Public Affairs; revoked effective April 3, 1982, because the position no longer exists.

In the Department of Energy, one Deputy Assistant Secretary, Congressional, Intergovernmental and Public Affairs; revoked effective April 3, 1982, because the position no longer exists.

In the Department of Energy, one Staff Assistant to the Special Assistant to the Secretary, Programs and Policies; revoked effective April 3, 1982, because the position no longer exists.

In the Environmental Protection Agency, three Congressional Relations Officers; revoked effective April 5, 1982, because the positions no longer exist.

In the Department of Housing and Urban Development, one Special Assistant to the Assistant Secretary of Administration; revoked effective April 15, 1982, because the position no longer exists.

In the Department of Housing and Urban Development, one Special Assistant to the Secretary; revoked effective April 10, 1982, because the position no longer exists.

In the Department of Housing and Urban Development, one Secretary (Stenography) to the Under Secretary; revoked effective April 10, 1982, because the position no longer exists.

In the Department of the Interior, one Special Assistant (Legislative Liaison) to the Assistant Secretary for Indian Affairs; revoked effective April 18, 1982, because the position no longer exists.

In the Department of the Interior, one Special Assistant to the Director, Congressional and Legislative Affairs; revoked effective April 17, 1982, because the position no longer exists.

In the Department of the Interior, one Assistant to the Executive Assistant to the Secretary; revoked effective April 17, 1982, because the position no longer exists.

In the Department of the Interior, one Confidential Assistant to the Director; revoked effective April 7, 1982, because the position no longer exists.

In the Department of the Interior, one Special Assistant to the Assistant Secretary for Territorial and International Affairs; revoked effective April 3, 1982, because the position no longer exists.

In the International Communication Agency, one Special Assistant to the Associate Director for Management; revoked effective April 16, 1982, because the position no longer exists.

In the International Communication Agency, one Counsellor for Press and Public Affairs; revoked effective April 2, 1982, because the position no longer exists.

In the International Communication Agency, one Secretary (Stenography) to the Associate Director for Educational and Cultural Affairs; revoked effective April 15, 1982, because the position no longer exists.

In the Department of Labor, one Assistant to the Deputy Under Secretary; revoked effective April 3, 1982, because the position no longer exists.

In the Department of Labor, one Special Assistant to the Assistant Secretary for Labor Management Services; revoked effective April 16, 1982, because the position no longer exists.

In the Small Business Administration, one Special Assistant to the Associate Administrator; revoked effective April 9, 1982, because the position no longer exists.

In the Department of State, one Secretary (Stenography), revoked effective April 17, 1982, because the position no longer exists.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218)

Office of Personnel Management.

Donald J. Devine,

Director.

[FR Doc. 82–14508 Filed 5–27–82; 8:45 am]

BILLING CODE 6325–01–M

Proposed Extension of Forms Submitted to OMB for Review

AGENCY: Office of Personnel Management.

ACTION: Notice of proposed extension of forms.

SUMMARY: In accordance with the Paperwork Reduction Act of 1980, this notice announces a proposed extension of forms which collect information from the public. Standard Form (SF) 171, Personal Qualifications Statement, SF 171–A, Continuation Sheet for Standard Form 171, SF 172, Amendment to Personal Qualifications Statement, and SF 173, Job Qualification Statement, are completed by applicants for Federal positions throughout the Government. Federal agencies use the information to determine the qualifications of applicants. For copies of this proposal, call John P. Weld, Agency Clearance Officer, on (202) 632–7720.

DATES: Comments on this proposal should be received on or before June 7, 1982.

ADDRESSES: Send or deliver comments to: John P. Weld, Agency Clearance Officer, U.S. Office of Personnel Management. 1900 E Street, NW., Room 6H28. Washington, D.C. 20415 and Mr. Robert Veeder, Information Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT: Larry Lorenz, 254–3074, Office of Personnel Management.

Donald J. Devine,

Director.

[FR Doc. 82–14637 Filed 5–27–82; 8:45 am]

BILLING CODE 6325–01–M

SMALL BUSINESS ADMINISTRATION

Reporting and Recordkeeping Requirements Under OMB Review

AGENCY: Small Business Administration.

ACTION: Request for comments.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), agencies are required to submit proposed reporting and recordkeeping requirements to OMB for review and approval, and to publish a notice in the **Federal Register** notifying the public that the agency has made such a submission.

DATE: Comments must be received on or before June 11, 1982. If you anticipate commenting on a submission but find that time to prepare will prevent you

from submitting comments promptly, you should advise the OMB reviewer and the agency clearance officer of your intent as early as possible.

COPIES: Copies of the proposed form, the request for clearance (S.F. 83), supporting statement, instructions, transmittal letters, and other documents submitted to OMB for review may be obtained from the Agency Clearance Officer. Comments on the item listed should be submitted to the Agency Clearance Officer and the OMB Reviewer.

FOR FURTHER INFORMATION CONTACT:

Agency Clearance Officer: Elizabeth M. Zaic, Small Business Administration, 1441 L St., NW., Room 200, Washington, D.C. 20416, Telephone: (202) 653–8538

OMB Reviewer: J. Timothy Sprehe, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3001, New Executive Office Building, Washington, D.C. 20503, Telephone: (202) 395–7313

List of SBA Forms Submitted for Review

The following list includes all SBA submissions since publication of the last listing on January 28, 1982 at 47 FR 4186:

BILLING CODE 8025-01-M

1.	Title of reporting or recordkeeping requirement	Statement of Personal History (for use by non-bank lenders)	Pollution Control Procedure for Guarantee Application	13 CFR 112.9 and 113.5	Surety Bond Guarantee
2.	Name and phone number of issuing office	Office of Lender Relations & Certification, 202-653-6991	Pollution Control Branch, 703-235-2902	Civil Rights Compliance Division, 202-653-6054	Office of Special Guarantees Surety Bond Branch, 703-235-2907
3.	Applicable SBA form numbers	SBA 1081	SBA 1136, 1136A	SBA 707	SBA 912, 990, 994, 994B, 994F, 994H, 994J
4.	Number of forms in request	1	2		7
5.	Frequency of use	On Occasion	On Occasion	On Occasion	On Occasion
6.	Type of Affected Public	Financial corporations seeking certification to make loans under SBA guaranty program	Small business manufacturing, waste disposal & resource recovery companies	SBA loan recipients	Small contractors requesting assistance
7.	Are Small Businesses Affected	Yes	Yes	Yes	Yes
8.	Standard Industrial Classification (SIC) Codes of respondents	611, 612, 613, 615	Multiple	Multiple	Multiple
9.	Estimated Number of Responses	100	500	50,000	34,000
10.	Estimated burden hours:				
	Per Response	2	.5	5 min.	1
	Total	200	250	4,167	34,000
11.	Costs:				
	To the Public	$5,600	$5,000		
	To the Federal Government	$1,000			
12.	Applicable Federal budget functional category	376	376	376	376
13.	Nature of request	New	Extension (No Change)	New	Reinstatement
14.	Rulemaking submission under Section 3504(h) of P.L. 96-511	No	No	No	No
15.	Abstract	This form is used according to 13 CFR 120.4(a)(2) to collect information on principals of corporations seeking certification.	The regulations & forms provide basis for evaluating ability to meet requirements of P.L.94-305.	These regulations require loan recipients to collect and maintain data relative to civil rights compliance. Less than .5% of recipients annually are now required to submit the information on SBA 707.	This information is used to evaluate capabilities for potential success of applicants requesting assistance under Surety Bond Guarantee Program.

1. Title of reporting or recordkeeping requirement	SBDC Project Officer Checklist	13 CFR 120.5(b)(6) and (b)(7) and 120.6	13 CFR 107.1102	Application for Membership in Small Business Production or Research and Development Pool
2. Name and phone number of issuing office	Office of Management Assistance, 202-653-6084	Office of Lender Relations and Certification, 202-653-6991	Investment Division, 202-653-6782	Office of Procurement and Technology Assistance, 202-653-6485
3. Applicable SBA form numbers	SBA 59	N/A	N/A	SBA 419
4. Number of forms in request	1	N/A	N/A	1
5. Frequency of use	Quarterly	On Occasion	On Occasion	On Occasion
6. Type of Affected Public	Small Business Development Centers	Financial Corporations that lend money to small businesses with SBA loan guarantees	Small Business Investment Companies licensed by SBA	Small businesses with potential for meeting Federal contracting requirements
7. Are Small Businesses Affected	Yes	Yes	Yes	Yes
8. Standard Industrial Classification (SIC) Codes of respondents	Multiple	615	Multiple	Multiple
9. Estimated Number of Responses	80	1200	3045	50
10. Estimated burden hours:				
Per Response	1	1.2	.25	2
Total	80	1000	761	100
11. Costs:				
To the Public	$1,231			$1,000
To the Federal Government	$1,000			$250
12. Applicable Federal budget functional category	376	376	376	376
13. Nature of request	New	New	New	New (Expired more than 6 months ago)
14. Rulemaking submission under Section 3504(h) of P.L. 96-511	No	No	No	No
15. Abstract	This form is used for quarterly reporting by SBDC to SBA as required under cooperative agreement between SBDC and SBA.	This form is used to ensure that participating non-bank lenders are financially able and administratively capable of lending money to small businesses.	To administer the Small Business Act, it is essential that licensees maintain adequate financial records and that annual statements be prepared.	P.L. 85-536 & 13 CFR 125.4(d) & (e) require SBA to assist and encourage small firms to undertake joint programs for research and development and to form defense production pools.

BILLING CODE 8025-01-C

Dated: May 24, 1982.

Elizabeth M. Zaic,

Chief, Paperwork Management Branch, Small Business Administration.

[FR Doc. 82-14686 Filed 5-27-82; 8:45 am]

BILLING CODE 8025-01-M

TENNESSEE VALLEY AUTHORITY

Time-of-Day Ratemaking Standard and Assignment of Allocation of Benefits of Hydro Power in Residential Rate Design; Extension of Time for Comments

AGENCY: Tennessee Valley Authority (TVA).

ACTION: Notice of extension of time for written comments.

SUMMARY: Notice of opportunity for further comment on the Time-of-Day Ratemaking Standard considered under the Public Utility Regulatory Policies Act of 1978 and on the assignment of the allocation of the benefits of hydro power in residential rate design was published in the **Federal Register** April 15, 1982 (47 FR 16,241). A notice extending the time for written comments and changing the location, date, and time of the oral comment session was published in the **Federal Register** May 4, 1982 (47 FR 19,260).

The purpose of this notice is to announce a further extension of time for submitting written comments. Written comments should now be received by 5 p.m. (EDT) on June 1, 1982.

The oral comment session was conducted on May 10, 1982. Copies of two TVA staff documents containing background material and information on allocation of low-cost power benefits in rate design and on time-of-day rates were made available to the public at that meeting. Copies of all written comments received as of May 10, a transcript of the oral comment session, and copies of the two TVA documents are available for public inspection at the following locations:

Appalachian District Office, TVA, 200 Brookvale Building, Knoxville, Tennessee 37902.

Central District Office, TVA, 1719 West End Building, Nashville, Tennessee 37902.

Kentucky District Office, 111 Hammond Plaza, Hopkinsville, Kentucky 42240.

Memphis-Shelby County Public Library and Information Center, 1850 Peabody Street, Memphis, Tennessee 38104.

Southeastern District Office, 1709 S. Lee Highway, Cleveland, Tennessee 37311.

TVA Technical Library, 100 401 Building, 401 Chestnut Street, Chattanooga, Tennessee 37401.

Western District Office, TVA, First Tennessee Bank Building, North Branch, Fourth Floor, 620 Old Hickory Boulevard, Jackson, Tennessee 38301.

Mississippi District Office, TVA, 1014 North Gloster Street, Tupelo, Mississippi 38801.

Alabama District Office, TVA, 501 First Federal Building, Muscle Shoals, Alabama 35660.

ADDRESS: Comments should be sent to: Robert C. Steffy, Jr., Director, Division of Energy Conservation and Rates, Tennessee Valley Authority, 703 Power Building, Chattanooga, Tennessee 37401.

FOR FURTHER INFORMATION CONTACT: Dawn S. Ford, Tennessee Valley Authority, 400 West Summit Hill Drive, EPB6, Knoxville, Tennessee 37902, (615) 632-4402.

Ms. Ford upon written or telephone request will mail copies of the TVA staff documents (entitled "Allocation of Low-Cost Power Benefits and Assignment of Benefits in Rate Design" and "Time-of-Day Rates"). Copies of TVA's April 1, 1981 Determinations on Ratemaking Standards and the Policy Statement on Allocation of Benefits of Low-Cost Power Sources to Residential Consumers adopted on April 1, 1981 are also available upon request.

W. F. Willis,

General Manager.

[FR Doc. 82-14755 Filed 5-26-82; 2:19 pm]

BILLING CODE 8120-01-M

Sunshine Act Meetings

Federal Register
Vol. 47, No. 104
Friday, May 28, 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

COPYRIGHT ROYALTY TRIBUNAL

DATE AND TIME: 2 p.m., Tuesday, June 15, 1982.

PLACE: Postal Rate Commission, 2000 L Street, N.W., Suite 500, Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED:
Commencement of the Cable Royalty Adjustment Proceeding (CRT Docket No. 81-2) hearings and the hearings will continue on such subsequent days as are necessary.

CONTACT PERSON FOR FURTHER INFORMATION:
Commissioner Frances Garcia, Chairman, Copyright Royalty Tribunal, 1111 20th Street, N.W., Washington, D.C. 20036, (202) 653-5175.

May 24, 1982.

Frances Garcia,

Chairman.

[S-807-82 Filed 5-26-82; 3:10 am]

BILLING CODE 1401-01-M

2

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 10:30 a.m., on Tuesday, June 1, 1982, the Federal Deposit Insurance Corporation's Board of Directors will meet in closed session, by vote of the Board of Directors pursuant to sections 552b(c)(2), (c)(6), (c)(8), and (c)(9)(A)(ii) of Title 5, United States Code, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Recommendations with respect to the initiation, termination, or conduct of administrative enforcement proceedings (cease-and-desist proceedings, termination-of-insurance proceedings, suspension or removal proceedings, or assessment of civil money penalties) against certain insured banks or officers, directors, employees, agents, or other persons participating in the conduct of the affairs thereof:

Names of persons and names and location of banks authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6), (c)(8), and (c)(9)(A)(ii)).

Note.—Some matters falling within this category may be placed on the discussion agenda without further public notice if it becomes likely that substantive discussion of those matters will occur at the meeting.

Discussion Agenda:

Personnel actions regarding appointments, promotions, administrative pay increases, reassignments, retirements, separations, removals, etc.:

Names of employees authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(2) and (c)(6) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(2) and (c)(6)).

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550 17th Street, N.W., Washington, D.C.

Requests for information concerning the meeting may be directed to Mr. Alan J. Kaplan, Deputy Executive Secretary of the Corporation, at (202) 389-4446.

Dated: May 25, 1982.

Federal Deposit Insurance Corporation.

Alan J. Kaplan,

Deputy Executive Secretary.

[S-802-82 Filed 5-26-82; 11:46 am]

BILLING CODE 6714-01-M

3

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby give that the Federal Deposit Insurance Corporation's Board of Directors will meet in open session at 10:00 a.m. on Tuesday, June 1, 1982, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that and item be moved to the discussion agenda.

Disposition of minutes of previous meetings.

Application for consent to change the general character of the bank's business from that of a mutual savings bank to that of a commercial bank pursuant to Part 333 of the Corporation's rules and regulations:

Commonwealth Savings Bank, Milwaukee, Wisconsin.

Request for modification of a condition previously imposed in granting Federal deposit insurance:

Bank of Oakland (In Organization), Oakland, California.

Recommendations regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Case No. 45,226-L—The Bank of Bloomfield, Bloomfield, New Jersey
Case No. 45,229-L—State Bank of Clearing, Chicago, Illinois
Memorandum and Resolution re: East Gadsden Bank, Gadsden, Alabama

Reports of committees and officers:

Minutes of the actions approved by the standing committees of the Corporation pursuant to authority delegated by the Board of Directors.
Reports of the Division of Bank Supervision with respect to applications or requests approved by the Director or Associate Director of the Division and the various Regional Directors pursuant to authority delegated by the Board Directors.

Discussion Agenda:

No matters scheduled.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550 17th Street, N.W., Washington, D.C.

Requests for information concerning the meeting may be directed to Mr. Alan J. Kaplan, Deputy Executive Secretary of the Corporation, at (202) 389–4446.

Dated: May 25, 1982.

Federal Deposit Insurance Corporation.

Alan J. Kaplan,

Deputy Executive Secretary.

[S–803–82 Filed 5–26–82; 11:47 am]

BILLING CODE 6714–01–M

4

FEDERAL DEPOSIT INSURANCE CORPORATION

Changes in Subject Matter of Agency Meeting

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its open meeting held at 2:00 p.m. on Monday, May 24, 1982, the Corporation's Board of Directors determined, on motion of Chairman William M. Isaac, seconded by Director Irvine H. Sprague (Appointive), concurred in by Mr. Doyle L. Arnold, acting in the place and stead of Director C. T. Conover (Comptroller of the Currency), that Corporation business required the addition to the agenda for consideration at the meeting on less than seven days' notice to the public, of the following matters:

Memorandum re Meetings: Banking Regulatory Reform

Memorandum and Resolution re: Proposed Regulation for Insured Savings Banks on Fair Value Reporting

By the same majority vote, the Board further determined that no earlier notice of the changes in the subject matter of the meeting was practicable.

Dated: May 25, 1982.

Federal Deposit Insurance Corporation.

Alan J. Kaplan,

Deputy Executive Secretary.

[S–804–82 Filed 5–26–82; 11:48 am]

BILLING CODE 6714–01–M

5

FEDERAL DEPOSIT INSURANCE CORPORATION

Changes in Subject Matter of Agency Meeting

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its closed meeting held at 2:30 p.m. on Monday, May 24, 1982, the Corporation's Board of Directors determined, on motion of Chairman William M. Isaac, seconded by Director Irvine H. Sprague (Appointive), concurred in by Mr. Doyle L. Arnold, acting in the place and stead of Director C. T. Conover (Comptroller of the Currency), that Corporation business required the addition to the agenda for consideration at the meeting, on less than seven days' notice to the public, of the following matters:

Recommendation regarding the Corporation's assistance agreements with an insured bank pursuant to section 13(c) of the Federal Deposit Insurance Act.

Recommendation regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Case No. 45,197—Central Savings Bank, New York, New York

Case No. 45,255—The Greenwich Savings Bank, New York, New York

The Board further determined, by the same majority vote, that no earlier notice of the changes in the subject matter of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(4), (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(4), (c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

Dated: May 25, 1982.

Federal Deposit Insurance Corporation.

Alan J. Kaplan,

Deputy Executive Secretary.

[S–805–82 Filed 5–26–82; 11:48 am]

BILLING CODE 6714–01–M

6

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

May 25, 1982.

TIME AND DATE: 10 a.m., Wednesday, May 26, 1982.

PLACE: Room 600, 1730 K Street, NW., Washington, D.C.

STATUS: Open.

CHANGES IN THE MEETING: The following should be deleted:

Oral Argument:

2. Monterey Coal Company, Docket Nos. LAKE 80–413–R and LAKE 81–59.

Meeting:

3. Monterey Coal Company, same as above.

It was determined by a unanimous vote of the Commissioners that Commission business required that the above case be deleted and that no earlier announcement of the deletion was possible.

CONTACT PERSON FOR MORE INFORMATION: Jean Ellen (202) 653–5632.

[S–806–82 Filed 5–26–82; 2:13 pm]

BILLING CODE 6735–01–M

7

PACIFIC NORTHWEST ELECTRIC POWER AND CONSERVATION PLANNING COUNCIL

TIME AND DATE: June 3, 1982, 9 a.m., Reserves and Reliability Subcommittee.

PLACE: Council's Central Office, 700 Southwest Taylor Street, Suite 200, Portland, Oregon 97205.

MATTERS TO BE CONSIDERED: The purpose of the meeting is to review and discuss the work of ICF, one of the contractors conducting technical studies for the Council in the development of its energy plan.

CONTACT PERSON FOR MORE INFORMATION: (Ms.) Torian Donohoe (503) 222–5161.

Edward Sheets,

Executive Director.

[S–808–82 Filed 5–26–82; 3:47 pm]

BILLING CODE 000–00–M

8

PAROLE COMMISSION

[2P0401]

TIME AND DATE: 2 p.m., Thursday, June 3, 1982.

PLACE: Room 420–F, One North Park Building, 5550 Friendship Boulevard, Chevy Chase, Maryland 20815.

STATUS: Closed pursuant to a vote to be taken at the beginning of the meeting.

MATTERS TO BE CONSIDERED: Referrals from Regional Commissioners of approximately 13 cases in which inmates of Federal prisons have applied for parole or are contesting revocation of parole or mandatory release.

CONTACT PERSON FOR MORE INFORMATION: Linda Wines Marble, Chief Case Analyst, National Appeals Board, United States Parole Commission (301) 492–5987.

[S–801–82 Filed 5–28–82; 10:59 am]

BILLING CODE 4410–01–M

federal register

Friday
May 28, 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 on 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.

California: CA81–5119	May 15, 1981.
District of Columbia: DC81–3040	June 5, 1981.
Mayland: DC81–3040	June 5, 1981.
Virginia: DC81–3040	June 5, 1981.
Colorado: CO82–5104	Feb. 26, 1982.
Iowa: IA81–4096	Nov. 27, 1981.
Hawaii: HI82–5105	Mar. 12, 1982.
Pennsylvania:	
PA81–3051	Sept. 4, 1981.
PA82–3007	Feb. 26, 1982.
Kansas: KS82–4013	Apr. 16, 1982.
Maryland: MD81–3074	Oct. 9, 1981.
Ohio: OH82–2035	May 7, 1982.
Texas: TX81–4064	Aug. 7, 1981.
Wyoming: WY81–5159	Oct. 30, 1981.

Supersedeas Decisions to General Wage Determination Decisions

The number 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.

Mississippi MS81–1195 (MS82–1030)	Mar. 20, 1981.

Please note that we are changing the format for **Federal Register** wage decisions to coinside with the provisions of All Agency Memorandum No. 132 dated January 29, 1980, which provides that the Department of Labor will discontinue identifying fringe benefits separately. Rather, they will be stated as a composite figure which is the total hourly equivalent value of fringe benefits found to be prevailing. Fringe benefits which can not be stated in monetary terms will be shown in footnotes. This procedure will be phased in gradually.

Signed at Washington, D.C., this 21st day of May 1982.

Dorothy P. Come,

Assistant Administrator, Wage and Hour Division.

BILLING CODE 4510-30-M

DECISION NO. CA81-5119 - Mod. #7
(46 FR 27017 - May 15, 1981)
Alameda, Amador, Calaveras, Contra Costa, Del Norte, El Dorado, Humboldt, Marin, Mariposa, Merced, Napa, Nevada, Placer, Sacramento, San Benito, San Francisco, San Joaquin, San Mateo, Santa Clara, Santa Cruz, Tuolumne, Yolo and Yuba Counties, California

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and or Appr. Tr.
Change:					
CARPENTERS:					
Areas 1 and 2:					
Fringe Benefits only		1.755	1.95	1.35	.17

DECISION NO. DC81-3040 - MOD. #9 (46 FR 30290 - June 5, 1981) District of Columbia; Maryland - Montgomery and Prince Georges; D. C. Training School; Virginia Independent City of Alexandria, Arlington and Fairfax Counties	Basic Hourly Rates	Fringe Benefits
CHANGE:		
ASBESTOS WORKERS	15.75	2.79
ELECTRICIANS	15.65	2.28+ 3%
MARBLE SETTERS	15.50	2.585
SHEET METAL WORKERS	15.28	3.52g
SPRINKLER FITTERS (EXCLUDING PRINCE GEORGES AND MONTGOMERY COUNTIES)	16.67	2.75
FOOTNOTE:		
g. Employer contributes additional .09 outside of District of Columbia		

DECISION NO. CO82-5104 - Mod. #4 (47 FR 8497 - Feb.26, 1982) El Paso Co., Colorado	Basic Hourly Rates	Fringe Benefits
Change:		
Asbestos Workers	$16.14	2.52

DECISION NO. IA81-4096 - MOD. #6 (46 FR 58023 - 11/27/81) Woodbury County, Iowa	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Painters:		
Group 1	$12.88	2.20
Group 2	13.38	2.20
Sheet Metal Workers	15.15	1.99

DECISION NO. HI82-5105 - Mod. #3
(47 FR 10948 - March 12, 1982)
Statewide Hawaii

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and or Appr. Tr.
CHANGE:					
LANDSCAPE and IRRIGATION LABORERS:					
Group 1	$8.18	1.12	.70	.65	
Group 2	7.60	1.12	.70	.65	
Group 3	5.81	1.12	.70	.65	

GROUP 1: Layout and/or installation of all valves, valve boxes, vacuum breakers, low voltage electrical lines, hydraulic or electrical controllers, drinking fountains and other potable water systems, and metallic pipe (copper, brass, galvanized, or similar), and tie-in to main lines including soldering (torch, soldering iron, etc.). Making of pressure test. Operation of hand-held gas, air, or self-powered construction tools and equipment such as Jackhammers, Busters, Mud Guns, Jumping Jacks, Post Hole Diggers, Rototillers, Scarifiers, Jackson and similar type Compactors, Barko and similar type tampers, Ramsets, etc. Tree climbers and chain saw tree trimmers. Shooting of grade elevations. Checking of all trees, shrubs, and other plantings for proper size, caliber, and condition. Concrete work (wet or dry), including concrete bucket tending, concrete shipping, concrete grinding and operation of concrete vibrator, concrete pump machine, concrete saw cutter (Hand held or walking type), and concrete mixer. Includes setting of rock, stone, or riprap. Choke setting, signaling, and rigging for equipment operators on job site. Operation of forklifts, flat bed trucks up to and including 2½ tons, drillers, hydro-mulching machines (sprayman and driver), trenchers (Riding type, Davis T-66 and similar) Operation of Cranes (Bantom, Grove, and similar), Hoptos, Backhoes, Light Loaders, Rollers, and Dozers (Case, John Deere, and similar), Trucks requiring Hawaii Public Utilities Commission Type 7 License, and other self-propelled, sit-down operated machines not listed in Group 2.

GROUP 2: Grubbing, excavation (Pick and Shovel), and hand rolling or tamping. Installation of heads, Risers, and PVC or other plastic pipe. Sprigging, handseeding, and planting of trees, shrubs, ground covers, and other planting (Including use of electrically-powered mud guns) and the performance of all other work relating to said planting that is not specifically listed in Group 1 above.

GROUP 3: Landscape and Irrigation Maintenance work performed during the construction phase of work (Preparation/Installation/Planting), also includes the re-planting of trees, shrubs, ground covers, and other plantings that did not "take" or which are damaged (if re-planting requires two or more persons to perform, Group 2 wages shall be paid.)

DECISION NO. PA81-3051 - MOD. NO. 4 (46 FR 44653 - September 4, 1981) Luzerne County, Pennsylvania	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Carpenters:		
Remainder of County	$13.94	1.95
Bricklayers:		
Remainder of County	14.25	2.00
Electricians:		
Remainder of County	14.84	2.13+3%
LABORERS:		
Hazleton:		
Laborers	9.39	2.25
Mason tenders including scaffold builders	9.79	2.25
Pneumatic, electric and mechanical tool operators 2" pumps - non-metallic pipelaying and making joint clay, terra cotta, ironstone vitrified concrete, handling of burning torches, asphalt or other hot materials, cement finishers & blasters' helpers, power buggies, walk along hoist	9.49	2.25
Plasterers' tenders, blasters, and wagon drill operators	9.64	2.25
Remainder of County		
Unskilled Laborers	11.87	2.25
Semi skilled laborers, pneumatic and other mechanical tool operators; 2" pump or under, handling and mixing of all material used by masons from stock pile to mason; non-metallic pipelayer & making of joints, clay, terra cotta, ironstone, vitrified concrete, handling of burning torches, asphalt or other hot material, cement finishers and blasters' helpers	12.07	2.25

	Basic Hourly Rates	Fringe Benefits
LABORERS: (CONT'D)		
Plasterers' tenders, blaster, wagon drill operators	12.19	2.25
Mason tenders and scaffold builders	12.27	2.25
Painters:		
Remainder of County		
Brush	11.85	1.80
Tapers	12.51	1.80
Hazardous	13.51	1.80
POWER EQUIPMENT OPERATORS:		
Group 1	15.14	22.6%+a
Group 2	14.85	22.6%+a
Group 3	13.97	22.6%+a
Group 4	13.20	22.6%+a
Group 5	12.72	22.6%+a
Group 6	11.80	22.6%+a
Group 7	15.39	22.6%+a
Group 7-A	15.64	22.6%+a
Group 7-B	15.89	22.6%+a
Roofers:		
Composition and kettlemen	13.30	2.10
Sheet metal workers	14.62	1.85
Soft Floor Layers	11.69	1.95
Sprinkler Fitters	16.92	2.83

DECISION NO. PA82-3007 MOD. NO. 3 (47 FR 8529 - Feb. 26, 1982) Bucks, Chester, Delaware, Montgomery & Philadelphia Counties, Pennsylvania		
ADD:		
Roofers:		
Residential structure of not more than 4 stories re-roofing assistant		
Zone 1	$5.75	1.90

DECISION #KS82-4013-MOD. #4 (47 FR 16519-April 16, 1982) LEAVENWORTH COUNTY, KANSAS	Basic Hourly Rates	Fringe Benefits
CHANGE:		
LABORERS:		
BUILDING CONSTRUCTION		
General Laborers	$8.65	2.10
Power tool operators, compactors concrete breakers, chipping tools, concrete saws, mechanically operated georgia buggy.	8.85	2.10
Mason tenders, plaster tenders, mortar mixers for plasterers, masons and cement finishers, all stocking scaffold, clean up for masons (building & wrecking).	9.05	2.10
Sand and concrete gun nozzleman powderman.	9.15	2.10

DECISION NO. MD81-3074 - MOD. #7 (46 FR 50238 - October 9, 1981) ANNE ARUNDEL (EXCLUDING THE D.C. TRAINING SCHOOL), BALTIMORE AND BALTIMORE CITY, MARYLAND AND FOR HEAVY CONSTRUCTION PROJECT IN HARFORD AND HOWARD COUNTIES, MARYLAND		
CHANGE:		
Heading which reads MOD. #5 and appeared in the Federal Register on May 14, 1982, to read MOD. #6		

DECISION NO. OH82-2035 - MOD. #1 (47 FR 19893 - 5/7/82) Statewide, Ohio		
Change:		
Truck Drivers - Zone II:		
Remainder of the State:		
Class V	$13.77	.05 &a
Class VI	13.94	.05 &a
Footnote:		
a. $65.00 per week per employee		

DECISION NO. TX81-4064 - MOD. #4 (46 FR 40487 - 8/7/81) El Paso County, Texas	Basic Hourly Rates	Fringe Benefits
CHANGE		
Sheet Metal Workers	$12.72	1.45+ 3%

DECISION NO. WY81-5159 - MOD. #2 (46 FR 53953 - Oct. 30, 1981) Statewide Wyoming	
Change:	
Line Construction:	
Change Apprenticeship Training only to read ½ of 1%	

SUPERSEDEAS DECISION

STATE: MISSISSIPPI

COUNTIES: ADAMS, AMITE, FRANKLIN, JEFFERSON, LAWRENCE, LINCOLN, PIKE, WALTHALL, AND WILKINSON

DECISION NUMBER: MS82-1030

DATE: DATE OF PUBLICATION

SUPERSEDES Decision No.: MS81-1195 dated March 20, 1981 in 46 FR 17988.

DESCRIPTION OF WORK: RESIDENTIAL CONSTRUCTION projects consisting of single family homes and apartments up to and including 4 stories.

	Basic Hourly Rates	Fringe Benefits
AIR CONDITIONING MECHANICS	$9.00	
BRICKLAYERS	8.00	
CARPENTERS	7.50	
CEMENT MASONS	6.00	
DRYWALL FINISHERS	6.78	
DRYWALL HANGERS	6.15	
ELECTRICIANS	7.47	
IRONWORKERS	5.00	
LABORERS:		
Pipelayers	5.50	
Unskilled	4.31	
LATHERS	10.25	
PAINTERS	6.62	
PLASTERERS	10.00	
PLUMBERS & PIPEFITTERS	7.39	
POWER EQUIPMENT OPERATORS:		
Backhoe	$5.00	
Bulldozer	6.55	
Crawler	7.00	
Dragline	5.55	
Scraper	5.75	
Spreader	4.75	
Trenching Machine	5.92	
ROOFERS	6.20	
SHEET METAL WORKERS	5.00	
SOFT FLOOR LAYERS	6.17	
TRUCK DRIVERS	4.31	
WELDERS - Rate for Craft		

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)).

[FR Doc 82-14324 Filed 5-27-82; 8:45 am]

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federal register

Friday
May 28, 1982

Part III

Department of Agriculture

Food and Nutrition Service

Special Supplemental Food Program for Women, Infants, and Children; Food Delivery Systems

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Part 246

Special Supplemental Food Program for Women, Infants, and Children; Food Delivery Systems

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final rule.

SUMMARY: This notice issues final rules for the administration of food delivery systems and vendor monitoring in the Special Supplemental Food Program for Women, Infants, and Children (WIC), which would amend program regulations issued July 27, 1979, at 44 FR 44422. Changes made in this rule include: requiring periodic review of vendor qualifications; more detail in vendor agreements; more explicit goals of vendor training; revisions in vendor monitoring requirements; stronger rules on review of food instruments for overcharges or errors; allowance of limiting the number of participating vendors; and allowance of up to half of funds recoverd from vendor overcharges to be used for administrative purposes. These rules would give greater accountability in State agency operations of delivery of benefits to participants. They were designed to decrease vendor errors and abuse and subsequent loss of program funds. In turn, this will increase funds available for participant benefits and will improve WIC Program integrity.

DATES: Effective date: This regulation is effective May 28, 1982.

Implementation Date

The provisions of this final regulation must be implemented by May 28, 1983. This includes requirements to revise vendor agreements to the specified provisions.

FOR FURTHER INFORMATION CONTACT: Barbara Hallman, Supplemental Food Programs Division, USDA–FNS, Alexandria, Virginia 22302, (703) 756–3730. The impact analysis statement describing options considered in developing this rule and the impact of implementing each option is available from Barbara Hallman.

SUPPLEMENTARY INFORMATION: Though the rules presented herein represent final decisions, the Department will accept comments on these rules from interested parties. It is expected that the nature of these comments will be on technical problems which may require adjustment in the regulations and that commenters will base their comments on actual attempts to implement the provisions of the rule. The Department is planning to propose a revision of regulations designed to reduce administrative burdens. Minor revisions in the Food Delivery Regulations could be included in the final version of that regulation based on such comments to these regulations. To be assured of consideration, such comments should be received within the comment period of the above mentioned future proposed regulatory revision.

Classification

This action has been reviewed under Executive Order 12291 and has not been classified major because it does not meet any of the three criteria identified under the Executive Order. This action will not have an annual effect on the economy of $100 million or more nor will it have a major increase in costs or prices for consumers; individual industries; Federal, State or local government agencies; or geographic regions. This action will not have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States based enterprises to compete with foreign based enterprises in domestic or export markets.

The rule has also been reviewed with regard to the requirements of Pub. L. 96–354. The Administrator of the Food and Nutrition Service has certified that this rule does not have a significant economic impact on a substantial number of small entities.

Overall Purpose of the Regulations

The Special Supplemental Food Program for Women, Infants and Children provides supplemental foods, nutrition education, and access to health services to pregnant, breastfeeding and postpartum women, infants, and children up to age 5. Eligibility must be determined by a health professional on the basis of low income and nutritional risk.

Program regulations allow State agencies to operate three types of systems for delivering prescribed supplemental foods: retail purchase, home delivery, and direct distribution. In a retail purchase system, the WIC local agency gives food instruments to participants which can be redeemed for prescribed foods. The participant redeems this food instrument (in the form of a check or voucher) at an authorized retail vendor, normally a grocery store. When the food instrument is a check, then the vendor can deposit it in his or her bank, which is reimbursed by the State agency. When the food instrument is a voucher, then the vendor must submit the voucher directly to the State agency for reimbursement. In a home delivery system, the WIC agency contracts with a vendor, often a dairy, which delivers the prescribed foods to the participants' homes. In a direct distribution system, the WIC agency itself purchases food, often on the wholesale market, and the participant can pick it up at distribution centers.

Audits and management evaluations have shown problems in the accountability of operations of food delivery systems which could result in loss in program funds. Therefore, the Department issued proposed rules in this area on January 23, 1981, at 46 FR 7878. Subsequently, 159 comment letters were received and analyzed. After due consideration of these comments and other discussions, the Department has decided to issue these final rules. The overall purpose of the regulations is to strengthen accountability in State agency administration of the food delivery systems and to prevent losses of program funds to errors and abuse.

A large number of State agencies and Regional Offices criticized the proposal as too detailed and not necessarily cost-effective. Some felt that if too much attention was given to food delivery administration, then delivery of services to participants could suffer. However, some other State agencies and Regional Offices viewed the proposal as one which would improve program integrity. Local agencies were somewhat more receptive to the proposal, although comments were mixed. Two noteworthy comments were those of the Department's Office of the Inspector General (OIG) and from the Food Marketing Institute (FMI). OIG stated that the proposal responded to many of the problem areas identified in their audits, which were largely responsible for generating these regulations. However, there were some areas, such as reconciliation, which they felt needed strengthening. FMI is a large nationwide organization of retail food stores, a majority of which participate in WIC. FMI commented that the proposal failed to address two major concerns of vendors: (a) Simple and similar procedures for dealing with WIC, and (b) use of checks as food instruments for fast payment.

In response to the comments, the Department has decided to state many of the requirements as goals to be attained, rather than procedures, and to carefully select a few cost-effective procedures to be required. In choosing to state rules in terms of outcomes, rather than procedures, the Department is recognizing that State agencies should

implement requirements which are appropriate to State needs and conditions. This preamble will provide guidance on possible methods to implement many of these requirements. FNS intends to provide assistance to States in helping them design strategies for implementation. In the past 2 years, States have made serious efforts to improve the accountability of food delivery systems, and FNS encourages them to continue their efforts in this area and fully intends to provide assistance in implementation.

Retail food stores play an important role in actual distribution of WIC supplemental foods to participants. FNS acknowledges and appreciates the cooperation of the many conscientious vendors who participate in the program and thereby help improve the nutritional status of members of their communities. The WIC Program benefits vendors not only because of direct contribution of WIC sales, but because WIC participants who go to an authorized store to obtain supplemental foods normally purchase other products at the same time. In return, vendors are expected to maintain accountable behavior in dealing with participants and the WIC Program agencies. This rule clarifies the mutual responsibilities of State agencies and vendors in program operation by such requirements as more detailed vendor agreements.

As mentioned by FMI, it would help vendors to have simple and similar procedures for dealing with WIC participants and agencies. Chain vendors have complained of differing procedures from local agency to local agency; this can result in confusion and increased errors. In designing methods to implement the regulations, State agencies are encouraged to keep these considerations in mind. Improved training may be an appropriate possibility: well-informed participants and vendors can greatly speed check-out procedures and decrease errors in filling out food instruments. The Department encourages State agencies to meet with State vendors and/or vendor associations in discussing procedures to be implemented.

Background and Discussion of Issues

The following are explanations of the rules established in this notice. Where appropriate, these explanations include: a description of comments, reasons for the rule, and guidelines for possible implementation methods. In order to facilitate understanding and readability, the regulatory language has been reorganized somewhat. This preamble discusses substantive policy changes; other requirements remain the same as current WIC Regulations of July 27, 1979.

Vendor Authorization

The Department believes that selective authorization of vendors can be a critical part of providing good services to participants, avoiding vendor abuse and maintaining a manageable number of vendors. Therefore, a number of proposals were made in this area.

It was proposed that application forms be required for all participating vendors to collect information on vendor qualifications. This concept was supported by a majority of commenters, primarily smaller State agencies and local agencies. Opponents, primarily larger State agencies, felt this would create unnecessary paperwork since this information could be collected in other ways. The Department has decided to eliminate this requirement, but notes that a State agency may create and use such an application at its discretion. An application form can be a useful, accountable document which summarizes important vendor characteristics, such as shelf prices of WIC foods, type of store, owner, etc.

It was also proposed that all new vendors have an on-site visit prior to, or at the time of, initial authorization. This was supported by a majority of commenters. The Department has decided to retain this requirement in § 246.10(e)(2). When a new vendor is first entering the WIC Program, this would provide for an opportunity for checking the facilities and providing education about the program. Vendors who have been authorized prior to the State implementation will not be affected by this rule.

The proposal specified that certain criteria be used in reviewing vendor qualifications prior to authorization. While a large majority of commenters supported this rule, this rule will be modified to clarify the responsibilities of State agencies to establish criteria used to assess vendor qualifications and to conduct a periodic review of all vendors' qualifications, at least once every 2 years.

The purpose of the review is to assure that all vendors' qualifications are periodically updated and reviewed to see if their qualifications are still meeting the program's goals. After such reviews, the State agency may decide to terminate certain vendors, add vendors, or seek other modifications. The review of vendor qualifications does not need to include on-site visits; if the State agency can obtain information about vendors by other means, such as by questionnaire, then this can be an office review. The State agency may choose to implement this rule by using 1 or 2 year vendor agreements and scheduling review prior to renewal. Or if the State uses open-ended agreements, then vendors may be terminated for administrative reasons, based on State criteria for review of qualifications (as opposed to fraud).

The State agency is required to establish criteria to be used in reviewing vendor qualifications. Possible criteria could include:

1. The vendor stocks all categories of WIC foods, except formulas.
2. The vendor supplies WIC foods for reasonable prices (e.g., comparable to other stores in the clinic service area).
3. The vendor's location is convenient for participant access.
4. The vendor has satisfactorily complied with prior WIC agreements.

If it so chooses, the State may establish a certain number of authorized vendors per clinic service area or allow one authorized vendor per predesignated number of participants, and allow vendors to compete for the authorized slots. The proposal also specified that a State agency could limit the number of vendors authorized to participate. This was strongly supported by most commenters. The Department will retain this provision in § 246.10(e)(2) with a slight modification based on comments. Current regulations require that there be at least four vendors per clinic service area, unless this was impossible. Commenters recommended deletion of this requirement. The Department has decided to utilize a goal-oriented regulation: the State agency must have an appropriate number of vendors to assure participant convenience and access and to assure that the State can manageably review authorized vendors.

The ability to select vendors which sell at relatively low prices has the potential for reducing food costs without reducing the quality of foods provided. State agencies are strongly encouraged to develop procedures to utilize vendors with lower prices in a manner which does not hinder the principles of market competition.

Under the Regulatory Flexibility Act, Pub. L. 96-354, Federal agencies must consider the impact of their regulations on small businesses. Congress acted to prevent unnecessary Federal regulation of small businesses or unfair impact on small businesses from Federal regulations. Insofar as authorization of food vendors in WIC is a State responsibility, the Department has asked in § 246.10(e)(3) that State agencies consider the impact of authorization decisions on small

businesses. Though there are situations in which a small food vendor should be removed from participation, the Department does not want vendors removed due solely to their status as a small business.

Vendor Agreements

The Department proposed that the maximum length of vendor agreements be limited to 2 years. This was supported by a slight majority of commenters, including several Indian State agencies and local agencies. Opponents included a larger number of large State agencies. Critics cited that renegotiation of agreements can be time-consuming due to delays of the clearance process. The Department has decided to delete this requirement, but encourages States to consider the advantages of time-limited agreements, which are still allowed. As previously mentioned, the substitute for this provision is the requirement of § 246.10(g) for a periodic vendor review, at least once every 2 years.

There were several other general provisions concerning vendor agreements. It was proposed that chain stores be allowed to have one agreement to cover more than one outlet with all outlets specified. Section 246.10(f) retains this, but further clarified that individual outlets can be added or deleted without affecting the remainder of the outlets. The proposal required that copies of the agreements must be kept on file at the State agency. This requirement was deleted in the final regulations in order to avoid duplicative recordkeeping. The proposal allowed two formats for agreements: A standard single document agreement or one which combined application forms with the agreement and which had a permit. The Department has deleted this requirement, but notes that either format is allowable. Finally, the proposal required standard statewide vendor agreements in order to avoid conflicting agreements in different parts of States. This requirement was revised in § 246.10(f)(1) to apply only to retail purchase systems, since home delivery agreements are usually individually negotiated. However, exceptions can be made with State approval. For example, an exception is allowable for military commissaries which may agree only to certain types of contracts.

The proposal also increased the number of provisions of the vendor agreement. The purpose of this was to seek to make the agreement an accountable document which more clearly states mutual obligations of the WIC Program and the participating vendor. Most of the provisions were supported by most commenters and are retained in § 246.20(f)(2).

The provisions that were revised in light of comments are discussed briefly; the remainder are self-explanatory.

One proposed provision required the vendor to provide only approved WIC foods to WIC participants. Based on a comment, this has been clarified in § 246.10(f)(2)(i) to limit provision to approved WIC foods as specified on the food instrument. Another proposal was that the manager of a store agree to be trained in WIC procedures at least once every 2 years. This was consistent with the proposed requirement for vendor training. Since the vendor training rule has been modified in this final regulation, the vendor agreement clause was also modified to have the manager of the store or an authorized representative, such as the head cashier, accept training in WIC procedures. The proposal required home delivery vendors to retain WIC records. This was deleted because the recordkeeping rule has been revised in § 246.10(f)(3) to allow the State or local agency to retain records for 3 years. It was also proposed that either the vendor or State could terminate the agreement for cause with at least 15 days' advance notice. Many wanted more discretion and felt that this was insufficient notice time, so § 246.10(f)(2) (xvii) allows the State agency to establish the advance notice period.

Vendor Training and Guidance

As was discussed above concerning vendor agreements, it was proposed that the manager of a store be trained in WIC procedures at least once every 2 years. This was to ensure a minimal frequency of training for all WIC vendors in order to avoid problems of errors or abuse. A majority of commenters opposed the fixed timeframes. The critics commented that vendor training should be performed as needed; some vendors needed more frequent training while others needed less. In general, the critics wanted the State agency to establish training frequency. Many commenters also mentioned that the manager is not always the appropriate trainee. Often the head cashier or a similar person actually directs check-out procedures.

In response, the Department has decided to state the rule in terms of the desired goals and to allow the State agency to establish procedures. Section 246.10(h) requires States to provide training designed to prevent program errors and abuse and to improve program service. It is important to bear in mind that the purpose of vendor training should not be remedial, but should be preventive. A State which offers training only to vendors who have already demonstrated problems is failing to attain this preventive goal. If there continues to be a high rate of vendor errors in a State, then the State is probably failing to provide adequate training and it should consider increasing the quantity and/or quality of its vendor training. Where possible, the training should also seek to improve vendor capability for program service. The Department is retaining the provision in § 246.10(h)(1) that if a State agency delegates vendor training to local agencies, then it must train local agency staff in effective vendor training methods. This will make sure that there is some consistency in the training provided to vendors across a State.

Vendor Monitoring

Audits and management evaluations have revealed a number of instances of vendor abuse which had gone undetected or uncorrected. The nature of these abuses had varied from relatively minor offenses, such as allowing orange drink instead of orange juice, to more serious, but less frequent offenses, such as providing cash for food instruments. It is clear that many state agencies need to improve vendor monitoring procedures and procedures for sanctioning abusive vendors.

The proposal allowed one of two systems: A high risk or broad range system. In the high risk system, high risk vendors were selected for on-site monitoring if they had a high level of overcharges, errors in redeemed food instruments, or participant complaints. Also, other vendors must be visited at the rate of at least 10 percent of all vendors per year. In the broad range system, at least 35 percent of all vendors were to be monitored each year. A majority of commenters were opposed to the proposals. Major criticisms were that they were inflexible and not necessarily the most efficient methods of monitoring. State agencies wished to have more discretion in developing their own systems. A few commenters supported the proposals or wanted more stringent requirements.

The Department has decided to revise the rules in response to these comments, and also to include provisions for FNS to review results of State efforts in vendor monitoring. Section 246.10(i) requires that a State agency have a system to identify high risk vendors and to ensure monitoring, further investigation, and sanctioning, as appropriate. High risk vendors should be identified on the basis of criteria such as level of overcharges, errors, or

participant complaints. In addition, the State must either (1) Have a system to conduct on-site monitoring of at least 10 percent of the authorized vendors per year, selected on a representative basis, in order to survey the types and levels of vendor abuse and errors, or (2) Submit an alternate representative vendor monitoring plan for FNS approval, based on statistical sampling methods. Finally, the State must summarize the results of the monitoring of high risk representative vendors and of the review of food instruments (see § 246.10(s)(3)) in an annual report and must provide the plans for improvement in the coming year in its State Plan (see § 246.4(a)(14)(v)).

In this rule, it is clarified that there are two required purposes for vendor monitoring: to monitor vendors who are suspected of abuses and to survey vendors in general to assess the types and levels of problems. For the high risk vendor, it is not enough that there be identification and on-site monitoring; there must be procedures for follow-up. If initial efforts reveal probable offenses, further investigation, such as compliance purchases or other strong methods of getting evidence of offenses, should be conducted. Once evidence is collected, sanctions should be levied against abusive vendors. States should seek to aggressively pursue high risk vendors. In addition to aiding program integrity, such pursuit of high risk vendors may result in better claims against vendor overcharges or errors, part of which the State may keep for administrative purposes, in accordance with § 246.12(d).

The on-site monitoring of at least 10 percent of authorized vendors per year, selected on a representative basis, enables the State agency to observe the extent of vendor abuse or errors. This provides a data base for management of potential fraud and abuse. For example, the data could help the State learn whether the criteria used to identify high risk vendors correspond to the problems seen in the field. Finally, monitoring of representative vendors provides for a routine monitoring presence which may prevent vendor abuse. It is the intent of this rule that vendors be selected to fairly represent the variety of types and locations of authorized vendors in the State.

The Department recognizes, however, that there may be circumstances in which the 10 percent minimum is not appropriate. For example, a State with thousands of vendors may be able to sample fewer than 10 percent and still obtain a valid survey. Or after a long period of documented low vendor abuse, a larger State may seek to reduce its vendor monitoring to be more cost-effective. In such cases, the State may apply to FNS for approval of an alternative representative vendor monitoring plan, based on statistical sampling methods.

Section 246.10(i) suggests possible criteria to identify high risk vendors: overcharges, errors in redeemed food instruments and participant complaints. The State agency has discretion to use these or other criteria based on available data or prior experience. A possible system would be to assemble "profiles" of the types of vendors most likely to be abusive and to compare these profiles to known characteristics of participating vendors which were ascertained during the periodic review of vendor qualifications. For example, in the Food Stamp Program, suspect vendors are often detected by the ratio of food stamp transactions to total business volume compared to other neighborhood stores. A high ratio of food stamp business may indicate illicit practices which attract more food stamp business. The Department is also sponsoring several demonstration projects to improve screening for high risk vendors which should improve this aspect of State operations through technical assistance.

Section 246.10(i)(5) requires that summaries of the results of the monitoring of high risk and representative vendors and of the review of food instruments be submitted to FNS within 4 months after the end of each fiscal year, along with plans to improve the systems. Information to be included will vary depending on State and regional needs, but should include items, such as: Number of vendors reviewed; types and levels of problems identified in monitoring visits; number of vendors sanctioned; percent of food instruments with overcharges or errors; and amounts of claims assessed and collected. This information will provide a management data base on vendor fraud and abuse which will allow the State agency to identify and document the levels of problems within its jurisdiction and the efforts it has made to monitor and reduce those problems. For example, based on the review of representative vendors State agencies may be able to better identify characteristics of high risk vendors which will enable better targeting of monitoring and investigation resources. The summaries of monitoring and review of food instruments can serve as a tool to evaluate procedures of vendor monitoring and to show areas of success or areas which need improvement.

There are three areas in which the proposed regulations concerning vendor monitoring were largely maintained. The first is that if a State agency delegates vendor monitoring to local agencies, then the State shall provide training to local agency staff on effective methods of vendor monitoring. While there is no "perfect" system for vendor monitoring, this helps assure some degree of consistency in vendor monitoring efforts. This may be important in developing systems to report results of vendor monitoring.

It has been clarified in § 246.19(c)(1)(ii) that if a State delegates monitoring to local agencies, then it shall evaluate the effectiveness of that monitoring in its management evaluations of the local agencies.

Section 246.10(i)(4) requires minimal documentation of all on-site monitoring visits: Names of both vendor and reviewer; date of review; nature of problems found or the observation that the vendor appears to be in compliance; how the vendor plans to correct deficiencies noted; and the signature of the reviewer. A requirement which was dropped was the signature of the vendor. This requirement was deleted in response to criticisms that this would impede reporting, since some vendors may be reluctant to sign a report which finds them out of compliance. This sub-paragraph also provides examples of allowable methods of on-site vendor monitoring: Compliance purchases, review of cashier check-out procedures; review of inventory records; and review of prices and availability of WIC foods. This clarifies that the purpose of on-site monitoring is very different than that of vendor training. It has been reported that many current monitoring visits are only used to train vendors or to publicize the program. Though monitoring and training may both be accomplished in the same visit, it should be certain that the functions are significantly separate.

In § 246.10(i)(5), the Department is requiring that the State agency have the capability to conduct compliance purchases or shall be able to arrange for other State or local authorities to assume the responsibility. The Department believes that compliance purchases are the strongest method of collecting evidence of vendor fraud and that every State agency should be prepared to conduct one if the situation arises. Some State agencies are already using compliance purchases effectively in collecting evidence of vendor fraud. FNS will be available to provide assistance to State agencies with training in procedures for compliance

investigations and with occasional investigatory aid in cases of special need. But the primary responsibility in this area will remain with the State agency. It has been reported that in some cases investigatory functions reside outside the State agency, and belong to the State Attorney General's office, a welfare fraud unit or to an audit unit. In these case, the State agency may transfer its responsibility to another reliable State or local authority.

Complaints

The proposed regulations specified that States establish systems for handling and documenting vendor and participant complaints. These provisions were supported by a majority of commenters and are covered in § 246.10(j). A slight modification was the addition that complaints of civil rights discrimination must be handled in accordance with § 246.22(c), which deals with discrimination complaints.

Sanctions

Section 246.10(k) seeks to improve State capability in sanctioning abusive vendors. The proposed rules extended the maximum disqualification period for vendors from 1 year to 3 years; the final rule retains this provision. The proposed rule also requires States to have policies which determine the types and levels of sanctions used for different offenses; this was retained. To clarify the types of offenses which are subject to sanctions, the offenses listed in the July 1979 regulations have been included in these final regulations.

Section 246.10(k)(1)(iii) of the final rule also specifies that the State may disqualify a WIC vendor who is disqualified from another FNS program, such as the Food Stamp or Summer Food Service Program. This was requested by a large number of commenters, including OIG. This rule will improve the association of WIC and other FNS vendor compliance and enforcement activities. In order to ensure that vendors are aware of this, it is specified that if a State chooses to use this option, then it must include a warning to this effect in the vendor agreement. As with any other disqualification, any affected vendor may request an administrative appeal. Therefore, the vendor's right to due process is not violated.

In response to comments on the proposed rule, the provisions for participant sanctions are being modified slightly. Section 246.10(k)(2) specifies that actual physical abuse, or threat of physical abuse, of vendor or clinic staff may be grounds for participant disqualification. There have been anecdotal reports of abuse of check-out clerks who refused to aid participants in an illicit transaction and abuse of clinic staff by disgruntled participants whose benefits were denied or delayed. In such cases, it is now clarified that the participant may be disqualified for such abuses. As with other disqualifications, an affected participant may request a fair hearing to appeal a disqualification notice. Further in response to comments, the clause is deleted which allows waiver of disqualification if a health professional determines that a serious health risk will result.

Reconciliation of Food Instruments

In reconciliation, redeemed food instruments are processed to: (1) Adjust accounting of obligated food funds in terms of actual expenditures and (2) Identify the disposition of redeemed food instruments as validly issued, lost, expired, etc. The Department believes that accurate, timely, one-to-one reconciliation is a necessary component of financial management in the WIC Program. The proposed rules made various modifications of rules on reconciliation; these have been slightly revised in § 246.10(n) in light of public comments.

Redeemed food instruments must be identified as: validly issued, lost or stolen, expired, duplicate, voided, or not matching issuance records. This rule clarifies the expectation for reconciliation of food instruments. The identification of status helps to find food instruments which may have been fraudulently obtained and transacted. If a food instrument is identified as duplicate or not matching issuance files, then it might have been fraudulently issued or may have been a victim of key punching or coding errors or lax maintenance of records. States should take care in checking these problems.

Section 246.10(n)(1) requires that reconciliation of a food instrument be achieved within 150 days of the first valid date of the food instrument. Reconciliation should usually be achieved faster than this to convert obligations to expenditures as quickly as possible.

The 150 day timeframe is derived from the maximum time in which a vendor must be paid: 30 valid days for the participant, plus 60 valid days for the vendor, plus 60 days for the State to reimburse the vendor.

According to § 246.10(n)(2) the State agency must be able to demonstrate its capability to reconcile a given redeemed food instrument to certification files. This does not need to be a routine or automated process. But States should be prepared to conduct reconciliation to certification if it is apparent that a redeemed food instrument was improperly issued, e.g., forged.

It was proposed that there be an optional one percent tolerance for unreconciled food instruments. This would allow FNS to waive any possible claim for unreconciled food instruments if they are less than one percent of the number of total redeemed food instruments. A majority of commenters supported this provision; the bulk of opponents sought a higher tolerance level from two to five percent. The Department is retaining the optional one percent tolerance provision. The Department recognizes that there are numerous reasons why a small number of food instruments cannot be reconciled, such a keypunch errors, data misreads, or accidental mutilation of food instruments. In such cases, it is not cost-effective to search the records to identify the disposition of food instruments. However, the Department does encourage all State agencies to take strong measures to resolve systemic problems which impair reconciliation. Therefore, in § 246.18(a), if a State agency can demonstrate that it has made all reasonable management efforts in reconciliation and that 99 percent or more of the food instruments issued are reconciled, then FNS may determine that reconciliation is satisfactorily completed.

Audits have revealed particular problems in the reconciliation of manually-issued food instruments in States which primarily use computer generated food instruments. Many problems appear to stem from slow or inaccurate entry of issuance records which delays subsequent reconciliation with the redeemed food instruments. In order to attain a high level of reconciliation, States may wish to consider developing procedures to aid timely reconciliation of manually-issued food instruments.

Control of Food Instruments

Section 246.10(l) requires that the State control and provide accountability for the receipt and issuance of supplemental foods and food instruments and make sure that there is secure transportation and storage of unissued food instruments. Therefore, State agencies must not only assure procedures for control and security of unissued food instruments at the State level, but must assure that local agencies are also providing such control and security measures. Documentation must be maintained for receipt and issuance of all food instruments. Though these procedures may require special

efforts, they are essential components of accountability.

Proxies

Section 246.10(p) establishes the formal authority to use proxies in the WIC Program. Proxies are already commonly used in WIC to provide for situations in which the participant or parent cannot personally pick up the food instruments. In deciding whether a participant can use a proxy or proxies, consideration should be given to whether there will still be adequate opportunity for nutrition education or health services.

It was proposed that the reasons for allowing proxies must be documented. This was opposed by the large majority of commenters as an unnecessary paperwork requirement. The Department agrees and has deleted this provision.

There are slight changes in the rules regarding training of participants in procedures for using food instruments in §246.10(q). First, proxies (in addition to participants) must receive instructions on the proper use of food instruments. This does not mean that proxies must receive personal training from WIC staff; written instructions or instructions by other means will suffice. The philosophy behind this change is that if proxies are allowed to use food instruments, then they should be trained in their proper use. Second, participants and proxies must be notified that they have the right to complain about improper vendor practices with regard to the WIC Program. It has been reported that participants often are aware of vendor abuses, but are hesitant to report them. This measure should promote use of participant complaints in vendor monitoring.

Conflict of Interest.

The proposal specified that conflict of interest would arise whenever a local or State agency staff person or member of his or her immediate family owned or controlled a significant portion of an authorized food vending business and therefore was prohibited. Commenters observed that the proposed rule would harm rural or isolated areas in which there is a very limited selection of stores. Indian State agencies were particularly concerned that this would prohibit tribally-owned stores from participation although the tribal store may be the only vendor on a reservation. Section 246.10(r) requires the State agency to ensure no conflict of interest between a local agency and a vendor in its jurisdiction. This regulation allows the State agency to use other methods to avoid conflict of interest without necessarily banning such stores from participation.

Design of Food Instruments

Current regulations require that a maximum price be printed on every food instrument. In § 246.10(s)(2)(v) of the final regulations, this is made a State agency option. A majority of commenters, including OIG, favored the State option to print maximum price. Those States who wish to continue printing a maximum price in order to limit their financial liability may do so. Many other States believe that the printing of the maximum price causes some participants or vendors to misinterpret its meaning and to believe that they are entitled to the maximum value. Since the maximum price is usually far in excess of the actual purchase price of supplemental foods, then food instruments may be redeemed for excessive amounts. This regulation also specifies that if a maximum price is used, then the maximum price must be clearly distinguished from the actual purchase value.

There is another modification in the requirements for food instrument design which was adopted in response to comments. Current regulations require printing three dates on each food instrument: the first valid date for the participant, the last valid date for the participant (30 days later), and the last date by which the vendor must redeem it (up to 90 days after the first date). Section 246.10(5)(2)(ii) and (iii) will allow the latter two dates to be pre-printed as being valid for 30 or 90 days after the first valid date for the participant. This would reduce printing costs of food instruments with no serious loss of information. For example, under the current rules, a food instrument could read:

DATE OF ISSUE: 8/3/81
PARTICIPANT MUST USE BY: 9/2/81
VENDOR MUST REDEEM BY: 11/1/81

Under the new rules, it is permissible for a food instrument to read:

DATE OF ISSUE: 8/3/81
THE PARTICIPANT MUST USE THIS VOUCHER WITHIN 30 DAYS OF THE ABOVE DATE. THE VENDOR MUST REDEEM THIS WITHIN 90 DAYS OF THE ABOVE DATE.

Food Instrument Information

The Department proposed that all food instruments be reviewed to detect at least three errors: purchase price missing, vendor identification missing and redeemed past valid dates. As will be discussed later, this rule has been substantially modified.

Nonetheless, the Department still believes in the critical importance of having all necessary information on the food instrument and has decided to issue rules concerning actual purchase price and vendor identification. These rules are based on the proposed review of food instrument provisions and represent modifications made in light of public comments.

Section 246.10(s)(3) requires the State to establish requirements which assure that the actual purchase price is recorded at the time of purchase. Audits and reviews have revealed two common procedural problems in writing actual purchase prices on WIC food instruments. First, some vendors leave the actual purchase price blank and the bank redeems it for maximum value. Second, the vendors do not write actual purchase prices when the purchase is made, but wait until the end of the day to do them all at once. This leads to estimating prices and overcharging. There are various ways a State agency could implement § 246.10(s)(3), such as: (1) requiring the vendor to fill in the actual purchase price prior to the participant's signature at the time of purchase, (2) Requiring the participant to fill in the price prior to signature, or (3) If cash register technology is sufficient, then a store could use cash register tapes to record the actual purchase price at the time of purchase and to write it on the proper food instrument soon after.

Section 246.10(s)(4) requires that a State implement procedures to assure that every redeemed food instrument can be identified to the vendor who redeemed it. If the vendor uses outlets, then the individual outlet must be identified. A reported barrier to reviewing food instruments has been the fact that it is sometimes impossible to learn who redeemed the food instrument. For example, redeemed food instruments may be sent in batches with only the top food instrument completed. In order to reconcile the food instruments, they are rearranged and it is no longer possible to identify the redeeming vendor. Thus, if a later review shows problems which justify claims, then it is not possible to know where to assess the claim. There are various alternative methods which a State agency may select to implement § 246.10(s)(4), such as: (1) Providing all authorized vendors with rubber stamps with the store names or identification numbers, and requiring their use on all redeemed food instruments, (2) Requiring all vendors to write their names or use their own rubber stamp on all redeemed food instruments, or (3)

Continuing to allow batching of food instruments with only the top food instrument completed, if the batches can be retained in their original grouping.

Both of these provisions have been written as goals in which State agencies can use whatever procedures are most effective for their conditions in order to assure that the actual purchase price is recorded properly and that the vendor can be identified.

Review of Food Instruments

The Department proposed that all redeemed food instruments be reviewed for overcharges and errors, including vendor identification missing, purchase price missing and redeemed past valid dates. A large majority of commenters were opposed to these provisions. Critics mentioned that reviews of all food instruments for errors could not be easily automated and would require manual review of a massive number of food instruments which would be extremely expensive and would not be cost-effective. Further, State agencies without automated systems could not easily review all food instruments for possible overcharges. Commenters further noted that it may not be cost-effective to pursue every claim no matter how small and that emphasis should be placed upon assessing claims and sanctioning high risk or high cost abuse.

Therefore, in § 246.10(s)(5) the requirements have been modified to allow State agencies to design and implement systems to detect overcharges and errors, whether by reviewing all, by sampling, or by alternate strategies. As an incentive for strong review and claims efforts, the Department will allow up to 50 percent of all recovered funds from claims against vendors for overcharges or errors to be used for administrative purposes.

Specifically, § 246.10(s)(5)(i) will require that States have systems to review for suspected overcharges and to identify vendors with high levels of overcharges. The computer systems now in use in many States can review all or most food instruments through their price edit functions. States which are not automated can utilize other effective systems of identifying suspected overcharges. It may be more difficult to identify the vendors with high levels of overcharges, but this need not be an automated function. This can be a component of the State's system to identify high risk vendors.

Review of redeemed food instruments for errors is treated similarly in § 246.10(s)(5)(ii). States are required to have systems to detect errors and to reduce the number of errors, where possible. The errors to be reviewed include, at least: vendor identification missing, purchase price missing, participant signature missing, redemption by vendor past valid date and, as appropriate, altered prices. State agencies should handle price alterations with discretion. Although price alterations may be fraudulent, there may also be legitimate price alterations due to clerical errors which were corrected. In order to help distinguish legitimate corrections from illegitimate alterations, State agencies should establish clear procedures to be followed by vendors when correcting price errors. The Department recommends that when prices on food instruments need to be corrected, they be countersigned by the participant. A countersignature shows that the participant is aware of and accepts the correction. It also leaves a relatively stronger audit trail than initials. As with overcharges, State agencies may choose to review all food instruments or to sample.

In States where local agencies are responsible for paying vendors, it is allowable to delegate review responsibilities to the local agencies.

A further provision, § 246.10(s)(5)(iv), will be added to enhance claims collection capability, based on a comment by OIG. If a claim is made against a vendor after the problem food instrument has been paid, then the State may offset future payments to the vendor for the amount of the claim. This provision will only be of use to States which are able to withhold reimbursement, as with voucher systems. Another possible use of this option is where States using a check system require certain suspected vendors (e.g., high risk vendors or vendors under investigation) to submit the food instruments directly to the State for payment rather than depositing the food instruments directly in the bank.

Section 246.10(s)(5)(iii) provides a safeguard for affected vendors. When payment for a food instrument is delayed or denied or a claim is assessed against a vendor, then the vendor will be allowed to correct or justify the overcharge or error. If the State is satisfied with the justification or correction, then the payment will be made or the claim will be cancelled.

Recovery of Vendor Claims

To provide an incentive for effective review of food instruments and claims collection, it was proposed that the State agency be able to use up to 50 percent of recovered vendor claims for administrative purposes. Since these funds originate as food funds, then this can slightly increase the administrative funds available to the State based on its claims collection performance. The primary criticism of this proposal by commenters was that all recovered funds should be available for administrative purposes. Critics cited the accounting problems of dividing funds and the likelihood that the volume of recovered funds would be very small. The Department recognizes these problems, but believes that 50 percent for administrative purposes is a fair allowance. If 100 percent of the recovered funds go to administration, then participants would not benefit from recovered funds. Therefore, the Department is retaining this provision in § 246.12(d). In order that FNS be aware of these funds, they must be reported in routine financial reporting.

It is worth noting two items. It is the intent of this rule that recovered funds be directed to the State WIC Program, not another State agency program. Also, it is not expected that this rule will have a major effect on administrative budgets. The volume of recovered funds is likely to be small and the impact on administrative budgets will not be large, though it will provide an incentive for better collections.

Home Delivery Systems

Proposals were issued to resolve accountability problems encountered in home delivery systems of WIC. In home delivery systems, supplemental foods are delivered directly to a participant's home by a vendor, such as a dairy. About 9 percent of participants nationwide are served by home delivery. Audits revealed that contracts with home delivery vendors were sometimes awarded without competitive bidding. Section 246.10(t)(2) will clarify that selection of home delivery vendors given exclusive contracts in an area must conform to Federal grant administration procedures.

A few provisions were proposed to improve accountability in this area. After analysis of comments, two have been adopted and one has been modified. Section 246.10(t)(3)(i) requires that home delivery vendors be paid only after delivery of foods to participants. Section 246.10(t)(3)(ii) requires routine procedures, at least once a month, to verify the actual delivery of supplemental foods to participants. Payment to vendors need not await this verification. Some commenters were concerned that verification meant that on-site visits must be conducted. This was not the intent. The local agency can, for example, verify delivery by

providing food instruments to the participant which must be given to the delivery person in exchange for food. If the recipient does not personally receive the food package, the delivery person can leave a slip which the recipient subsequently signs and returns to the vendor in a preaddressed mailer. The delivery company would be required to submit these acknowledgment slips to the local agency in order to receive payment.

It was also proposed that home delivery vendors must retain WIC-related records for at least 3 years. Commenters observed that the local agency often retains the records, so that it is unnecessary for the vendor to do so. Therefore, § 246.10(t)(3)(iii) requires that there must be access to records for at least 3 years. If the local agency keeps the records, then it is not necessary for the vendor to do so.

Program Costs

It was proposed that the costs of food instruments used in monitoring be an administrative cost. Commenters pointed to the difficulty of transferring costs from food costs to administrative costs. It is further possible that this would be a deterrent to conducting compliance purchases. Given the small amount of funds concerned and the difficulty of transferring funds, this provision was deleted.

Section 246.12(c)(1) is modified to make the regulations consistent with FNS procedures for authorization for purchase or automated data processing systems. It requires the State agency to notify FNS when it decides to seek computerization. This will allow time for FNS technical assistance and review of proposed systems procurements. All computers, except those used in general management and payroll, are covered under this provision.

This section also includes a reference to 7 CFR Part 3015. This is the Department of Agriculture's Uniform Federal Assistance Regulations, published November 10, 1981, at 46 FR 55636. The uniform regulations incorporate the provisions of OMB Circulars A–102, A–110, A–87, A–21, and A–122, as well as OMB Guidance on Implementation of the Federal Grant and Cooperative Agreement Act of 1977, into one convenient source document applicable to USDA-administered grants and cooperative agreements. Insofar as this incorporates the standing OMB Circulars, they do not represent substantive policy changes.

General Information

Overall, the purpose of this rulemaking is to improve accountability and reduce program costs and losses Based on comments to the proposed regulations, the final Food Delivery System Regulations achieve a more effective balance between accountability and the exercise of State agency discretion. The Department encourages State agencies to seriously attend to reduction of program costs per participant. Many States have already changed practices with substantial benefits in relation to costs. Improved vendor monitoring, compliance and sanction procedures have not only led to disqualification of abusive vendors, but have prevented abuse from other vendors and have helped keep food package cost low. Competition among retail and home delivery vendors have had a similar effect in other State agencies. Such efforts have enabled these States to help avoid reducing participant services and benefits and to maintain the nutritional integrity of the program.

List of Subjects in 7 CFR Part 246

Food assistance programs, Food donations, Grant programs—social programs, Indians, Infants and children, Maternal and child health, Nutrition, Nutrition education, WIC, Women.

(Child Nutrition Amendments of 1978, Pub. L. 95–627, 92 Stat. 3611 (42 U.S.C. 1786))

PART 246—SPECIAL SUPPLEMENTAL FOOD PROGRAM FOR WOMEN, INFANTS AND CHILDREN

Therefore, Part 246 is amended as follows:

1. Section 246.4 is amended by revising paragraph (a)(14)(v) to read as follows:

§ 246.4 State agency plan of program operation and administration.

(a) * * *

(14) * * *

(v) A description of the State agency's system for monitoring food vendors and the State agency's plans for improvement in the coming year;

* * * * *

2. Section 246.10 is revised to read as follows:

§ 246.10 Food delivery systems.

(a) *General.* This section sets forth design and operational requirements for State and local agency food delivery systems.

(1) The State agency is responsible for the fiscal management of, and accountability for, food delivery systems under its jurisdiction.

(2) The State agency shall design all food delivery systems to be used by local agencies under its jurisdiction.

(3) FNS may, for a stated cause and by written notice, require revision of a proposed or operating food delivery system and shall allow a reasonable time for the State agency to effect such a revision.

(4) All contracts entered into by the State or local agency for the management or operation of food delivery system shall be in conformance with the requirements of A–102, Attachment O.

(b) *Uniform food delivery systems.* The State agency may operate up to three types of food delivery systems: retail purchase, home delivery or direct distribution. Each system shall be uniform within the jurisdiction of the State agency. When used, food instruments shall be uniform within each type of system.

(c) *Free of charge.* Participants shall receive the program's supplemental foods free of charge.

(d) *Compatibility of food delivery system.* The State agency shall ensure that the food delivery system is compatible with delivery of health and nutrition education services to the participants.

(e) *Authorization of food vendors.* Only food vendors authorized by the State agency may redeem food instruments or otherwise provide supplemental foods to participants.

(1) There shall be a documented on-site visit prior to, or at the time of, initial authorization of a new vendor. However, vendors authorized prior to the date of State implementation need not have a documented visit.

(2) The State agency shall authorize an appropriate number and distribution of food vendors in order to assure adequate participant convenience and access and to assure that State or local officials can effectively manage review of authorized food vendors in their jurisdiction. The State agency may establish criteria to limit the number of authorized food vendors in its jurisdiction.

(3) The State agency is encouraged to consider the impact of authorization decisions on small businesses.

(f) *Food vendor agreements.* The State agency shall ensure that all participating food vendors enter into written agreements with the State or local agency. The food vendor agreement shall be signed by a representative who has legal authority to obligate the food vendor. When the food vendor is obligating more than one outlet, then all outlets shall be specified in the agreement. When more than one outlet is specified in the agreement, an individual outlet may be added or

deleted without affecting the remainder of outlets.

(1) In the retail purchase system, a standard vendor agreement shall be used statewide, though exceptions may be made with the approval of the State agency.

(2) The food vendor agreement shall contain the following specifications, although the State agency may determine the exact wording to be used:

(i) In providing supplemental foods to the participants, the food vendor shall only provide the supplemental foods, as specified on the food instrument.

(ii) The food vendor shall provide supplemental foods at the current price or at less than the current price charged to other customers.

(iii) When food instruments are used, the food vendor shall submit those food instruments for payment within the allowed time period and accept food instruments from a participant only within the allowed time period.

(iv) The State agency has the right to demand refunds for charges of more than the actual purchase price for supplemental foods.

(v) The State agency may deny payment to the food vendor for improper food instruments or may demand refunds for payments already made on improper food instruments.

(vi) The food vendor shall not seek restitution from participants for food instruments not paid by the State or local agency.

(vii) The manager of the store or an authorized representative, such as the head cashier, shall agree to accept training on WIC procedures.

(viii) The food vendor shall inform and train cashiers or other staff on program requirements.

(ix) The food vendor shall be accountable for actions of employees in the utilization of food instruments or provision of supplemental foods.

(x) The food vendor shall offer WIC participants the same courtesies as offered to other customers.

(xi) The food vendor may be monitored for compliance with WIC rules.

(xii) During a monitoring visit of a retail vendor, the food vendor shall provide access to food instruments negotiated the day of the review at the request of the reviewer.

(xiii) Retail vendors shall provide access to shelf price records, if available.

(xiv) A vendor who commits fraud or abuse of the program is liable to prosecution under applicable Federal, State or local laws. Under § 246.18 of the regulations, those who have willfully misapplied, stolen or fraudulently obtained WIC funds shall be subject to a fine of not more $10,000 or imprisonment for not more than 5 years or both, if the value of the funds is $100 or more. If the value is less than $100, then the penalties are a fine of not more than $1,000 or imprisonment for not more than 1 year or both.

(xv) The food vendor shall comply with the nondiscrimination provisions of Department regulations (7 CFR Part 15).

(xvi) Neither the State agency nor the food vendor have an obligation to renew the vendor agreement.

(xvii) Either the State agency or the vendor may terminate the agreement for cause after providing advance written notice, of a period to be specified by the State agency.

(xviii) The State agency may disqualify a food vendor for reasons of program abuse. The vendor has the right to appeal a State agency decision pertaining to denial of application to participate or to vendor disqualification.

(xix) The food vendor shall notify the State agency when the vendor ceases operations or ownership changes. The agreement is null and void if the ownership changes.

(3) Other provisions shall be added to the agreements, as decided by the State agency or as necessary, based on paragraphs (k)(1)(iii) or (s)(5)(iv) of this section.

(g) *Periodic review of food vendor qualifications.* The State agency shall conduct a periodic review of the qualifications of all authorized food vendors under its jurisdiction, at least once every 2 years. The State agency shall establish criteria used to assess the adequacy of all food vendor qualifications. Based upon the results of such reviews the State agency shall make appropriate adjustments among the participating food vendors, such as termination of agreements.

(h) *Food vendor training and guidelines.* The State agency shall ensure that training is provided by the State or local agency for participating food vendors. The training shall be designed to prevent program errors or abuse and to improve program service.

(1) When vendor training is delegated to the local agency, the State agency shall provide training to local agency staff on effective vendor training methods.

(2) Food vendors shall be provided with pertinent program information and guidance concerning the authorized supplemental foods, including a list of acceptable brand name products.

(i) *Monitoring of food vendors.* The State agency shall be responsible for the monitoring of food vendors within its jurisdiction. If the State agency chooses to delegate all or part of this responsibility to local agencies, the State agency shall provide training to local agency staff in effective methods of vendor monitoring.

(1) The Stage agency shall design and implement a system to identify high risk vendors and ensure on-site monitoring, further investigation, and sanctioning of such vendors, as appropriate. Criteria for identifying high risk vendors may include such considerations as level and/or severity of suspected overcharges in redeemed food instruments, errors in redeemed food instruments, or participant complaints.

(2) The State agency shall design and implement a system to conduct on-site monitoring visits to at least 10 percent of authorized food vendors per year, selected on a representative basis, in order to survey the types and levels of abuse and errors among participating food vendors and to take corrective action, as appropriate. The State agency may submit an alternate representative vendor monitoring plan, based on statistical sampling methods, for FNS approval.

(3) A summary of the results of the monitoring of high risk and representative food vendors and of the review of food instruments be submitted annually to FNS within 4 months after the end of each fiscal year. Plans for improvement in the coming year shall be included in the State Plan, in accordance with § 246.4.

(4) The following shall be documented for all on-site vendor monitoring visits, at a minimum: names of both vendor and reviewer; date of review; nature of problem(s) detected or the observation that the vendor appears to be in compliance with program requirements; how the vendor plans to correct deficiencies detected; and the signature of the reviewer. Methods of on-site monitoring visits may include, but are not limited to: compliance purchases, review of cashier check-out procedures, review of inventory records, and review of the availability and prices of WIC supplemental foods.

(5) The State agency shall have the capability to conduct compliance purchases to collect evidence of improper vendor practices or shall be able to arrange for this responsibility to be assumed by the proper State or local authorities.

(j) *Participant and vendor complaints.* The State agency shall have procedures which document the handling of complaints by participants and vendors. Complaints of civil rights discrimination shall be handled in accordance to § 246.22(c).

(k) *Participant and vendor sanctions.* (1) The State agency shall establish policies which determine the type and level of sanctions to be applied against food vendors, based upon the severity and nature of the program violations observed, and such other factors as the State agency determines appropriate, such as whether the violation represented repeated offenses over a period of time, whether the offenses represented vendor policy or whether they represented the actions of an individual employee who did not understand program rules, and whether prior warning and an opportunity for correction was provided to the vendor. Vendor offenses which are subject to sanctions shall include at least the following: providing cash, unauthorized foods or other items to participants in lieu of authorized supplementalal foods; charging the State or local agency for foods not received by the participant; and charging the State or local agency more for supplement foods than other customers are charged for the same food item. The State agency shall provide adequate procedures for vendors to appeal a disqualification from participation under the program as specified in § 246.24.

(i) Food vendors may be subject to sanctions in addition, or in lieu of, disqualification, such as claims for improper or overcharged food instruments and the penalties outlined in § 246.18, in case of deliberate fraud.

(ii) The period of disqualification from program participation shall be a reasonable period of time, not to exceed 3 years. The maximum period of disqualification shall be imposed only for serious or repeated program abuse.

(iii) The State agency is allowed to disqualify a food vendor from the WIC Program who is currently disqualified from another FNS Program. If a State agency chooses to use this option, then it shall include a provision to this effect in its vendor agreement, in accordance with paragraph (f) of this section.

(iv) Prior to disqualifying a food vendor, the State agency shall consider whether the disqualification would create undue hardships for participants.

(2) The State agency shall establish procedures designed to control participant abuse of the program. Participant abuse includes, but is not limited to, knowing and deliberate misrepresentation of circumstances to obtain benefits; sale of supplemental foods or food instruments to, or exchange with, other individuals or entities; receipt from food vendors of cash or credit toward purchase of unauthorized food or other items of value in lieu of authorized supplemental foods; and physical abuse, or threat of physical abuse, of clinic or vendor staff. The State agency shall establish sanctions for participant abuse. Such sanctions may at the discretion of the State agency, include disqualification from the program. Warnings may be given prior to the imposition of sanctions. Before a participant is disqualified from the program for alleged abuse, that participant shall be given full opportunity to appeal a disqualification as set forth in § 246.23. At the State agency's discretion, participants may be disqualified for a period not to exceed 3 months.

(3) The State agency shall refer food vendors and participants who abuse the program to Federal, State or local authorities for prosecution under applicable statutes, where appropriate.

(l) *Control of food instruments.* The State agency shall control and provide the accountability for the receipt and issuance of supplemental foods and food instruments. The State agency shall ensure that there is secure transportation and storage of unissued food instruments.

(m) *Payment to food vendors.* The State agency shall ensure that food vendors are promptly paid for food costs. Payments for valid food instruments shall be made within 60 days after receipt of the food instruments. Actual payment to food vendors may be made by local agencies.

(n) *Reconciliation of food instruments.* The State agency shall identify disposition of all food instruments as: validly redeemed, lost or stolen, expired, duplicate, voided, or not matching issuance records. Reconciliation of food instruments shall entail reconciliation of each food instrument issued with food instruments redeemed and adjustment of previously reported financial obligations to account for actual redemptions and other changes in the status of food instruments.

(1) Reconciliation of food instruments shall be performed within 150 days of the first valid date for participant use and shall be in accordance with the financial management requirements of § 246.11.

(2) The State agency shall be able to demonstrate to FNS its capability to reconcile a given redeemed food instrument to valid certification records.

(o) *Not for use in institutions.* The State agency shall ensure that supplemental foods are not issued for use in institutions which serve meals, such as homes for unmarried mothers.

(p) *Recipients of food instruments.* The State agency shall ensure that each participant or representative signs a receipt for supplemental foods or food instruments. This requirement shall not pertain to systems which deliver food instruments by alternate means, such as by mailing. The State agency shall establish uniform procedures which allow proxies designated by participants to act on their behalf. In determining whether an individual participant should be allowed to designate a proxy or proxies, there shall be consideration of whether there are adequate measures for the provision of nutrition education and health services to that participant.

(q) *Instructions to recipients.* The State agency shall ensure that participants and their proxies receive instructions on the proper use of food instruments, or on the procedures for receiving supplemental foods. Participants and their proxies shall also be notified that they have the right to complain about improper vendor practices with regard to program responsibilities.

(r) *Conflict of interest.* The State agency shall ensure that no conflict of interest exists between any local agency and the food vendor or vendors within the local agency's jurisdiction.

(s) *Retail purchase systems.* Retail purchase food delivery systems are systems in which participants obtain supplemental foods by submitting a food instrument to local retail outlets. All retail purchase food delivery systems shall meet the following requirements:

(1) The State agency shall use uniform food instruments within its jurisdiction. The State agency is responsible for the design and printing of the uniform food instruments, and their serialization.

(2) Each food instrument shall clearly bear on its face the following information:

(i) The first date from which the food instrument may be used by the participant to obtain supplemental foods.

(ii) The last date by which the participant may use the food instrument to obtain supplemental foods. This date shall be a minimum of 30 days from the date specified in paragraph (s)(2)(i) of this section or, for the participant's first month of issuance, it may be the end of the month or cycle for which the food instrument is valid. This date may otherwise be printed as being at least 30 days after the date in paragraph (2)(i) of this section.

(iii) An expiration date by which the food vendor is required to submit the food instrument for payment. This date shall be no more than 90 days from the date specified in paragraph (s)(2)(i) of this section. If the date is less than 90 days, then the State agency shall ensure

that the food vendor is able to submit food instruments for redemption within the required time limit without undue burden. This date may otherwise be printed as being no more than 90 days after the date in paragraph (2)(i) of this section.

(iv) A unique and sequential serial number.

(v) At the discretion of the State agency, a maximum purchase price which is higher than the price of the food for which it will be used, but low enough to be a reasonable protection against potential losses of funds. When the maximum value is shown, the space for the actual value of the supplemental foods purchased shall be clearly distinguishable. For example, the words "actual amount of sale" could be printed larger and in a different area of the food instrument than the maximum value.

(3) The State agency shall implement requirements to ensure that the actual purchase price of the supplemental foods is recorded at the time of purchase. For example, the State agency may require that the food vendor write the purchase price on the food instrument prior to the signature of the participant.

(4) The State agency shall implement procedures to ensure that every redeemed food instrument can be identified to the food vendor which redeemed the food instrument. If the vendor utilizes outlets, then all outlets participating in the Program shall be identified. For example, the State agency may require that all authorized food vendors stamp their names on all redeemed food instruments prior to submission.

(5) State agency shall establish procedures to ensure the propriety of redeemed food instruments:

(i) The State agency shall design and implement a system of review of food instruments to detect suspected overcharges and to identify food vendors with high levels of suspected overcharges.

(ii) The State agency shall design and implement a system of review of food instruments to detect errors, including, at least, purchase price missing, participant signature missing, vendor identification missing, redemption by vendor outside of the valid date and, as appropriate, altered prices. The State agency shall implement procedures to reduce the number of errors, where possible.

(iii) When payment for a food instrument is denied or delayed, or a claim for reimbursement is assessed, the affected food vendor shall have an opportunity to correct or justify the overcharge or error. For example, if the actual price is missing, the vendor may demonstrate what price should have been included. If the State agency is satisfied with the correction or justification, then it shall provide payment, or adjust the payment or claim to the vendor accordingly.

(iv) If a claim is assessed against a food vendor after the problem food instrument has been paid, then the State agency may offset future payments to the food vendor for the amount of the claim. If a State agency chooses to utilize this option, then it shall include a provision to this effect in its vendor agreement, in accordance with paragraph (f) of this section.

(6) With justification and documentation, State agencies may reimburse food vendors for food instruments submitted after the expiration date. If the total value of the food instruments submitted at one time exceeds $200.00, reimbursement may not be made without the approval of the FNS Regional Office.

(7) The State agency shall ensure that no more than a 3 month supply of food instruments is issued to any participant at one time and that nutrition education and health services are frequently made available to the participant.

(8) To ensure that nutrition education and health services are frequently available to participants, FNS recommends that, wherever feasible, participants personally obtain their food instruments from the local agency. However, the State agency shall develop guidelines for the delivery of food instruments to participants through means other than direct pick-up of food instruments, such as through the mailing of food instruments.

(i) Food instruments may be mailed or otherwise delivered to participants on a local agency-wide basis only if approved by the State agency, on the basis of hardships which may be encountered by the target population of the local agency such as seasonally inclement weather.

(ii) A local agency may mail, or otherwise deliver, food instruments to an individual on the basis of difficulties of the participant and his or her designated proxy in obtaining the food instruments, for reasons, such as illness, imminent childbirth, or difficulty of access to the local agency. If the initial hardship is resolved, then the mailing or other delivery of the food instruments shall be discontinued.

(t) *Home food delivery systems.* Home food delivery systems are systems in which food is delivered to the participant's home. Systems for home delivery of food shall provide for:

(1) Uniform food instruments, where applicable, which comply with the appropriate requirements set forth in paragraph (s) of this section;

(2) Procurement of supplemental foods in accordance with § 246.17, which may entail measures such as the purchase of food in bulk lots by the State agency and the use of discounts that are available to States. The selection of home delivery vendors that are given exclusive contracts to an area shall conform to requirements of 7 CFR Part 3015; and

(3) The accountable delivery of supplemental foods to participants. The State agency shall ensure that:

(i) Home delivery vendors are paid only after the delivery of supplemental foods to the participants.

(ii) There exists a routine procedure to verify the actual delivery of supplemental foods to participants. At a minimum, such verification must occur at least once a month.

(iii) There is retention of records of delivery of supplemental foods and bills sent or payments received for such supplemental foods for at least 3 years and access of State, local, and/or Federal authorities to such records.

(u) *Direct distribution systems.* Direct distribution food delivery systems are systems in which participants pick up food from storage facilities operated by the State or local agency. Systems for direct distribution of food shall provide for:

(1) Uniform food instruments, where applicable, which comply with the appropriate requirements set forth under paragraph (s) of this section;

(2) Adequate storage and insurance coverage that minimizes the danger of loss due to theft, infestation, fire, spoilage, or other causes;

(3) Adequate inventory control of food received, in stock, and issued;

(4) Procurement of supplemental foods in accordance with Section 246.17, which may entail measures such as purchase of food in bulk lots by the State agency and the use of discounts that are available to States;

(5) The availability of program benefits to participants and potential participants who live at great distance from storage facilities; and

(6) The accountable delivery of supplemental foods to participants.

3. Section 246.12 is amended by revising paragraphs (c)(1), and adding (d) to read as follows:

§ 246.12 Program costs.

* * * * *

(c) * * *

(1) Automated information systems which are required by a State or local agency, except for those used in general; management and payroll, including purchase of automatic data processing hardware or software whether by outright purchase, rental-purchase agreement or other method of acquisition. Approval shall be granted by FNS if the proposed system meets the requirements of this part, A–90 and 7 CFR Part 3015. When a State agency decides to seek computerization, except for use in general management or payroll, it shall inform FNS and seek approval, if required.

* * * * *

(d) *Recovery of vendor claims.* Funds collected by the recovery of claims assessed against food vendors shall be retained by the State agency. The State agency may use up to 50 percent of these funds for administrative purposes and the remainder shall be used to pay food costs. When these funds are used for administrative purposes, such expenditures shall be reported to FNS through routine reporting procedures.

4. In Section 246.18, paragraph (a) is amended by adding two new sentences at the end to read as follows:

§ 246.18 Claims and penalties.

(a) * * * FNS is authorized to establish claims against a State agency for unreconciled food instruments. When a State agency can demonstrate that all reasonable management efforts have been devoted to reconciliation and 99 percent or more of the food instruments issued have been accounted for by the reconciliation process, FNS may determine that the reconciliation process has been completed to satisfaction.

* * * * *

5. In Section 246.19 paragraph (c)(1)(ii) is revised to read as follows:

§ 246.19 Management evaluations and reviews.

* * * * *

(C) * * *

(1) * * *

(ii) In accordance with § 246.10(i), the State agency shall ensure that State or local agency personnel conduct the necessary on-site monitoring visits of high risk and representative vendors. If the State agency delegates vendor monitoring to local agencies, then it shall evaluate the effectiveness of those monitoring visits.

* * * * *

§ 246.23 [Amended]

6. Section 246.23 is amended by removing the word "suspension" and inserting, in its place, the word "disqualification" in paragraphs (a) and (c).

Signed in Washington, D.C. on May 21, 1982.

John W. Bode,

Deputy Assistant Secretary for Food and Consumer Services.

[FR Doc. 82–14627 Filed 5–27–82; 8:45 am]

BILLING CODE 3410–30–M

federal register

Friday
May 28, 1982

Part IV

Department of Labor

Mine Safety and Health Administration

Nonsubstantive Organizational Amendments and Nomenclature Changes

DEPARTMENT OF LABOR

Mine Safety and Health Administration

30 CFR Parts 48, 49, 57, 75 and 77

Nonsubstantive Organizational Amendments and Nomenclature Changes

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Final rule.

SUMMARY: The Secretary of Labor has reorganized certain Mine Safety and Health Administration (MSHA) field responsibilities related to education and training. This final rule amends the affected MSHA regulations to conform them to this reorganization.

EFFECTIVE DATE: May 28, 1982.

FOR FURTHER INFORMATION CONTACT: Patricia W. Silvey, Acting Director, Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Ballston Tower No. 3, 4015 Wilson Boulevard, Arlington, Virginia 22203; phone (703) 235–1910.

SUPPLEMENTARY INFORMATION: The Mine Safety and Health Administration has reorganized the Agency's education and training functions. The following responsibilities are affected: administration of miner training programs (30 CFR 48), administration of mine rescue team training programs (30 CFR 49), administration of mine emergency training for metal and nonmetal mines (30 CFR 57.18–28), administration of qualified and certified person programs for coal mines (30 CFR 75.153, 75.160–1, 77.103, 77.107–1), administration of supervisory first aid training programs for coal mines (30 CFR 75.1713–3 and 77.1703) and administration of training at new underground coal mines (30 CFR 75.1721). These functions have been transferred from the Office of Education and Training to the Administrator of Coal Mine Health and Safety and the Administrator of Metal and Nonmetal Health and Safety. Specifically, the functions that were previously the responsibility of the MSHA training centers will now be performed by the MSHA District Managers. Therefore, on all education and training matters, the appropriate District Manager should be contacted. The Office of Education and Training has been redesignated the Office of Education and Policy Development and will be primarily responsible for assuring a consistent overall education and training policy. MSHA believes that this reorganization will result in improved efficiency and effectiveness in the administration of MSHA's training programs. These amendments do not in any way diminish miner health and safety.

I. Rulemaking Procedure

These amendments involve nonsubstantive matters relating to agency management, organization and procedures. Therefore, these amendments are exempt from the notice and comment procedures of 5 U.S.C. 553 under 553(a)(2) and (b)(A).

II. Executive Order 12291, Regulatory Flexibility Act and Paperwork Reduction Act

These amendments relate solely to agency organization, personnel and management. Therefore, this final rule is exempt from the requirements of Executive Order 12291 under Section 1(a)(3) of the Order. These amendments are also exempt from the requirements of the Regulatory Flexibility Act. This final rule contains no paperwork requirements.

III. Drafting Information

The principal persons responsible for the drafting of this final rule are John Honecker, Office of Standards, Regulations and Variances, Mine Safety and Health Administration; and Manuel R. Lopez, Division of Mine Safety and Health, Office of the Solicitor, Department of Labor.

Dated: May 25, 1982.

Ford B. Ford,

Assistant Secretary for Mine Safety and Health.

This final rule amends Chapter I, Title 30, Code of Federal Regulations, Parts 48 and 49 of Subchapter H, Part 57 of Subchapter N, and Parts 75 and 77 of Subchapter O, as set forth below. The amendments are arranged in sequential order as they appear in CFR Title 30. For each amendment, the previous wording (which is removed) of the affected section is stated in the first column and the new wording (which is added) is stated in the second column.

Previous wording	New wording
§ 48.3(b):	
"Chief of the Training Center, MSHA,".	"District Manager".
§ 48.3(c):	
"Chief of the Training Center, MSHA,".	"District Manager".
§ 48.3(d):	
"Chief of the Training Center"	"District Manager".
"Chief of the Training Center"	"District Manager".
"Chief of the Training Center"	"District Manager".
"chief of the training center"	"District Manager".
§ 48.3(e):	
"Chief of the Training Center"	"District Manager".
"Office of Education and Training, MSHA".	"District Manager".
"Chief of the Training Center"	"District Manager".
"Office of Education and Training, MSHA".	"District Manager".
"by the Office of Education and Training, MSHA,".	
"Office of Education and Training, MSHA".	"District Manager".
§ 48.3(h):	
"Office of Education and Training, MSHA,".	"District Manager".
§ 48.3(h)(1):	
"Office of Education and Training, MSHA,".	"District Manager".
"Office of Education and Training, MSHA,".	"District Manager".
"Office of Education and Training".	"Office of Education and Policy Development".
§ 48.3(h)(3):	
"Chief of the Training Center"	"District Manager".
"Training Center Chief"	"District Manager".
§ 48.3(i):	
"Chief of the Training Center"	"District Manager".
"Chief of the Training Center"	"District Manager".
"Chief of the Training Center"	"District Manager".
"Director of Education and Training".	"Administrator for Coal Mine Safety and Health or Administrator for Metal and Non-metal Safety and Health, as appropriate".
"Director of Education and Training".	"Administrator".
"Chief of the Training Center's".	"District Manager's".
"chief of the training center"	"District Manager".
§ 48.3(j):	
"Chief of the Training Center"	"District Manager".
§ 48.3(j)(1):	
"Chief of the Training Center"	"District Manager".
"Chief of the Training Center"	"District Manager".
§ 48.3(j)(2):	
"Chief of the Training Center"	"District Manager".
§ 48.3(l):	
"Chief of the Training Center, MSHA, in".	"District Manager of".
"Training Center Chief"	"District Manager".
§ 48.3(m):	
"Chief of the Training Center or the Director of Education and Training".	"District Manager".
"Chief of the Training Center or the Director of Education and Training".	"District Manager".
§ 48.3(n):	
"Chief of the Training Center or the Director of Education and Training".	"District Manager".
§ 48.4(b):	
"Chief of the Training Center"	"District Manager".
§ 48.5(b)(14):	
"Training Center Chief"	"District Manager".
§ 48.6(b)(8):	
"Training Center Chief"	"District Manager".
§ 48.7(a)(4):	
"Training Center Chief"	"District Manager".
§ 48.8(b)(12):	
"Training Center Chief"	"District Manager".
§ 48.11(a)(5):	
"Chief of the Training Center"	"District Manager".
§ 48.12:	
"Training Center Chief"	"District Manager".
§ 48.12(a):	
"Training Center Chief"	"District Manager".
"Director of Education and Training".	"Administrator for Coal Mine Safety and Health or Administrator for Metal and Non-metal Safety and Health, as appropriate".
"Chief of the Training Center's".	"District Manager's".
§ 48.12(b):	
"Director of Education and Training".	"Administrator".
"Chief of the Training Center"	"District Manager".
"Director"	"Administrator".
§ 48.12(c):	
"Director of Education and Training".	"Administrator".
§ 48.23(b):	
"Chief of the Training Center, MSHA".	"District Manager".

Previous wording	New wording
§ 48.23(c):	
"Chief of the Training Center, MSHA,".	"District Manager".
§ 48.23(d):	
"Chief of the Training Center"	"District Manager".
"Chief of the Training Center"	"District Manager".
"Chief of the Training Center"	"District Manager".
"Chief of the Training Center"	"District Manager".
§ 48.23(e):	
"Chief of the Training Center"	"District Manager".
"Office of Education and Training, MSHA,".	"District Manager".
"Chief of the Training Center"	"District Manager".
"Office of Education and Training, MSHA".	"District Manager".
"by the Office of Education and Training, MSHA,".	
"Office of Education and Training, MSHA,".	"District Manager".
§ 48.23(h):	
"Office of Education and Training, MSHA,".	"District Manager".
§ 48.23(h)(1):	
"Office of Education and Training, MSHA,".	"District Manager".
"Office of Education and Training, MSHA,".	"District Manager".
"Office of Education and Training".	"Office of Education and Policy Development".
§ 48.23(h)(3):	
"Chief of the Training Center"	"District Manager".
"Training Center Chief"	"District Manager".
§ 48.23(i):	
"Chief of the Training Center"	"District Manager".
"Chief of the Training Center"	"District Manager".
"Chief of the Training Center"	"District Manager".
"Director of Education and Training".	"Administrator for Coal Mine Safety and Health or Administrator for Metal and Non-metal Safety and Health, as appropriate".
"Director of Education and Training".	"Administrator".
"Chief of the Training Center's".	"District Manager's".
"Chief of the Training Center"	"District Manager".
§ 48.23(j):	
"Chief of the Training Center"	"District Manager".
§ 48.23(j)(1):	
"Chief of the Training Center"	"District Manager".
"Chief of the Training Center"	"District Manager".
§ 48.23(j)(2):	
"Chief of the Training Center"	"District Manager".
§ 48.23(l):	
"Chief of the Training Center, MSHA, in".	"District Manager of".
"Training Center Chief"	"District Manager".
§ 48.23(m):	
"Chief of the Training Center or the Director of Education and Training".	"District Manager".
"Chief of the Training Center or the Director of Education and Training".	"District Manager".

Previous wording	New wording
§ 48.23(n):	
"Chief of the Training Center or the Director of Education and Training".	"District Manager".
§ 48.24(b):	
"Chief of the Training Center"	"District Manager".
§ 48.25(a):	
"Chief of the Training Center"	"District Manager".
"Training Center Chief"	"District Manager".
§ 48.25(b)(13):	
"Training Center Chief"	"District Manager".
§ 48.26(b)(8):	
"Training Center Chief"	"District Manager".
§ 48.27(a)(4):	
"Training Center Chief"	"District Manager".
§ 48.28(b)(11):	
"Training Center Chief"	"District Manager".
§ 48.31(a)(5):	
"Chief of the Training Center"	"District Manager".
§ 48.32:	
"Training Center Chief"	"District Manager".
§ 48.32(a):	
"Training Center Chief"	"District Manager".
"Director of Education and Training".	"Administrator for Coal Mine Safety and Health or Administrator for Metal and Non-metal Safety and Health, as appropriate".
"Chief of the Training Center's".	"District Manager's".
§ 48.32(b):	
"Director of Education and Training".	"Administrator".
"Chief of the Training Center"	"District Manager".
"Director"	"Administrator".
§ 48.32(c):	
"Director of Education and Training".	"Administrator".
§ 49.8(a):	
"Office of Education and Training".	"Office of Education and Policy Development".
§ 49.8(b)(4):	
"Office of Education and Training".	"Office of Education and Policy Development".
§ 49.8(d)(2):	
"Office of Education and Training".	"District Manager".
"Office of Education and Training".	"District Manager".
§ 49.8(e):	
"Chief of the Training Center"	"District Manager".
"Training Center Chief"	"District Manager".
"Director of Education and Training".	"Administrator for Coal Mine Safety and Health or Administrator for Metal and Non-metal Safety and Health, as appropriate".
"Director of Education and Training".	"Administrator".
§ 49.8(f):	
"Office of Education and Training, MSHA".	"District Manager".

Previous wording	New wording
§ 57.18-28(a):	
"Mine Safety and Health Administration, Division of Education and Training Operations, to give such instruction".	"District Manager of the area in which the mine is located".
§ 57.18-28(b):	
"Mine Safety and Health Administration, Division of Education and Training Operations to give such instructions".	"District Manager of the area in which the mine is located".
"Mine Safety and Health Administration, Division of Education and Training Operations to give such instruction".	"District Manager".
§ 57.18-28(d):	
"Nearest Mine Safety and Health Administration training center".	"District Manager".
§ 57.18-28(e):	
"Mine Safety and Health Administration training center or".	
§ 75.153(c):	
"Training Center Chief of the Training Center".	"District Manager".
"The MSHA Training Districts".	"Coal Mine Safety And Health Districts".
§ 75.153(g):	
"Training Center Chief of the Training District wherein he is employed,".	"District Manager".
§ 75.160-1:	
"Training Center Chief"	"District Manager".
§ 75.1713-3:	
"Training Center Chief"	"District Manager".
"Training Center Chief"	"District Manager".
§ 75.1721(a):	
"Or Training Center Chief as appropriate".	
§ 75.1721(c):	
"Training Center Chief"	"District Manager".
§ 77.103(c):	
"Training Center Chief of any Training Center".	"District Manager".
"The MSHA Training Districts".	"Coal Mine Safety and Health Districts".
§ 77.103(g):	
"Training Center Chief of the Training District wherein he is employed,".	"District Manager".
§ 77.107-1:	
"Training Center Chief of the Training Center".	"District Manager of the Coal Mine Safety and Health District.".
§ 77.1703:	
"Training Center Chief"	"District Manager".
"Training Center Chief"	"District Manager".

[FR Doc. 82-14656 Filed 5-27-82; 8:45 am]

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federal register

Friday
May 28, 1982

Part V

Department of Labor

Wage and Hour Division, Employment Standards Administration

Office of the Secretary

Procedures for Predetermination of Wage Rates; Final Rule

DEPARTMENT OF LABOR

Wage and Hour Division, Employment Standards Administration

Office of the Secretary

29 CFR Part 1

Procedures for Predetermination of Wage Rates

AGENCY: Wage and Hour Division, Employment Standards Administration, Labor.

ACTION: Final rule.

SUMMARY: This document provides the final text of regulations, 29 CFR Part 1, for the predetermination of prevailing wage rates under the Davis-Bacon and Related Acts. The method of determining prevailing wage rates has been revised and a provision for the issuance of semi-skilled classifications on wage determinations has been added.

DATES: Effective date: July 27, 1982. See Supplementary Information for dates of applicability.

FOR FURTHER INFORMATION CONTACT: William M. Otter, Administrator, Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Room S–3502, 200 Constitution Avenue, N.W., Washington, D.C. 20210, Telephone: 202–523–8305.

SUPPLEMENTARY INFORMATION: On December 28, 1979, a proposal was published in the **Federal Register** (44 FR 77026) to make certain revisions to 29 CFR Part 1, Procedures for Predetermination of Wage Rates under the Davis-Bacon and Related Acts. As stated in the proposal, its purpose was to reexamine and revise the procedures in Part 1 for predetermination of wage rates under the Davis-Bacon and Related Acts.

On January 16, 1981, this regulation was published in the **Federal Register** (46 FR 4306) as a final rule with a scheduled effective date of February 17, 1981. However, pursuant to the President's Memorandum of January 29, 1981, the Department published a notice in the **Federal Register** on February 6, 1981 (46 FR 11253), delaying implementation of this regulation until March 30, 1981. The Department subsequently delayed the implementation of this regulation until August 15, 1981 in order to permit reconsideration pursuant to Executive Order 12291. See 46 FR 18973 (March 27, 1981); 46 FR 23739 (April 28, 1981); 46 FR 33514 (June 30, 1981); and 46 FR 36140 (July 14, 1981).

On August 14, 1981, a new regulatory proposal developed in accordance with Executive Order 12291 was published in the **Federal Register** (46 FR 41444), and the previously published rule was further postponed until action could be taken on the new proposal. (See 46 FR 41043.)

Interested persons were afforded the opportunity to submit comments to the Wage and Hour Division withing 60 days after publication of the proposal in the **Federal Register.** Comments were received from approximately 2,200 interested parties, including Members of Congress, contracting agencies, contractor associations, contractors, labor organizations, State and local governmental agencies, business organizations, and individuals. Many comments were received either supporting or opposing the proposal in general. More than 1,000 comments (mostly from construction firms and associations) were directed solely to the issue of helpers in this proposal and a related proposal in 29 CFR Part 5.

Contractor associations and business organizations submitting comments included the Associated General Contractors of America (AGC), the Associated Builders and Contractors, Inc. (ABC), the National Association of Home Builders (NAHB), the Chamber of Commerce of the United States (C of C), the National Association of Manufacturers (NAM), the Business Roundtable, the National Federation of Independent Business (NFIB), the National Utility Contractors Association (NUCA), the Sheet Metal and Air Conditioning Contractors' National Association, Inc. the American Road and Transportation Builders Association, the National League of Cities (NLC), the National Association of Counties, the Council of State Housing Agencies, the National Sand and Gravel Association, and the National Ready Mixed Concrete Association. Labor organizations commenting on the proposal included the Building and Construction Trades Department of the AFL–CIO (BCTD), the Laborers' International Union of North America (LIUNA), the United Brotherhood of Carpenters and Joiners of America (UBC), the International Brotherhood of Electrical Workers (IBEW), the United Association of Journeymen and Apprentices of the Plumbing and Pipe Fitting Industry (UA), the International Brotherhood of Teamsters (Teamsters), the International Association of Bridge, Structural and Ornamental Iron Workers (Iron Workers), the International Union of Operating Engineers (IUOE), the United Automobile Workers of America (UAW), the Sheet Metal Workers' International Association (SMW), the Operative Plasterers' and Cement Masons' International Association (OPCM), and the International Brotherhood of Painters and Allied Trades (PAT). Among those Federal agencies submitting comments were the Department of Defense of Defense (DOD), the Department of Transportation (DOT), the Department of Energy (DOE), the National Aeronautics and Space Administration (NASA), the U.S. Postal Service (USPS), and the Small Business Administration (SBA).

Discussion of Major Comments

The following is an analysis of all the principal comments received and the corresponding changes, if any, made to the proposed rule. Each submission has been thoroughly reviewed, and each criticism and suggestion has been given careful consideration. For each section and, where appropriate, subsection of the final rule, the analysis contains a description of the major comments, the Department's conclusions regarding those comments, and the substantive changes herein adopted.

Section 1.2(a)—Definition of Prevailing Wage

Numerous comments favoring the proposal to eliminate the 30 percent rule were received from such parties as the AGC, NAM, NLC, USPS, local government agencies, contractors, and State contractor associations. These commentators stated that a rate based on 30 percent does not comport with the definition of "prevailing", and that the 30 percent rule gives undue weight to collectively bargained rates. Commentators also asserted that the 30 percent rule is inflationary because it sometimes results in wage determination rates higher than the average.

Other contractors and associations, while agreeing in principle with the proposal's elimination of the 30 percent rule, asserted that the proposed change in the definition of prevailing wages did not go far enough. Several commentators, including the ABC, NAHB, and the Council of State Housing Agencies, recommended that the weighted average rate be used in all cases. The C of C and some others recommended that the prevailing rate be determined either by eliminating the higher 50 percent of the wage rates paid in a locality and adopting the weighted average of the lower 50 percent of the wages paid, or by adopting the entire

range of wage rates existing in a locality.

The BCTD, a few contractor associations, and some State labor departments commented in favor of retaining the current 30 percent rule for determining prevailing wages. The major arguments made by these commentators were that the term "prevailing" contemplates the most frequently paid actual rate and thus, even the 30 percent rule unduly constricts the meaning of the statutory language; that an average rate is an artificially determined rate and therefore less consonant with the legislative intent than a rate which is actually paid; that the rule has been used by the Department since 1935 and was specifically endorsed by the House Special Subcommittee on Labor in 1962; and that elimination of the rule would disrupt labor relations and harm the competitive standing of unionized firms. The BCTD also asserted that any immediate wage savings would be more than offset by lower productivity, and thus, that overall construction costs would increase.

The Department agrees with the criticisms of the 30 percent rule. However, the Department has rejected the suggestion to define the prevailing wage as the weighted average wage in all cases because the term "prevailing" contemplates that wage determination rates mirror, to the extent possible, those rates actually paid in appropriate labor markets. In addition, the definitions of prevailing wage urged by the C of C are contrary to the prevailing wage concept embodied in the Davis-Bacon Act. Using the average of the lower 50 percent of wage rates paid would exclude the higher 50 percent of wages from consideration and, therefore, could not be considered the prevailing wage. Similarly, adopting the entire range of wages in the locality would permit contractors to pay the lowest wage that exists for a particular classification, rather than the "prevailing" rate.

Based on the comments and our analysis of the statute, we have concluded the term "prevailing wage" contemplates the most widely paid rate as a definition of first choice. The Department has accordingly determined that the revision which defines prevailing wage as the majority, or weighted average where there is no majority, is the most proper interpretation of the statute. Section 1.2(a) is therefore adopted as proposed.

Section 1.3—Wage Data Considered—Use of Wage Data From Projects Subject to Davis-Bacon

The preamble to the proposed regulations solicited comments on whether projects subject to Davis-Bacon wage determinations should be excluded from the Department's wage surveys. Comments were specifically invited on the feasibility of differentiating Federal projects in wage surveys; the feasibility of determining prevailing wages for categories of construction which almost always involve Federal funding, if such projects are excluded; and the feasibility of differentiating projects where the contractor would otherwise have paid the wages contained in the wage determination.

Several commentators, including ABC, NAHB, NASA, and DOE, favored excluding Federal projects from wage surveys in all cases, although they did not comment specifically on the feasibility of such an exclusion. These commentators asserted that the Act was intended to require contractors to pay, at a minimum, those rates found to be prevailing on *private* construction projects in the area in which the federal work is to be performed. These commentators argued that including wage data from construction projects subject to the Act in surveys skews the survey results upward. DOT commented that it saw no problem in excluding wages paid on Federal projects from surveys. It recommended that such data be excluded except in those cases where there is not a sufficient sample of privately financed construction to establish a wage rate.

The BCTD, most building trades unions, the Teamsters, the United Auto Workers, the Minnesota Building and Construction Trades Department, the North Carolina and Iowa Departments of Transportation, the Texas Highway Department, the Texas Heavy-Highway Branch of AGC, and the Colorado Contractors Association opposed the exclusion of Federal wage data. Many of the union commentators asserted that the Act's legislative history shows no Congressional intent to restrict wage surveys to privately financed projects, and that the 1935 amendments extending the Act's coverage to public works implied that Federal projects would be surveyed since the Act requires payment of wages prevailing on projects "of a character similar", and there are few projects of a character similar to public works which are not federally financed.

Most commentators in opposition to the exclusion claimed that, as a practical matter, it would be administratively difficult or even impossible to establish wage determination rates for several types of construction projects that are always or nearly always federally financed, such as highways, bridges, dams, and sewage treatment plants, and for certain craft classifications in rural areas. The MBCTD claimed that it would also be administratively difficult and costly to determine whether a given wage rate would have been paid absent a wage determination, noting that the State of Minnesota had attempted to make such a differentiation in its wage surveys but was unable to do so.

The Department has concluded that, where practicable, it would be appropriate to exclude wage data from Davis-Bacon projects in determining prevailing wages. The Department also believes this result is in accordance with the statutory purpose. Accordingly, § 1.3 has been revised to provide that wages paid on projects subject to the Davis-Bacon Act will not be considered in developing wage determinations for "building" and "residential" projects unless the Department finds that there is not sufficient data from privately financed construction projects of a similar character to determine prevailing wages. We have also concluded that it would not be practical to determine prevailing wages for "heavy" and "highway" construction projects if Davis-Bacon covered projects are excluded in making wage surveys because such a large portion of those types of construction receive Federal financing. The regulation therefore permits the use of such data on these types of projects.

Section 1.6(a)(1)—Expiration Date of Project Wage Determinations

Several commentators, including ABC, AGC, and some State contractor associations, commented in favor of the proposal to extend the expiration date of project wage determinations from 120 days to 180 days.

The BCTD, the Teamsters, the UAW, and others opposed this proposed change, claiming that extending the duration of project determinations will increase the likelihood that rates contained in wage determinations will be out of date before the start of construction.

Extending the life of project wage determinations to 180 days will reduce the need for recompetition and other procurement delays caused by the expiration of such determinations after bid opening. Also, as a practical matter, it is the Department's experience that

most such determinations are used within a shorter period of time. Accordingly, this proposal is deemed reasonable and is adopted.

Section 1.6(b) and Appendix C

Several State chapters of AGC objected to the categorization of construction in proposed Appendix C (which embodies the substance of All Agency Memoranda Nos. 130 and 131) on the ground that it would amount to an imposition of standards that are nationwide in scope, ignoring local area construction practices. A few contractor associations stated that the categories of construction overlapped. Some associations disagreed with the proposed categorization of certain types of work. Contractor groups also suggested that the regulations require agencies to state specifically in the contract which schedule of wage rates is applicable.

The Department has reconsidered the advisability of including in the regulations the specific guidelines of All Agency Memoranda Nos. 130 and 131. It has concluded that the best interests of all concerned parties would be more fully served by retaining the Memoranda as guidelines rather than as regulations. However, in the near future the Department will amend the guidelines and issue a new memorandum to all federal agencies to insure that local practices will be the primary consideration in resolving disputes in this area. The Department will also publish this new memorandum as a notice to the public in the **Federal Register.**

Section 1.6(b) has also been amended to clarify that contracting agencies are responsible for identifying as specifically as possible the appropriate schedule(s) to be applied to a contract.

Accordingly, Appendix C is deleted from the regulations.

Section 1.6(c)—"10-Day Rule"; "90-Day Rule"

Several commentators, including ABC, NASA, DOE and some State highway agencies, objected to the proposed revisions of the "10-day rule" which would (1) require contracting agencies to accept modifications to wage determinations received less than 10 days before the opening of bids unless the agency finds there is not sufficient time to notify bidders of the modification, and (2) also require the agency to insert a report of such finding in the contract file, and make it available to the Administrator upon request. Most of these commentators recommended that the current "10-day rule" (which requires agencies to use modifications received less than 10 days before bid opening only if it is found that there is sufficient time to notify bidders) be retained, while others recommended that a 20-, 25-, or 30-day rule be adopted.

DOL's policy has been that bid solicitations should contain the most recently issued determination of current prevailing wages which can be included without causing undue disruption of the procurement process. However, in the past, many contracting agencies have declined to use wage modifications received less than 10 days before bid opening, even though there may have been more than sufficient time to notify bidders of the modification prior to bid opening.

The courts have held that the current "10-day rule" imposes an affirmative obligation on the contracting agencies to make a substantive determination as to whether there is sufficient time to notify bidders of modifications received less than 10 days before bid opening. (*Operating Engineers, Local 627* v. *Arthurs,* 355 Supp. 7 (W.D. Okla.), *Aff'd,* 480 F. 2d 603 (10th Cir. 1973).) In view of this obligation and the Department's experience that the agencies often misunderstand that obligation to make such a determination, it was decided that the Act could be better implemented by adopting the proposed revision. DOL also believes that the notification process can be completed in most cases without undue disruption of the procurement process or inflation of bid prices. Of course, it is recognized that there may be cases where an agency will find that it is not feasible to adopt modifications less than 10 days before bid opening. In such cases, the agency would simply be required to document its finding of insufficient time prior to bid opening and incorporate this finding in the contract file. While we have considered the objections to this reporting requirement, we find that written documentation of the agency's finding of insufficient time is in accord with sound administrative practices and does not impose an undue paperwork burden upon the agency.

ABC objected to the "90-day rule", which provides that if a contract to which a general wage determination has been applied has not been awarded within 90 days after bid opening, any modification published prior to contract award would be effective unless the agency has obtained an extension of the 90-day period from the Administrator. ABC asserted that the proposed rule would be disruptive to the procurement process and is beyond DOL authority.

The Department's obligation to insure that the most current determination of prevailing wages is included in contracts subject to the DBA is frustrated by lengthy delays which occur between bid opening and contract award. Further, the regulation permits the agency to request an extension of the 90-day period in cases of undue hardship. Therefore, we believe the "90-day rule" is appropriate.

Since it is the Department's experience that projects assisted under the National Housing Act and section 8 of the U.S. Housing Act of 1937 are not generally competitively bid and since it therefore would be confusing to suggest that the 10-day rule could apply to such projects, the Department has determined upon review that the references to competitive bidding should be deleted from the pertinent paragraphs in § 1.6(c). No other changes are being made in this section.

Section 1.6 (e) and (f)—Incorporation of Wage Determinations and Modifications After Contract Award

A few commentators questioned DOL's authority to require the incorporation of a new wage determination in a contract any time before award (or in some cases, after award) when the agency fails to include any wage determination in a covered contract, or has used an inapplicable wage determination or one that contains substantial errors. DOT, DOE, and NASA asserted that the contracting agency, not DOL, has authority to make determinations of coverage under the Davis-Bacon Act. ABC commented that the provisions in question are disruptive, and that the regulations should contain more specific criteria regarding the circumstances in which DOL would exercise its authority to incorporate new wage determinations.

The BCTD, several building trades unions, the Teamsters, and the UAW objected to the provision in § 1.6(f) that corrective action to include the proper wage determination after contract award would occur only if the contractor is compensated, in accordance with applicable procurement law, for any increase in wages resulting from such action, asserting that the agencies could use this provision to resist post-award amendment of any contract which contains an invalid wage determination.

Since the Davis-Bacon Act requires that all covered contracts contain an applicable wage determination, DOL must provide some mechanism for the incorporation of proper wage determinations in covered contracts after contract award. The Department's authority in this regard, including the

authority to determine questions of coverage under the Act, is derived from the Act as well as from Reorganization Plan 14 of 1950.

With respect to the ABC comment, the Department agrees that the provision in § 1.6(e)(2) permitting withdrawal of wage determinations containing "substantial errors" without regard to the 10-day rule is not sufficiently specific. Accordingly, § 1.6(e)(2) is revised to permit such withdrawals only as a result of a decision by the Wage Appeals Board.

As to the comments from labor organizations, we believe it would be inequitable to require corrective action after contract award if the contractor would be financially harmed in rectifying a Government error. Nor should contracting agencies be placed in the position of contravening procurement law. The regulation contemplates that the agencies will find a method to incorporate a proper wage determination in a contract and compensate a contractor, where appropriate, which is in accord with procurement law. Accordingly, no changes are made in § 1.6(f).

Section 1.7(b)—Scope of Consideration

Numerous commentators, including AGC, ABC, NLC, NAHB, State contractor associations, and individual contractors, agreed with the proposal to prohibit the use of wage survey data obtained from a metropolitan area in issuing a wage determination for a rural area, and vice versa. Their rationale was that this provision would prevent the "importation" of generally higher metropolitan wages into lower paid rural areas. NUCA commented that in the past, such importation has disrupted labor relations in rural areas, because employees who received high wages on a Davis-Bacon project were unwilling to return to their usual pay scales after the project was completed.

The BCTD and many individual building trades unions opposed the blanket prohibition. Several of these commentators stated that there is a need to retain flexibility in certain cases when wage data are unavailable in the rural area where the work will be performed, and that "importing" rates from nearby metropolitan areas in such cases is justified because workers from metropolitan areas often perform the work due to a shortage of skilled labor in the vicinity of the project.

Several commentators, including the AGC and some of its local chapters, noted that the definition of "area" in § 1.2(b) of this part includes political subdivisions smaller than the county, and claimed that our reliance in § 1.7(a) on the county as the normal survey area is not consistent with the intent of the Davis-Bacon Act. They suggested that DOL consider smaller local civil subdivisions within the county as the basis for making wage determinations. Other commentators, including the Texas Highway Department, the Texas Heavy-Highway Branch of AGC, and the Carolinas Branch of AGC, urged the Department to expand the area of consideration to the Standard Metropolitan Statistical Area or some other larger area, in cases where the same wage pattern exists throughout the area.

The Department has determined that its past practice of allowing the use of wage data from metropolitan areas in situations where sufficient data does not exist within the area of a rural project is inappropriate. Therefore, the prohibition proposed against this practice is adopted.

In response to the union comments, the Department notes that if sufficent data is not available from contiguous rural counties, it would be obtained from other rural counties in the State, and if, as these comments suggested, large numbers of workers from metropolitan areas typically work at higher metropolitan wage rates on projects in rural areas, those higher wages would be found and receive proper weight in surveys of wages paid in such areas.

With respect to comments on the size of the survey area, experience has demonstrated that the standard, but not inflexible, practice of using the county as the area of consideration is the most administratively feasible approach to collecting meaningful data. In our view, this practice is in accord with the Act. In answer to the commentators who suggested that we recognize areas larger than one county, where a survey reflects that the same rate in fact prevails in several contiguous counties within a State, a single wage determination may be used for the entire area.

Section 1.7(d)—Helpers

A very large number of commentators, particularly various contractor associations such as ABC and AGC and their affiliates, the NAM, NAHB, the Business Roundtable, the C of C, and numerous individual nonunion contractors, generally favored the proposal to increase recognition of helper classifications. They noted that the proposal reflects the construction industry's actual practice on private projects, and they stated that adoption of the proposal would result in increased job opportunities for youth, women, and minorities.

The building trades unions and some State and local governmental agencies opposed increased recognition of helpers on the grounds that this would undermine formally established apprentice and trainee programs to the determent of minorities and unskilled workers. In their view, it would also lead to shortages of qualified journeymen. Most union groups felt the proposal was contrary to the statute because it allows the use of helpers without a finding that such a classification practice prevails in the area.

The Department currently recognizes a helper classification only where it is a separate and distinct class of workers which prevails in the area, and where the helpers' scope of duties can be differentiated from those of journeymen. The Department has concluded this restrictive approach is inappropriate. Increased recognition of helpers will reflect the widespread industry practice of employing semi-skilled workers on construction projects, including both helpers working in a particular craft and cross-craft or general utility helpers. This will not only result in considerable cost savings to the Government but will result in more job opportunities for unskilled and semi-skilled workers (including youth, women, and minorities) and encourage their use in a manner which provides training. It will enhance productivity by allowing such workers to do tasks requiring more limited skills, thus allowing higher skilled workers to use their skills more effectively. It will also enable more contractors to compete for Government work. (See also the related changes proposed to 29 CFR Part 5 regarding the allowable use of helpers and the discussion of comments received thereon.)

Accordingly, § 1.7(d) is adopted with clarifying changes.

In addition to the above, minor editorial and language changes have been made in some sections.

Classification

This rule would not appear to require a regulatory impact analysis under Executive Order 12291 since the changes will result in substantial cost savings annually for both contractors and the Government while still assuring protection of local labor standards. However, because of the importance to the Government and the public of the issues involved, the Department has concluded that the regulation should be deemed a "major rule" for purposes of the Executive Order. It has been determined, in accordance with

Executive Order 12291, that these changes are the most cost-effective regulatory alternatives consistent with the purpose of the statute.

Summary of Final Regulatory Impact and Regulatory Flexibility Analysis

The Department has prepared its final regulatory impact analysis to identify and quantify the cost impact of the final Davis-Bacon regulations and various alternatives that were explored and to inform the public of the economic considerations behind these final revisions in accordance with Executive Order 12291.

The final analysis builds upon a preliminary regulatory impact analysis (PRIA) which accompanied the proposed revisions published on August 14, 1981 (46 FR 41444). The PRIA estimated that the proposed changes would result in substantial cost savings amounting to at least $670 million annually to both contractors and procuring agencies, while still assuring protection of local wage rates and practices. The Department requested comments and additional information on all economic assumptions used in the analysis, as well as any alternative suggestions designed to achieve the objectives of the Davis-Bacon and Related Acts at lower costs. The Department received numerous comments on the PRIA estimates and its economic assumptions. The Department has carefully reviewed all of these comments in finalizing the regulations and has incorporated these considerations, as appropriate, into the final regulatory impact analysis (FRIA).

The final rule must also consider the Regulatory Flexibility Act of 1980. This Act requires agencies to prepare regulatory flexibility analyses and to develop flexible alternatives whenever possible in drafting regulations that will have "a significant economic impact on a substantial number of small entities." The analysis summarized below meets the requirements set forth for assessing the economic impact of the final changes in the Davis-Bacon regulations on small entities as required under the Regulatory Flexibility Act.

A. Definition of "Prevailing" Rate

The existing regulations define the "prevailing" rate as the rate paid to the majority of the employees in a classification; or if there is no majority, the rate paid to the greatest number, provided it constitutes at least *30 percent* of the employees in the classification; or if no single rate is paid to at least 30 percent of the employees, the *weighted average* rate.

The proposed regulation re-defined the "prevailing" rate as the single rate paid to a majority of workers in a particular classification on similar construction in the locality, or the weighted average rate if no single rate is paid to a majority. The PRIA estimated that elimination of the "30 percent" rule would result in substantial cost savings on Federal and federally assisted construction contracts amounting to at least $120 million in Fiscal Year 1982 alone.

Many commentators on the preliminary analysis argued that the $120 million estimate of cost savings was too high. Construction unions generally faulted the analysis for ignoring the productivity differences between workers and for implicitly assuming that all workers on covered construction projects earn the prevailing (Davis-Bacon) rate. The Building and Construction Trades Department (BCTD) placed the maximum cost savings at $45 million annually and advocated retention of the current definition. In contrast, most contractor associations (which generally advocated greater revision of the definition) argued that few cost savings would result from the proposal because the wages of many workers are fixed by collective bargaining agreements. These groups offered alternative estimates ranging from no cost savings to $50 million.

While acknowledging the validity of several of these criticisms, it remains our position that the $120 million estimate represents a "best guess" of the likely cost savings. Many of the alternative estimates were based on an inaccurate reading of our methodology, which in fact took into account that few cost savings would result in highly unionized urban areas. In other cases, the direction of the bias asserted to exist in our PRIA by the comments was unclear, rather than working to inflate the cost savings. Moreover, the commentators ignored significant negative biases which would raise the cost savings, such as the bias resulting from the lack of construction wage data for small cities. All of the limitations associated with our methodology are clearly spelled out in the analysis.

After careful review of all the evidence, the Department has adopted the proposed definition not only because it will result in substantial budgetary savings, but also because it is most consistent with the "prevailing wage" concept contemplated in the legislation, under which rates are designed to mirror, to the extent possible, those customarily paid in appropriate labor markets.

The Department also considered defining the "prevailing" rate as the average in all cases as proposed by the Associated Builders and Contractors Inc. (ABC). This alternative was not selected because the term "prevailing" contemplates the most widely paid rate as a definition of first choice.

Several other alternatives were also considered including (1) setting wage determinations at the average of rates in the lower half of wage distributions for crafts in a locality (as proposed by the United States Chamber of Commerce); (2) issuing wage determinations as a range of wage rates reflecting the actual distribution of wages in a locality (also proposed by the United States Chamber of Commerce); and (3) allowing procurement agencies to set rates based on, rather than identical to, DOL determinations (the "decoupling" approach). The Department has carefully considered these options, but concluded that they would not be consistent with the statute's intent.

The DOL methodology which is the basis for the $120 million estimate of cost savings calculates the change in wage costs under different decision rules by comparing a large sample of 1,170 Davis-Bacon craft determinations in effect in 1981 with average wage rates for those crafts and localities derived from field surveys conducted by the Employment Standards Administration (ESA). Our sample covered nine crafts and three types of construction (i.e., building, highway and heavy and residential) across all regions of the country.

Because we know the decision rule actually used in setting each Davis-Bacon determination in the sample and the wage rates paid workers in geographic areas, the impact on Davis-Bacon rates of any change in administrative procedures can be readily determined. For example, to evaluate the percentage change expected in Davis-Bacon rates associated with dropping the 30 percent rule, all determinations in the sample based on this rule were compared with their corresponding average rates to calculate the percent differences in the Davis-Bacon rates. For those determinations based on the majority or average rule, the percent differences were set at zero.

However, many Davis-Bacon determinations are not based on comprehensive wage surveys but rather on collective bargaining agreements or state surveys. Hence, results based solely on the sample will be biased if there is a higher frequency of determinations based on the 30 percent

rule in non-surveyed areas. Clearly, average rates cannot be issued without a wage survey; hence, it is likely that Davis-Bacon determinations are implicitly based more frequently on the 30 percent rule in non-surveyed areas.

To adjust our estimates for this possible sample bias, we used both survey data and independent sources to construct estimates of percent differences for all areas lacking surveys. For example, in large urban areas where wage determinations are based on collective bargaining agreements, information on the percentage of workers who are unionized in the area was used to determine the impact of using the majority rule or the average. Where the extent of unionization was sufficiently high, current rates could be expected to prevail even in the absence of the 30 percent rule. We, therefore, assumed that there would be no change in Davis-Bacon rates. Otherwise, we used estimates of percent changes from Davis-Bacon rates to average rates derived from a CEA study of less unionized urban areas.

With estimates in hand for each county, we then summed the percentage differences for each type of construction across all geographic areas (both rural and urban) based on their relative contribution to total public construction activity. This resulted in three separate estimates of the expected percentage change in Davis-Bacon wage rates from adopting different administrative procedures, one for each construction sector.

The final step involves matching these percent changes in wages to estimates of the total labor costs expected to be covered by Davis-Bacon in Fiscal Year 1982 for each type of construction. We then added up the separate labor cost savings estimates for each construction sector to form our final estimate of the aggregate wage cost savings from alternative wage determination rules. The final regulatory impact analysis describes the methodology in further detail.

This methodology was used to estimate the cost impact of dropping the 30 percent rule and of using the average rule in all cases. This procedure produced cost savings ranging from $68 million to $173 million from eliminating the 30 percent rule. The average cost savings in this range is around $120 million. The corresponding estimates of cost savings from switching to an average rule in all cases range from $127 million to $288 million, with average cost savings set at $210 million.

This methodology could not be applied to estimate the cost impact of most other alternatives under consideration because of the absence of independent data on which to calculate the differences in wages resulting from these other options for non-surveyed areas. Also, and perhaps more importantly, this methodology measures only the changes in Davis-Bacon rates, not actual changes in wage rates paid on Davis-Bacon projects. The further one moves the Davis-Bacon minimum below the average, the less reflective it is of actual prevailing wages and hence of the real cost savings to be anticipated.

Although the Department concluded that such an approach would be inconsistent with the statute's intent, we developed a crude estimate of the potential cost savings from the alternative calling for a range of wages rather than a single rate for each determination in a locality, using our methodology and the results of a CEA study which estimated the net impact of setting minimum wages on Davis-Bacon projects. This estimate is similar to the alternative that establishes a range of wage rates, since the lowest rate in the range effectively becomes the Davis-Bacon minimum. This procedure produced cost savings estimates ranging from $505.3 million to $631 million with a midpoint estimate of $568.2 million for this option.

Much of these cost savings would be passed on to small contractors. The Census Bureau's Economic Census of Construction shows that in 1977 there were 53,665 construction establishments with fewer than 20 employees involved in construction work. These small contractors accounted for about 56 percent of all such construction establishments, but only about 17 percent of employment. While we could use relative employment percentages to distribute the total cost savings from adopting alternative wage determination procedures among large and small contractors, this would be inappropriate since smaller contractors are more likely to pay wages normally below Davis-Bacon rates, resulting in relatively larger cost savings for small contractors from any lowering in Davis-Bacon rates. Although we can not develop numerical cost estimates, the cost savings would be expected to be substantial.

While our approach provides a reasonable approximation of the wage cost savings expected to result from the final regulation, it should be stressed that they are only a proxy for actual construction *cost* differences. Nevertheless, these wage estimates are a useful indicator of the order of magnitude of the lower construction costs that may be expected from the final change in the definition of prevailing wages.

B. Cost Impact of the Expanded Issuance of Semi-Skilled Classifications

The Department has long permitted exceptions from predetermined Davis-Bacon rates set for a craft classification for apprentices and trainees who are in approved programs. The Department has also recognized a helper classification in some areas under certain well-defined situations where (1) it constitutes a separate and distinct class of workers (i.e., the scope of duties of the helper is defined and can be differentiated from journeyman duties); (2) the particular helper classification prevails in the area; and (3) the helper is not used as an informal apprentice or trainee.

During its review, the Department concluded that the current policies regarding semi-skilled crafts do not adequately reflect construction industry practices, in particular, the widespread use of helpers to perform certain craft tasks. The proposed revisions allowed for the issuance of semi-skilled classifications such as helpers or other subclassifications of a journeyman class that could be identified in the locality. Helpers were permitted as long as their use did not exceed a ratio of one helper to five journeymen. The proposal further allowed contractors to conform rates after award for helper classifications which were not issued in the wage determinations, but which the contractor felt were appropriate to performing the contract work so long as those classifications were currently utilized in the locality. The PRIA estimated that these proposed changes would result in significant cost savings of about $450 million in Fiscal Year 1982.

Many commentators viewed these cost estimates as excessively high. Contractor associations welcomed the helper classifications, but criticized the 1:5 ratio as an artificial rule that would prohibit the following of area practices. These groups argued that the ratio, coupled with the considerably lower ceilings specified by collectively bargained contracts, would significantly dampen the cost saving—to about $200 million annually. Construction unions, on the other hand, did not comment on the ratio *per se*, but instead focused on the PRIA assumption that each helper employed on Davis-Bacon projects would replace one journeyman. They argued that the analysis overstated the cost savings because it ignored the low productivity of helpers relative to journeymen and the likelihood that helpers would be better substitutes for lower-paid laborers and apprentices than for journeymen. The construction

unions also pointed to possible long-term cost increases due to a shortage of skilled craftsmen.

These comments prompted a thorough re-evaluation of the helper cost methodology. Some comments required no new adjustment; for example, our methodology already controlled for the minimal use of helpers on union projects. The revised helper methodology incorporated relevant criticisms from both business and labor groups to the extent permitted by available data. The revised estimates were also based on more recent data showing a sharp drop in construction industry employment (and hence anticipated helper employment on Davis-Bacon projects).

The final helper regulations preserve the basic elements of the proposal with several changes. These changes include: (1) Lowering the ratio from 1:5 to 2:3 (2 helpers allowed for every 3 journeymen) to better reflect the diversity in industry practices, and (2) permitting helpers to include multitrade, as well as single craft, helpers to provide employers with maximum flexibility in their employment practices on Davis-Bacon jobs.

The basic methodology remains the same as that found in the PRIA—using evidence on the mix of skills in the construction industry *as a whole* to predict the increased helper employment on Davis-Bacon projects as a result of the regulation. The expected savings in wage costs on Davis-Bacon construction are derived by multiplying estimates of increased helper employment by changes in wage bills for contractors.

However, in the present analysis, we develop separate estimates of the likely cost savings from the regulations for the unrestricted use of helpers and for alternative ratios of helpers to journeymen. In addition, we test the sensitivity of the estimates to various assumptions regarding the skill level of workers replaced by helpers. One set of cost estimates assumes that helpers replace journeymen only. A second series of cost estimates allows helpers to replace laborers as well as journeymen.

The initial step involves determining the number of construction workers employed on Davis-Bacon projects and the number of helpers likely to be employed on Federal and federally-assisted construction work. For this analysis, we use a more recent estimate of construction employment showing that there were 758,000 construction workers on Davis-Bacon projects during 1980 (the PRIA used an estimate of one million total employees in the construction industry covered by Davis-Bacon in 1979). The FRIA discusses the derivation of these estimates in further detail.

While their skill composition is unknown, we assume that in the absence of any restrictions on their use, the helper share of employment on Davis-Bacon projects would be identical to that found overall in construction (excluding residential construction under 5 stories). The estimated helper share based on the 1976–1977 BLS survey of large metropolitan areas would be 3.2 percent and 5.6 percent, depending on whether we used the entire survey or only those occupations in the survey that specifically identify helpers.

However, the helper shares estimated directly from the BLS survey may be biased because of its limitation to large metropolitan areas and the 1976–1977 period. The BLS survey shows about 78 percent of construction workers under collective bargaining agreements. Although such agreements are almost certainly more prevalent on Davis-Bacon construction that on all construction, the BLS survey probably over-represents the percent of union workers on Davis-Bacon projects nationwide. This means that estimates of the helper employment share based on the BLS survey will be too small compared to total Davis-Bacon construction. To correct this bias, we base alternative helper estimates on the conservative assumption that the true union share of Davis-Bacon employment is 50 percent. Weighting the individual estimates found in the BLS survey data of helper employment shares within the union and non-union sectors produces adjusted estimates of the helper share of 5.98 percent and 9.4 percent.

This gives us four estimates of helper employment. Assuming that the high unionization rate found in the BLS survey of large cities prevails in all areas with Davis-Bacon projects, we can estimate that there will be between 24,256 and 42,448 additional helpers on Davis-Bacon projects. Assuming that 50 percent of the workers on Davis-Bacon jobs are organized would translate into higher estimates—45,328 and 71,252 additional helpers on Davis-Bacon jobs.

When helpers substitute for laborers in some cases as well as journeymen, the helper estimates need to be further adjusted. While it is difficult to evaluate the precise extent of this combined substitution, we use the estimated helper shares from above, but assume that helpers replace both types of labor as long as the proportion of laborers and journeymen found in the BLS Survey remains constant (i.e., the laborer to journeymen ratio). The BLS data shows the laborer to journeymen ratio to range between 2:5 and 5:11 for all construction projects in the sample. This produces estimates of helpers ranging from 24,256 to 64,056.

The second step is to calculate the expected hourly wage cost savings from hiring these helpers instead of journeymen. Using the PRIA procedures, we estimate the average wage differential between helpers and journeymen, based on the same 1977 BLS survey of large metropolitan areas adjusted to FY 1982 levels. This produces estimates of $5.72 and $5.73 as the absolute wage differential between helpers and journeymen.

For the adjusted estimates where we assume that 50 percent of Davis-Bacon is covered by union contracts, it was necessary to recalculate the wage rates accordingly. Separate union percentages for journeymen and helpers from the BLS survey were used to weight the union and non-union average hourly wage rates to arrive at the new overall averages of about $6.70.

The above estimates of wage differences assume that helpers replace only journeymen. If helpers substitute for laborers in some cases as well as journeymen, the wage differences in some cases will narrow substantially—ranging from $4.95 to $5.71. The final regulatory impact analysis describes these wage calculations in further detail as well as the biases involved in the use of average wage rates.

The next ingredient needed to compute the expected cost savings is an estimate of average hours worked annually in construction. The PRIA used an estimate of 1535 hours worked per year. However, in light of the ABC comments showing that contractors' annual work hours average well over 1900 hours and the fact that seasonality is already controlled for by our use of annual averages of monthly employment levels, we used 1924 hours from *Employment and Earnings* published by the Bureau of Labor Statistics as the estimate of annual hours worked per full year construction worker to convert helper employment levels into their total hours equivalents.

Our estimates of the resulting cost savings from increased recognition of helpers with no ratio were obtained simply by multiplying numbers of helpers by hours worked in a year (1924) and various estimates of the existing wage differential between helpers and journeymen and laborers.

However, where there is a ceiling restriction on the employment of helpers to journeymen, another step is necessary—modifying the methodology

to lower the estimates of helper employment. The new calculations assume that any ceiling has no impact on the union sector, since there are few helpers in union firms. However, the 1976–1977 BLS survey suggests that outside of residential construction under 5 stories, the average non-union ratio of helpers to journeymen is around 1:4. This means that the proposed 1:5 ratio or to a lesser extent the final 2:3 ratio would be limiting for some non-union firms and that the overall helper:journeymen ratio on federally-finded non-union projects would fall somewhat below 1:5.

For our analysis, we assumed that the proposed 1:5 regulation would result in an average ratio of 1 to 5.5 on federally-funded non-union projects, while a ratio of 2:3 would result in a higher average of 1 to 4.25 on these same projects. These new ratio assumptions have the effect of lowering the previous helper estimates.

Finally, when helpers substitute for laborers in some cases as well as journeymen, the helper estimates need to be further adjusted in the presence of a ratio. In this case, the ceiling restrictions lower helper employment in the non-union sector in two ways—(1) Directly decreasing the allowed substitution of journeymen, and (2) increasing the number of laborers required to keep the proportion of laborers to journeymen constant.

The results of these calculations show that with a 1:5 ceiling and with helpers replacing journeymen, the estimated cost savings range between $263.49 million and $535.43 million. The corresponding midpoint estimate is roughly $400 million. This is the revised "best" estimate for the proposed regulation if helpers can replace only journeymen. With this same 1:5 ceiling, but with helpers replacing both laborers and journeymen, the estimated cost savings drop by approximately one-third—to $303.41 million on average. This supports the unions' contention of lower cost savings when helpers substitute for low skilled as well as higher skilled workers.

In light of the comments on the August proposal, the Department has decided to raise the ceiling from one helper for every five journeymen to two helpers for every three journeymen. The higher ratio will better reflect the wide diversity in practices among different types of construction and localities. The 2:3 ratio also increases the cost savings substantially.

If helpers replace journeymen only, the estimated cost savings range from $305.76 million to $640.95 million. This places the midpoint estimate of the likely cost savings with a 2:3 ceiling on the employment of helpers relative to journeymen at roughly $473.36 million. (This compares well to the PRIA estimates of $450 million in cost savings for the proposal under the assumption that helpers substitute only for journeymen.)

Once the final regulation is in effect, the more likely situation is one in which helpers would in some instances replace laborers as well as journeymen. If this is the case, the estimated cost savings range from $246.43 million to $479.89 million. This puts the average estimate of cost savings at $363.16 million assuming that helpers, in fact, replace both laborers and journeymen. This estimate also represents our "best guess" about the likely impact of the final regulation.

On the basis of this evidence, the Department has concluded that the final regulation will result in substantial cost savings and at the same time reflect industry practice, thereby providing contractors with the necessary flexibility in choosing their optimal employment mix on Davis-Bacon jobs. The final helper provision will also provide substantial cost savings for smaller contractors who predominate in the construction industry.

C. Summary

The final revisions discussed above, in conjunction with the changes to Part 5 of the Davis-Bacon rules (e.g. deletion of the requirement for submission of weekly payroll records) will result in substantial cost savings annually of $585 million for both contractors and the government while still assuring protection of local wage rates and practices. The changes will have a substantial beneficial impact on small contractors.

Copies of the complete analysis may be obtained from the Administrator, Wage and Hour Division, U.S. Department of Labor, 200 Constitution Avenue N.W., Washington, D.C. 20210.

Conclusion

The Solicitor of Labor has determined, in accordance with Executive Order 12291, that this regulation is clearly within the authority delegated to the Secretary of Labor by the Davis-Bacon Act (40 U.S.C. 276a *et seq.*), Reorganization Plan No. 1950 (5 U.S.C. Appendix), and the Copeland Act (40 U.S.C. 276c), as well as 5 U.S.C. 301, 29 U.S.C. 259, and the laws listed in Appendix A of this part. The Solicitor, as set forth above in the discussion of the major issues, has determined that this regulation is consistent with the Congressional intent of the Davis-Bacon and related Acts that wage determinations issued under those Acts reflect the rates prevailing on similar construction in the locality, and that such wage determinations be incorporated in contracts subject to those Acts.

Dates of applicability. The provisions of this part shall be applicable only as to wage surveys completed on or after July 27, 1982. Except for § 1.6, which shall be applicable only to contracts entered into pursuant to invitations for bids issued or negotiations concluded on or after July 27, 1982. None of the revisions herein shall be applicable to any contract entered into prior to July 27, 1982.

This document was prepared under the direction and control of William M. Otter, Administrator, Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor.

List of Subjects in 29 CFR Part 1

Administrative practice and procedures, Government contracts, Labor, Minimum wages, Wages.

Accordingly, 29 CFR Part 1 is revised as set forth below.

Concurrent with the publication today of this final rule, the final rule previously published in the **Federal Register** on January 16, 1981 (46 FR 4306) and subsequently stayed is hereby withdrawn.

Signed at Washington, D.C. on this 25th day of May 1982.

Raymond J. Donovan,

Secretary of Labor.

Robert B. Collyer,

Deputy Under Secretary for Employment Standards.

William M. Otter,

Administrator, Wage and Hour Division.

PART 1—PROCEDURES FOR PREDETERMINATION OF WAGE RATES

Sec.

Authority: 5 U.S.C. 301; R.S. 161, 64 Stat. 1267; Reorganization Plan No. 14 of 1950, 5 U.S.C. Appendix; 29 U.S.C. 259; 40 U.S.C.

276a—276a–7; 40 U.S.C. 276c; and the laws listed in Appendix A of this Part.

§ 1.1 Purpose and scope.

(a) The procedural rules in this part apply under the Davis-Bacon Act (946 Stat. 1494, as amended; 40 U.S.C. 276a—276a–7) and other statutes listed in Appendix A to this part which provide for the payment of minimum wages, including fringe benefits, to laborers and mechanics engaged in construction activity under contracts entered into or financed by or with the assistance of agencies of the United States or the District of Columbia, based on determinations by the Secretary of Labor of the wage rates and fringe benefits prevailing for the corresponding classes of laborers and mechanics employed on projects similar to the contract work in the local areas where such work is to be performed. Functions of the Secretary of Labor under these statutes and under Reorganization Plan No. 14 of 1950 (64 Stat. 1267, 5 U.S.C. Appendix), except those assigned to the Wage Appeals Board (see 29 CFR Part 7), have been delegated to the Assistant Secretary of Labor for Employment Standards who in turn has delegated the functions to the Administrator of the Wage and Hour Division, and authorized representatives.

(b) The regulations in this part set forth the procedures for making and applying such determinations of prevailing wage rates and fringe benefits pursuant to the Davis-Bacon Act, each of the other statutes listed in Appendix A, and any other Federal statute providing for determinations of such wages by the Secretary of Labor in accordance with the provisions of the Davis-Bacon Act.

(c) Procedures set forth in this part are applicable, unless otherwise indicated, both to general wage determinations published in the **Federal Register** for contracts in specified localities, and to project wage determinations for use on contract work to be performed on a specific project.

§ 1.2 Definitions.[1]

(a)(1) The "prevailing wage" shall be the wage paid to the majority (more than 50 percent) of the laborers or mechanics in the classification on similar projects in the area during the period in question. If the same wage is not paid to a majority of those employed in the classification, the "prevailing wage" shall be the average of the wages paid, weighted by the total employed in the classification.

[1] These definitions are not intended to restrict the meaning of the terms as used in the applicable statutes.

(2) In determining the "prevailing wages" at the time of issuance of a wage determination, the Administrator will be guided by paragraph (a)(1) of this section and will consider the types of information listed in § 1.3 of this part.

(b) The term "area" in determining wage rates under the Davis-Bacon Act and the prevailing wage provisions of the other statutes listed in Appendix A shall mean the city, town, village, county or other civil subdivision of the State in which the work is to be performed.

(c) The term "Administrator" shall mean the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, or authorized representative. In the absence of the Wage-Hour Administrator, the Deputy Administrator of the Wage and Hour Division is designated to act for the Administrator under this part. Except as otherwise provided in this part, the Assistant Administrator for Government Contract Wage Standards is the authorized representative of the Administrator for the performance of functions relating to the making of wage determinations.

(d) The term "agency" shall mean the Federal agency, State highway department under 23 U.S.C. 113, or recipient State or local government under Title 1 of the State and Local Fiscal Assistance Act of 1972.

§ 1.3 Obtaining and compiling wage rate information.

For the purpose of making wage determinations, the Administrator will conduct a continuing program for the obtaining and compiling of wage rate information.

(a) The Administrator will encourage the voluntary submission of wage rate data by contractors, contractors' associations, labor organizations, public officials and other interested parties, reflecting wage rates paid to laborers and mechanics on various types of construction in the area. The Administrator may also obtain data from agencies on wage rates paid on construction projects under their jurisdiction. The information submitted should reflect not only the wage rates paid a particular classification in an area, but also the type or types of construction on which such rate or rates are paid, and whether or not such rates were paid on Federal or federally assisted projects subject to Davis-Bacon prevailing wage requirements.

(b) The following types of information may be considered in making wage rate determinations:

(1) Statements showing wage rates paid on projects. Such statements should include the names and addresses of contractors, including subcontractors, the locations, approximate costs, dates of construction and types of projects, whether or not the projects are Federal or federally assisted projects subject to Davis-Bacon prevailing wage requirements, the number of workers employed in each classification on each project, and the respective wage rates paid such workers.

(2) Signed collective bargaining agreements. The Administrator may request the parties to an agreement to submit statements certifying to its scope and application.

(3) Wage rates determined for public construction by State and local officials pursuant to State and local prevailing wage legislation.

(4) In making wage rate determinations pursuant to 23 U.S.C. 113, the highway department of the State in which a project in the Federal-Aid highway system is to be performed shall be consulted. Before making a determination of wage rates for such a project the Administrator shall give due regard to the information thus obtained.

(5) Wage rate data submitted to the Department of Labor by contracting agencies pursuant to 29 CFR 5.5(a)(1)(ii).

(6) Any other information pertinent to the determination of prevailing wage rates.

(c) The Administrator may initially obtain or supplement such information obtained on a voluntary basis by such means, including the holding of hearings, and from any sources determined to be necessary. All information of the types described in § 1.3(b) of this part, pertinent to the determination of the wages prevailing at the time of issuance of the wage determination, will be evaluated in the light of § 1.2(a) of this Part.

(d) In compiling wage rate data for building and residential wage determinations, the Administrator will not use data from Federal or federally assisted projects subject to Davis-Bacon prevailing wage requirements unless it is determined that there is insufficient wage data to determine the prevailing wages in the absence of such data. Data from Federal or federally assisted projects will be used in compiling wage rate data for heavy and highway wage determinations.

§ 1.4 Outline of agency construction programs.

To the extent practicable, at the beginning of each fiscal year each agency using wage determinations

under any of the various statutes listed in Appendix A will furnish the Administrator with a general outline of its proposed construction programs for the coming year indicating the estimated number of projects for which wage determinations will be required, the anticipated types of construction, and the locations of construction. During the fiscal year, each agency will notify the Administrator of any significant changes in its proposed construction programs, as outlined at the beginning of the fiscal year. This report has been cleared in accordance with FPMR 101–11.11 and assigned interagency report control number 1671–DOL–AN.

§ 1.5 Procedure for requesting wage determinations.

(a)(1) Except as provided in paragraph (b) of this section, the Federal agency shall initially request a wage determination under the Davis-Bacon Act or any of its related prevailing wage statutes by submitting Standard Form 308 to the Department of Labor at this address:

U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Branch of Construction Wage Determinations, Washington, D.C. 20210.

The agency shall check only those classifications on the applicable form which will be needed in the performance of the work. Inserting a note such as "entire schedule" or "all applicable classifications" is not sufficient. Additional classifications needed which are not on the form may be typed in the blank spaces or on a separate list and attached to the form.

(2) In completing SF–308, the agency shall furnish:

(i) A sufficiently detailed description of the work to indicate the type of construction involved. Additional description or separate attachment, if necessary for identification of type of project, shall be furnished.

(ii) The county (or other civil subdivision) and State in which the proposed project is located.

(3) Such request for a wage determination shall be accompanied by any pertinent wage payment information which may be available. When the requesting agency is a State highway department under the Federal-Aid Highway Acts as codified in 23 U.S.C. 113, such agency shall also include its recommendations as to the wages which are prevailing for each classification of laborers and mechanics on similar construction in the area.

(b) Whenever the wage patterns in a particular area for a particular type of construction are well settled and whenever it may be reasonably anticipated that there will be a large volume of procurement in that area for such a type of construction, the Administrator, upon the request of a Federal agency or in his/her discretion, may publish a general wage determination in the **Federal Register** when, after consideration of the facts and circumstances involved, the Administrator finds that the applicable statutory standards and those of this part will be met. If there is a general wage determination applicable to the project, the agency may use it without notifying the Department of Labor, *provided,* that questions concerning its use shall be referred to the Department of Labor in accordance with § 1.6(b).

(c) The time required for processing requests for wage determinations varies according to the facts and circumstances in each case. An agency should anticipate that such processing in the Department of Labor will take at least 30 days.

§ 1.6 Use of effectiveness of wage determinations.

(a)(1) Project wage determinations initially issued shall be effective for 180 calendar days from the date of such determinations. If such a wage determination is not used in the period of its effectiveness it is void. Accordingly, if it appears that a wage determination may expire between bid opening and contract award (or between initial endorsement under the National Housing Act or the execution of an agreement to enter into a housing assistance payments contract under section 8 of the U.S. Housing Act of 1937, and the start of construction) the agency shall request a new wage determination sufficiently in advance of the bid opening to assure receipt prior thereto. However, when due to unavoidable circumstances a determination expires before award but after bid opening (or before the start of construction, but after initial endorsement under the National Housing Act, or before the start of construction but after the execution of an agreement to enter into a housing assistance payments contract under Section 8 of the U.S. Housing Act of 1937), the head of the agency or his or her designee may request the Administrator to extend the expiration date of the wage determination in the bid specifications instead of issuing a new wage determination. Such request shall be supported by a written finding, which shall include a brief statement of the factual support, that the extension of the expiration date of the determination is necessary and proper in the public interest to prevent injustice or undue hardship or to avoid serious impairment in the conduct of Government business. The Administrator will either grant or deny the request for an extension after consideration of all of the circumstances, including an examination to determine if the previously issued rates remain prevailing. If the request for extension is denied, the Administrator will proceed to issue a new wage determination for the project.

(2) General wage determinations issued pursuant to § 1.5(b) and which are published in the **Federal Register,** shall contain no expiration date.

(b) Contracting agencies are responsible for insuring that only the appropriate wage determination(s) are incorporated in bid solicitations and contract specifications and for designating specifically the work to which such wage determinations will apply. Any question regarding application of wage rate schedules shall be referred to the Administrator, who shall give foremost consideration to area practice in resolving the question.

(c)(1) Project and general wage determinations may be modified from time to time to keep them current. A modification may specify only the items being changed, or may be in the form of a supersedeas wage determination, which replaces the entire wage determination. Such actions are distinguished from a determination by the Administrator under paragraphs (d), (e) and (f) of this section that an erroneous wage determination has been issued or that the wrong wage determination or wage rate schedule has been utilized by the agency.

(2)(i) All actions modifying a project wage determination received by the agency before contract award (or the start of construction where there is no contract award) shall be effective except as follows:

(A) In the case of contracts entered into pursuant to competitive bidding procedures, modifications received by the agency less than 10 days before the opening of bids shall be effective unless the agency finds that there is not a reasonable time still available before bid opening, to notify bidders of the modification and a report of the finding is inserted in the contract file. A copy of such report shall be made available to the Administrator upon request. No such report shall be required if the modification is received after bid opening.

(B) In the case of projects assisted under the National Housing Act, modifications shall be effective if received prior to the beginning of

construction or the date the mortgage is initially endorsed, whichever occurs first.

(C) In the case of projects to receive housing assistance payments under section 8 of the U.S. Housing Act of 1937, modifications shall be effective if received prior to the beginning of construction or the date the agreement to enter into a housing assistance payments contract is executed, whichever occurs first.

(ii) Modifications to project wage determinations and supersedeas wage determinations shall not be effective after contract award (or after the beginning of construction where there is no contract award).

(iii) Actual written notice of a modification shall constitute receipt.

(3) All actions modifying a general wage determination shall be effective with respect to any project to which the determination applies, if published before contract award (or the start of construction where there is no contract award), except as follows:

(i) In the case of contracts entered into pursuant to competitive bidding procedures, modifications published less than 10 days before the opening of bids shall be effective unless the agency finds that there is not a reasonable time still available before bid opening to notify bidders of the modification and a report of the finding is inserted in the contract file. A copy of such report shall be made available to the Administrator upon request. No such report shall be required if the modification is published after bid opening.

(ii) In the case of projects assisted under the National Housing Act, modifications shall be effective if published prior to the beginning of construction or the date the mortgage is initially endorsed, whichever occurs first.

(iii) In the case of projects to receive housing assistance payments under section 8 of the U.S. Housing Act of 1937, modifications shall be effective if published prior to the beginning of construction or the date the agreement to enter into a housing assistance payments contract is signed, whichever occurs first.

(iv) If under paragraph (c)(3)(i) of this section the contract has not been awarded within 90 days after bid opening, or if under paragraph (c)(3) (ii) or (iii) of this section construction has not begun within 90 days after initial endorsement or the signing of the agreement to enter into a housing assistance payments contract, any modifications published in the **Federal Register** prior to award of the contract or the beginning of construction, as appropriate, shall be effective with respect to that contract unless the head of the agency or his or her designee requests and obtains an extension of the 90-day period from the Administrator. Such request shall be supported by a written finding, which shall include a brief statement of the factual support, that the extension is necessary and proper in the public interest to prevent injustice or undue hardship or to avoid serious impairment in the conduct of Government business. The Administrator will either grant or deny the request for an extension after consideration of all the circumstances.

(v) A modification to a general wage determination is "published" within the meaning of this section on the date of publication in the **Federal Register**, or on the date the agency receives actual written notice of the modification from the Department of Labor, whichever occurs first.

(vi) Modifications or supersedeas wage determinations to an applicable general wage determination published after contract award (or after the beginning of construction where there is no contract award) shall not be effective.

(d) Upon his/her own initiative or at the request of an agency, the Administrator may correct any wage determination, without regard to paragraph (c) of this section, whenever the Administrator finds such a wage determination contains clerical errors. Such corrections shall be included in any bid specifications containing the wage determination, or in any on-going contract containing the wage determination in question, retroactively to the start of construction.

(e) Written notification by the Department of Labor prior to the award of a contract (or the start of construction under the National Housing Act, under section 8 of the U.S. Housing Act of 1937, or where there is no contract award) that (1) there is included in the bidding documents or solicitation the wrong wage determination or the wrong schedule or that (2) a wage determination is withdrawn by the Department of Labor as a result of a decision by the Wage Appeals Board, shall be effective immediately without regard to paragraph (c) of this section.

(f) The Administrator may issue a wage determination after contract award or after the beginning of construction if the agency has failed to incorporate a wage determination in a contract required to contain prevailing wage rates determined in accordance with the Davis-Bacon Act, or has used a wage determination which by its terms or the provisions of this part clearly does not apply to the contract. Further, the Administrator may issue a wage determination which shall be applicable to a contract after contract award or after the beginning of construction when it is found that the wrong wage determination has been incorporated in the contract because of an inaccurate description of the project or its location in the agency's request for the wage determination. Under any of the above circumstances, the agency shall either terminate and resolicit the contract with the valid wage determination, or incorporate the valid wage determination retroactive to the beginning of construction through supplemental agreement or through change order, *provided* that the contractor is compensated for any increases in wages resulting from such change. The method of incorporation of the valid wage determination, and adjustment in contract price, where appropriate, should be in accordance with applicable procurement law.

(g) If Federal funding or assistance under a statute requiring payment of wages determined in accordance with the Davis-Bacon Act is not approved prior to contract award (or the beginning of construction where there is no contract award), the agency shall request a wage determination prior to approval of such funds. Such a wage determination shall be issued based upon the wages and fringe benefits found to be prevailing on the date of award or the beginning of construction (under the National Housing Act, under section 8 of the U.S. Housing Act of 1937 or where there is no contract award), as appropriate, and shall be incorporated in the contract specifications retroactively to that date, *provided*, that upon the request of the head of the agency in individual cases the Administrator may issue such a wage determination to be effective on the date of approval of Federal funds or assistance whenever the Administrator finds that it is necessary and proper in the public interest to prevent injustice or undue hardship, *provided further* that the Administrator finds no evidence of intent to apply for Federal funding or assistance prior to contract award or the start of construction, as appropriate.

§ 1.7 Scope of consideration.

(a) In making a wage determination, the "area" will normally be the county unless sufficient current wage data (data on wages paid on current projects or, where necessary, projects under construction no more than one year prior to the beginning of the survey or the request for a wage determination, as

appropriate) is unavailable to make a wage determination.

(b) If there has not been sufficient similar construction within the area in the past year to make a wage determination. Wages paid on similar construction in surrounding counties may be considered, *provided* that projects in metropolitan counties may not be used as a source of data for a wage determination in a rural county, and projects in rural counties may not be used as a source of data for a wage determination for a metropolitan county.

(c) If there has not been sufficient similar construction in surrounding counties or in the State in the past year, wages paid on projects completed more than one year prior to the beginning of the survey or the request for a wage determination, as appropriate, may be considered.

(d) Classifications and wage rates will be issued for identifiable "classes of laborers and mechanics." Semi-skilled classifications of helpers will be issued when the classifications are identifiable in the area. The use of helpers, apprentices and trainees is permitted in accordance with Part 5 of this subtitle.

§ 1.8 Reconsideration by the Administrator.

Any interested person may seek reconsideration of a wage determination issued under this part or of a decision of the Administrator regarding application of a wage determination. Such a request for reconsideration shall be in writing accompanied by a full statement of the interested person's views and any supporting wage data or other pertinent information. The Administrator will respond within 30 days of receipt thereof, or will notify the requestor within the 30 day period that additional time is necessary.

§ 1.9 Review by Wage Appeals Board.

Any interested person may appeal to the Wage Appeals Board for a review of a wage determination or its application made under this part, after reconsideration by the Administrator has been sought pursuant to § 1.8 and denied. Any such appeal may, in the discretion of the Wage Appeals Board, be received, accepted, and decided in accordance with the provisions of 29 CFR Part 7 and such other procedures as the Board may establish.

Appendix A

Statutes Related to the Davis-Bacon Act Requiring Payment of Wages at Rates Predetermined by the Secretary of Labor

1. The Davis-Bacon Act (secs. 1–7, 46 Stat. 1494, as amended; Pub. L. 74–403, 40 U.S.C. 276a–276a–7).

2. National Housing Act (sec. 212 added to c. 847, 48 Stat. 1246, by sec. 14, 53 Stat. 807; 12 U.S.C. 1715c and repeatedly amended).

3. Housing Act of 1950 (college Housing) (amended by Housing Act of 1959 to add labor provisions, 73 Stat. 681; 12 U.S.C. 1749a(f)).

4. Housing Act of 1959 (sec. 401(f) of the Housing Act of 1950 as amended by Pub. L. 86–372, 73 Stat. 681; 12 U.S.C. 1701q(c)(3)).

5. Commercial Fisheries Research and Development Act of 1964 (sec. 7, 78 Stat. 199; 16 U.S.C. 779e(b)).

6. Library Services and Construction Act (sec. 7(a), 78 Stat. 13; 20 U.S.C. 355c(a)(4), as amended).

7. National Technical Institute for the Deaf Act (sec. 5(b)(5), 79 Stat. 126; 20 U.S.C. 684(b)(5)).

8. National Foundation on the Arts and Humanities Act of 1965 (sec. 5(k), 79 Stat. 846 as amended; 20 U.S.C. 954(j)).

9. Elementary and Secondary Education Act of 1965 as amended by Elementary and Secondary and other Education Amendments of 1969 (sec. 423 as added by Pub. L. 91–230, title IV, sec. 401(a)(10), 84 Stat. 169, and renumbered sec. 433, by Pub. L. 92–318; title III, sec. 301(a)(1), 86 Stat. 326; 20 U.S.C. 1232(b)). Under the amendment coverage is extended to all programs administered by the Commissioner of Education.

10. The Federal-Aid Highway Acts (72 Stat. 895, as amended by 82 Stat. 821; 23 U.S.C. 113).

11. Indians Self-Determination and Education Assistance Act (sec. 7, 88 Stat. 2205; 25 U.S.C. 450e).

12. Indian Health Care Improvement Act (sec. 303(b), 90 Stat. 1407; 25 U.S.C. 1633(b)).

13. Rehabilitation Act of 1973 (sec. 306(b)(5), 87 Stat. 384, 29 U.S.C. 776(b)(5)).

14. Comprehensive Employment and Training Act of 1973 (sec. 606, 87 Stat. 880, renumbered sec. 706 by 83 Stat. 1845; 29 U.S.C. 986; also sec. 604, 88 Stat. 1846; 29 U.S.C. 964(b)(3)).

15. State and Local Fiscal Assistance Act of 1972 (sec. 123(a)(6), 86 Stat. 933; 31 U.S.C. 1246(a)(6)).

16. Federal Water Pollution Control Act (sec. 513 of sec. 2, 86 Stat. 894; 33 U.S.C. 1372).

17. Veterans Nursing Home Care Act of 1964 (78 Stat. 502, as amended; 38 U.S.C. 5035(a)(8)).

18. Postal Reorganization Act (sec. 410(b)(4)(C); 84 Stat. 726 as amended; 39 U.S.C. 410(b)(4)(C)).

19. National Visitors Center Facilities Act of 1968 (sec. 110, 32 Stat. 45; 40 U.S.C. 808).

20. Appalachian Regional Development Act of 1965 (sec. 402, 79 Stat. 21; 40 U.S.C. App. 402).

21. Health Services Research, Health Statistics, and Medical Libraries Act of 1974 (sec. 107, see sec. 306(h)(2) thereof, 83 Stat. 370, as amended by 90 Stat. 378; 42 U.S.C. 242m(h)(2)).

22. Hospital Survey and Construction Act, as amended by the Hospital and Medical Facilities Amendments of 1964 (sec. 605(a)(5), 78 Stat. 453; 42 U.S.C. 291e(a)(5)).

23. Health Professions Education Assistance Act (sec. 303(b), 90 Stat. 2254; 42 U.S.C. 293a(g)(1)(C); also sec. 308a, 90 Stat. 2256; 42 U.S.C. 293a(c)(7)).

24. Nurse Training Act of 1964 (sec. 941(a)(1)(C), 89 Stat. 364; 42 U.S.C. 296a(b)(5)).

25. Heart Disease, Cancer, and Stroke Amendments of 1965 (sec. 904, as added by sec. 2, 79 Stat. 928; 42 U.S.C. 299d(b)(4)).

26. Safe Drinking Water Act (sec. 2(a), see sec. 1450e thereof, 88 Stat. 1691; 42 U.S.C. 300j–9(e)).

27. National Health Planning and Resources Act (sec. 4, see sec. 1604(b)(1)(H), 88 Stat. 2261, 42 U.S.C. 300o–3(b)(1)(H)).

28. U.S. Housing Act of 1937, as amended and recodified (88 Stat. 667; 42 U.S.C. 1437j).

29. Demonstration Cities and Metropolitan Development Act of 1966 (secs. 110, 311, 503, 1003, 80 Stat. 1259, 1270, 1277, 1284; 42 U.S.C. 3310; 12 U.S.C. 1715c; 42 U.S.C. 1437j).

30. Slum clearance program: Housing Act of 1949 (sec. 109, 63 Stat. 419, as amended; 42 U.S.C. 1459).

31. Farm housing: Housing Act of 1964 (adds sec. 516(f) to Housing Act of 1949 by sec. 503, 78 Stat. 797; 42 U.S.C. 1486(f)).

32. Housing Act of 1961 (sec. 707, added by sec. 907, 79 Stat. 496, as amended; 42 U.S.C. 1500c–3).

33. Defense Housing and Community Facilities and Services Act of 1951 (sec. 310, 65 Stat. 307; 42 U.S.C. 1592i).

34. Special Health Revenue Sharing Act of 1975 (sec. 303, see sec. 222(a)(5) thereof, 89 Stat. 324; 42 U.S.C. 2689j(a)(5)).

35. Economic Opportunity Act of 1964 (sec. 607, 78 Stat. 532; 42 U.S.C. 2947).

36. Headstart, Economic Opportunity, and Community Partnership Act of 1974 (sec. 11, see sec. 811 thereof, 88 Stat. 2327; 42 U.S.C. 2992a).

37. Housing and Urban Development Act of 1965 (sec. 707, 79 Stat. 492 as amended; 42 U.S.C. 3107).

38. Older Americans Act of 1965 (sec. 502, Pub. L. 89–73, as amended by sec. 501, Pub. L. 93–29; 87 Stat. 50; 42 U.S.C. 3041a(a)(4)).

39. Public Works and Economic Development Act of 1965 (sec. 712, 79 Stat. 575 as amended; 42 U.S.C. 3222).

40. Juvenile Delinquency Prevention Act (sec. 1, 86 Stat. 536; 42 U.S.C. 3884).

41. New Communities Act of 1968 (sec. 410.82 Stat. 516; 42 U.S.C. 3909).

42. Urban Growth and New Community Development Act of 1970 (sec. 727(f), 84 Stat. 1803; 42 U.S.C. 4529).

43. Domestic Volunteer Service Act of 1973 (sec. 406, 87 Stat. 410; 42 U.S.C. 5046).

44. Housing and Community Development Act of 1974 (secs. 110, 802(g), 83 Stat. 649, 724; 42 U.S.C. 5310, 1440(g)).

45. Developmentally Disabled Assistance and Bill of Rights Act (sec. 126(4), 89 Stat. 488; 42 U.S.C. 6042(4); title I, sec. 111, 89 Stat. 491; 42 U.S.C. 6063(b)(19)).

46. National Energy Conservation Policy Act (sec. 312, 92 Stat. 3254; 42 U.S.C. 6371j).

47. Public Works Employment Act of 1976 (sec. 109, 90 Stat. 1001; 42 U.S.C. 6708; also sec. 208, 90 Stat. 1008; 42 U.S.C. 6728).

48. Energy Conservation and Production Act (sec. 45(h), 90 Stat. 1168; 42 U.S.C. 6881(h)).

49. Solid Waste Disposal Act (sec. 2, 90 Stat. 2828; 42 U.S.C. 6979).

50. Rail Passenger Service Act of 1970 (sec. 405d, 84 Stat. 1337; 45 U.S.C. 565(d)).

51. Urban Mass Transportation Act of 1964 (sec. 10, 78 Stat. 307; renumbered sec. 13 by 88 Stat. 715; 49 U.S.C. 1609).

52. Highway speed ground transportation study (sec. 6(b), 79 Stat. 893; 49 U.S.C. 1636(b)).

53. Airport and Airway Development Act of 1970 (sec. 22(b), 84 Stat. 231; 49 U.S.C. 1722(b)).

54. Federal Civil Defense Act of 1950 (50 U.S.C. App. 2281(i)).

55. National Capital Transportation Act of 1965 (sec. 3(b)(4), 79 Stat; 40 U.S.C. 682(b)(4)).

Note.—Repealed Dec. 9, 1969 and labor standards incorporated in sec. 1–1431 of the District of Columbia Code.

56. Model Secondary School for the Deaf Act (sec. 4, 80 Stat. 1027, Pub. L. 89–694, but not in the United States Code.

57. Delaware River Basin Compact (sec. 15.1, 75 Stat. 714, Pub. L. 87–328) (considered a statute for purposes of this part but not in the United States Code).

58. Energy Security Act (Sec. 175(c), Pub. L. 96–294, 94 Stat. 611; 42 U.S.C. 8701 note).

Appendix B

Boston Region

For the States of Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont:

Assistant Regional Administrator for Wage-Hour, Employment Standards Administration, U.S. Department of Labor, JFK Federal Building, Government Center, Room 1612C, Boston, Massachusetts 02203 (telephone: 617–223–5565).

New York Region

For the States of New Jersey and New York and for the Canal Zone, Puerto Rico, and the Virgin Islands:

Assistant Regional Administrator for Wage-Hour, Employment Standards Administration, U.S. Department of Labor, 1515 Broadway, Room 3300, New York, New York 10036 (telephone: 212–399–5443).

Philadelphia Region

For the States of Delaware, Maryland, Pennsylvania, Virginia, and West Virginia, and the District of Columbia:

Assistant Regional Administrator for Wage-Hour, Employment Standards Administration, U.S. Department of Labor, Gateway Building, Room 15220, 3535 Market Street, Philadelphia, Pennsylvania 19104 (telephone: 215–596–1193).

Atlanta Region

For the States of Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, and Tennessee:

Assistant Regional Administrator for Wage-Hour, Employment Standards Administration, U.S. Department of Labor, 1371 Peachtree Street, N.E., Room 305, Atlanta, Georgia 30309 (telephone: 404–881–4801).

Chicago Region

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Part VI

Department of Labor

Wage and Hour Division, Employment Standards Administration

Office of the Secretary

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

DEPARTMENT OF LABOR

Wage and Hour Division, Employment Standards Administration

Office of the Secretary

29 CFR Part 5

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

AGENCY: Wage and Hour Division, Employment Standards Administration, Labor.

ACTION: Final rule.

SUMMARY: This document provides the final text of regulations, 29 CFR Part 5, Subpart A, on labor standards applicable to contracts for federally financed and assisted construction subject to the Davis-Bacon and Related Acts and contracts subject to the Contract Work Hours and Safety Standards Act (CWHSSA). Changes have been made to eliminate the requirement that contractors and subcontractors submit weekly payrolls to the appropriate Federal agencies, and to provide for the increased use of helpers on covered projects. In addition, the definition of the "site of the work" has been revised for clarification.

DATES: Effective date: July 27, 1982, except § 5.5(a)(1) (ii), (iv) and (a)(3)(i), which contain information collection requirements which are under review at OMB. See Supplementary Information for dates of applicability.

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SUPPLEMENTARY INFORMATION: On December 28, 1979, a proposal was published in the **Federal Register** (44 FR 77080) to make certain revisions to Subpart A of Regulations, 29 CFR Part 5, Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction (Also Labor Standards Provisions Applicable to Nonconstruction Contracts Subject to the Contract Work Hours and Safety Standards Act). The purpose of this proposal was to revise, update, and clarify this subpart.

On January 16, 1981, the regulation was published in the **Federal Register** (46 FR 4380) as a final rule with a scheduled effective date of February 17, 1981. However, pursuant to the President's Memorandum of January 29, 1981, the Department published a notice in the **Federal Register** on February 6, 1981 (46 FR 11253), delaying implementation of this regulation until March 30, 1981. The Department subsequently delayed the implementation of this regulation until August 15, 1981 in order to permit reconsideration of the rule pursuant to Executive Order 12291. See 46 FR 18973 (March 27, 1981); 46 FR 23739 (April 28, 1981); 46 FR 33514 (June 30, 1981); and 46 FR 36140 (July 14, 1981).

On August 14, 1981, a new regulatory proposal developed in accordance with Executive Order 12291 was published in the **Federal Register** (46 FR 41456) and the previously published rule was further postponed until action could be taken on the new proposal. (See 46 FR 41043.)

Interested persons were afforded the opportunity to submit comments to the Wage and Hour Division within 60 days after publication of the proposal in the **Federal Register.** Comments were received from approximately 2,200 interested parties, including members of Congress, contracting agencies, contractor associations, contractors, labor organizations, State and local governmental agencies, business organizations, and individuals. Many comments were received either supporting or opposing the proposal in general. More than 1,000 comments (mostly from contractors and contractor associations) were directed solely to the issue of whether the use of helpers should be limited to a ratio to journeymen of 1:5, as had been proposed.

Contractor associations and business organizations submitting comments included the Associated General Contractors of America (AGC), the Associated Builders and Contractors, Inc. (ABC), the National Association of Home Builders (NAHB), the Chamber of Commerce of the United States (C of C), the National Association of Manufacturers (NAM), the Business Roundtable, the National Federation of Independent Business, the National Utility Contractors Association (NUCA), the Sheet Metal and Air Conditioning Contractors' National Association, Inc., the American Road and Transportation Builders Association, the National League of Cities (NLC), the National Association of Counties, the Council of State Housing Agencies, the National Sand and Gravel Association, the National Ready Mixed Concrete Association, and others. Labor unions and organizations commenting on the proposal included the Building and Construction Trades Department of the American Federation of Labor-Congress of Industrial Organizations (BCTD), the Laborers' International Union of North America (LIUNA), the United Brotherhood of Carpenters and Joiners of America (UBC), the International Brotherhood of Electrical Workers (IBEW), the United Association of Journeymen and Apprentices of the Plumbing and Pipe Fitting Industry (UA), the International Brotherhood of Teamsters (Teamsters), the International Association of Bridge, Structural and Ornamental Iron Workers (Iron Workers), the International Union of Operating Engineers (IUOE), the United Automobile Workers of America (UAW), the Sheet Metal Workers' International Association (SMW), the Operative Plasterers' and Cement Masons' International Association (OPCM), the International Brotherhood of Painters and Allied Trades (PAT), and others. Among those Federal agencies submitting comments were the Department of Defense (DOD), the Department of Transportation (DOT), the Department of Energy (DOE), the National Aeronautics and Space Administration (NASA), the U.S. Postal Service (USPS), the General Services Administration (GSA), and the Small Business Administration (SBA).

Discussion of Major Comments

The following is an analysis of all the principal comments received and the corresponding changes, if any, made to the proposed rule. Each submission has been thoroughly reviewed, and each criticism and suggestion has been given careful consideration. For each section and, where appropriate, subsection of the final rule, the analysis contains a description of the major comments, the Department's conclusions regarding those comments, and the substantive changes herein adopted.

Section 5.2(1)—Definition of "Site of Work"

The ABC, AGC, several other contractor associations, individual contractors, and DOT opposed the proposed definition of "site of work", stating it was an expansion of statutory coverage and, in addition, was confusing and subject to different interpretations. They recommended that the definition be limited to the physical places where the construction work is to be performed. Some contractor associations suggested excluding any commercial material supplier or other similar operation located near, but not

on, the actual location of the construction project if the operation is established prior to the start of contract work.

Labor organizations, including the BCTD, the Teamsters, and the UAW, commented that the proposed definition unduly restricted Davis-Bacon coverage by placing limitations on coverage of facilities not directly on the construction site, thus depriving workers at such facilities of labor standards protections.

The Department's proposal would codify its longstanding interpretation of "site of work" in the regulations. Necessarily, the provision embodies some flexibility in order to allow for its application to the varied fact situations encountered in particular cases.

However, in response to industry comments, this section has been clarified, explicitly providing that operations of a "commercial supplier" or "materialman" established by the supplier of the materials prior to the opening of bids and not located at the actual site of the project are not covered by the Act.

Sections 5.2(n)(4), 5.5(a)(1)(ii)(A), and 5.5(a)(4)(iv)—Helpers

Many commentators, including the ABC, AGC, NAM, NAHB, the Business Roundtable, the C of C, and individual contractors, generally favored the proposal to increase recognition of a semi-skilled helper classification; however, they opposed the ratio limitations on their use contained in the proposal at § 5.5(a)(4)(iv). While some of these commentators argued that the use of helpers varies too greatly by craft, job needs, and geographic area to establish a fixed nationwide ratio, a number simply recommended a more liberal ratio. The AGC also opposed the requirement in the conformance procedures in § 5.5(a)(1)(ii)(A) that helper wage rates must bear a "reasonable relationship" to the rates on the wage determination.

The building trades unions and some State and local governmental agencies opposed increased recognition of helpers on the grounds that this would undermine formally established apprentice and trainee programs to the detriment of minorities and unskilled workers, and would lead to shortages of qualified journeymen.

Several commentators expressed the view that the proposed definition in § 5.2(n)(4) was too broad to distinguish helpers' duties from those of a journeyman or apprentice. A parallel concern, particularly articulated by the Laborers' International Union, is that the proposed definition is essentially a statement of traditional laborers' work, and consequently could result in the misclassification of workers into lower paying jobs.

The Department currently recognizes a helper classification only where it is a separate and distinct class of workers, which prevails in the area, and where the helpers' scope of duties can be differentiated from those of journeymen. When the use of helpers has been permitted under these criteria, no ratio as to their use has been applied.

Increased recognition of helpers, both helpers working in a particular craft and cross-craft or general utility helpers, reflects the widespread industry practice of employing semi-skilled workers (with some overlap between their duties and those of journeymen) on construction projects. The very large number of comments received reflects a wide acceptance of the proposed helper definition. Section 5.2(n)(4) is therefore adopted as proposed.

However, in view of the concerns expressed that the proposed ratio of one helper to five journeymen did not give adequate consideration to the number of helpers used in the industry, the Department has concluded that a more liberal ratio would be consistent with the statutory intent and provide training opportunities.

Accordingly, the ratio has been changed to permit not more than two helpers for every three journeymen (or not more than 40 percent of the total number of helpers and journeymen) in the contractor's workforce, as illustrated by the following chart:

Journeymen	Helpers	Total [1]
1	0	1
2	0	2
2	1	3
3	1	4
3	2	5
4	2	6
5	2	7
5	3	8
6	3	9
6	4	10
7	4	11
8	4	12
8	5	13
9	5	14
9	6	15
10	6	16

[1] Helpers and journeymen.

To assure that the ratio does not disrupt existing established local practices in areas where wage determinations currently contain helper classifications without restriction as to the number permitted, interested parties (which would include contracting agencies), prior to bid opening on a contract, may request a variance from the ratio provision pursuant to § 5.14 of the regulations. Such variances will be considered for the applicable helper classification(s) upon a showing that the wage determination for the type of construction in effect in the area prior to the effective date of these regulations contains one or more helper classifications, and that there was a practice in the area of utilizing such helpers on Davis-Bacon projects in excess of a ratio of two to every three journeymen in the classification.

With respect to the comment regarding conformance of wage rates, it is fundamental to this process that a reasonable relationship be maintained to the wages for the various job classifications on the wage determination. Accordingly, § 5.5(a)(1)(ii)(A) is adopted without change. (See also the related changes proposed to 29 CFR Part 1 regarding the issuance of helper classifications on wage determinations and the discussion of comments received thereon.)

Section 5.5(a)(1)(ii)(B)—Review of Conformances Agreed to by the Interested Parties

No comments were received concerning the conformance procedures. However, as a result of DOL's review of the proposal, it has been determined that a modification is appropriate to insure consistency in procedures contained in § 5.5(a)(1)(ii) (B) and (C). Ordinarily, DOL expects to complete review of proposed conformance actions agreed to by the interested parties within a 30 day period as provided in the proposed regulations. However, in a few instances, more time is needed, especially where an area practice survey is necessary to ascertain prevailing wage relationships and/or the proper classification of the unlisted classes. Accordingly, the language of this section is amended to allow DOL (with notification to the agency) additional time to complete a review.

Section 5.5 (a)(2) and (b)(3)—Cross-Withholding

The ABC, the NAHB, other contractor associations and some State highway agencies opposed the provisions which would allow agencies to withhold contract monies due a contractor from contracts other than those on which the alleged violations occurred if necessary to satisfy Davis-Bacon and Contract Work Hours and Safety Standards Act underpayments ("cross-withholding"). These groups contended that neither statute authorizes cross-withholding, citing *Whitney Bros. Plumbing and Heating* v. *United States* (224 F. Supp. 860 (D. Alaska 1963)). They further contended that these proposals would, in effect, redelegate withholding

authority from the contracting agency to the DOL.

The BCTD and other labor organizations opposed the proposed limitation on cross-withholding to those contracts which involve the same prime contractors as unduly restrictive.

Both the Davis-Bacon Act and the CWHSSA require that all covered contracts contain language to permit the contracting agency to withhold funds to satisfy unpaid wages. Because neither statute specifically provides for cross-withholding, agencies generally have refrained from doing so. Accordingly, many contractors and subcontractors have escaped payment of back wages because violations were not discovered until after final payment on the contract had been made.

The decision in *Whitney Bros.* precluded withholding from another contract under the language of the contract clause in the regulations as they existed at that time. In Decision No. B-177554 (March 22, 1973), the GAO recommended that the Department adopt regulations specifically permitting cross-withholding. In addition, GAO commented in favor of the cross-withholding provisions contained in the stayed DOL regulations of January 16, 1981, which were substantially identical to the current proposal.

While the Department recognizes that the contracting officer undertakes the actual withholding of payment of contract funds, it is clear that to require the agency to take withholding action upon request of DOL is not a redelegation of the contracting agency's authority. Rather, it is simply the exercise of DOL authority under Reorganization Plan No. 14 of 1950 in order to accomplish its enforcement and oversight responsibilities.

With respect to the comments by labor organizations that the cross-withholding provisions are unduly restrictive, we note that the provisions are so structured because the Government has no direct contractual relationship with subcontractors, and because prime contractors are responsible for violations committed by their subcontractors.

Accordingly, no substantive changes are being made in these sections. However, § 5.5(b)(3) is amended to correspond to the language in § 5.5(a)(2), which specifically states that cross-withholding is only permitted on contracts with the same prime contractor.

Section 5.5(a)(3)(ii) and (iii)—Elimination of Weekly Payroll Submission Requirement

Numerous commentators, including ABC, AGC, several regional and State contractor associations, and the Postal Service commented that eliminating the submission of weekly payroll reports would result in significant construction cost savings, alleviate unnecessary paperwork burdens, simplify contract administration, and still comply with the requirements of the Copeland Act. However, ABC disagreed with the proposal to permit agencies, at their discretion, to request payroll reports. It argued that existing recordkeeping, inspection, and posting requirements are sufficient to ensure compliance; it also maintained that the proposed provision would only cause confusion among contractors as to what their obligations are because of possible differing reporting requirements from one agency to another. Some commentators suggested requiring the submission of the compliance statements only at certain points during the course of the project, such as at the beginning and the end of the project.

The BCTD, UAW, Teamsters, and several other labor organizations, a few contractor associations, GSA, and several State and local contracting agencies opposed the elimination of the weekly payroll submission on the grounds that its elimination would make it more difficult for agencies and DOL to monitor compliance with the Davis-Bacon and Copeland Acts, while increasing enforcement costs. They further contended that weekly payroll submissions are not an onerous recordkeeping burden on contractors since the records must be kept anyway, and questioned the Department's authority to eliminate what they regard as a statutory requirement of the Copeland Act.

The Department believes that the provisions of the Copeland Act requiring a weekly statement with respect to the wages paid each employee during the preceding week can be legally satisfied by the weekly submission of a statement certifying that the wages paid are in compliance with the Act. Further, this proposed change is in accord with the Department's mandate, under the Paperwork Reduction Act, to reduce unnecessary paperwork burdens on the public wherever possible.

With respect to the arguments regarding the provision allowing contracting agencies to request payroll submissions at their discretion, the Department recognizes the significant role of the agencies in assuring compliance with the Davis-Bacon and Copeland Act standards. Therefore, we believe it necessary and appropriate to provide a mechanism whereby the procuring agencies can obtain payroll information where deemed necessary to insure compliance. However, § 5.6(a)(3) of the final regulation has been revised to provide that requests for payroll submissions will only be made as part of a specific compliance check or enforcement action. Clarifying changes have also been made to § 5.5(a)(3).

With regard to the comments that enforcement would be more difficult with the elimination of weekly payroll submissions, the regulations continue to require the maintenance of payrolls and basic records by the contractor. They further require that such records be submitted for inspection on request of the agency or the Department of Labor. Failure to submit such records upon request may be grounds for debarment. In addition, the regulations specify that falsification of the weekly statement of compliance may subject the contractor or subcontractor to civil or criminal prosecution under Section 1001 of Title 18 and Section 231 of Title 31 of the United States Code. The Department feels that these requirements are sufficient to ensure enforcement of the Act.

It should be noted that notwithstanding the change in reporting, prime contractors continue to be responsible for insuring that all laborers and mechanics employed on the contract are paid in compliance with the Davis-Bacon and Related Acts. Accordingly, since subcontractors will only be required to submit a weekly statement of compliance, and will no longer be required to submit copies of their payrolls each week, prime contractors may wish to provide in their subcontracts for the examination of subcontractor payrolls.

Section 5.5(a)(9)—Disputes Concerning Labor Standards

Several commentators objected to the portion of § 5.5(a)(9) which states that disputes arising out of the labor standards provisions of the contract are not subject to the general disputes clause of the contract, but rather to the provisions of Parts 5, 6, and 7 of this Title. Federal agencies commented that the provision conflicts with the authority of the contracting officer as set forth in the Contract Disputes Act of 1978 (Pub. L. 95–563, 41 U.S.C. Sec. 601 *et seq.*). Reorganization Plan No. 14 of 1950, as explained in the President's message accompanying the plan, invests in the Secretary of Labor the responsibility "to

coordinate the administration of laws relating to wages and hours on Federally-financed or assisted projects by prescribing standards, regulations, and procedures to govern the enforcement activities of the various Federal agencies." With respect to the Contract Disputes Act of 1978, section 14 of that statute sets forth specific amendments to existing statutes. Significantly, no change, repeal, amendment, or other reference was made to the Davis-Bacon and Related Acts, the Contract Work Hours and Safety Standards Act, the Copeland Act, or Reorganization Plan No. 14 of 1950. Therefore, in our view, the Department's authority to resolve disputes under these statutes and Reorganization Plan No. 14 is not impinged by section 14 of the Contract Disputes Act. This conclusion is corroborated by section 6(a) of the Contract Disputes Act, which states in pertinent part, that "the authority of this subsection shall not extend to a claim or dispute for penalties or forfeitures prescribed by statute or regulation which another Federal agency is specifically authorized to administer, settle, or determine."

To insure effective and consistent administration, the authority to resolve labor disputes should reside in the Department of Labor, since it is the agency which has the primary responsibility for protecting labor standards and the expertise in the law and the regulations. It should be noted that the General Accounting Office stated previously that it had no objection to the adoption of this provision. Accordingly, this section is hereby adopted.

Section 5.5(a)(10)—Certification of Eligibility

ABC and DOT opposed the provisions prohibiting contract award to a potential contractor where another person or firm which has been debarred pursuant to section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1) has "an interest" in a bidder's firm, asserting that the phrase "an interest" is too vague and that the regulation should prohibit contract award only where a person or firm has a "controlling" or "substantial" interest.

Section 3(a) of the Davis-Bacon Act prohibits the award of contracts to a firm in which another person or firm debarred because of violations of the Act has "an interest", while § 5.12(a)(1) of the regulations prohibits award if a person or firm, debarred for violations of a related Act, has "a substantial interest" in the potential contractor's firm. In both cases, the intent is to prohibit debarred persons or firms from evading the ineligibility sanctions by using another legal entity to obtain Government contracts.

Although the language of the Davis-Bacon Act requires debarment of any firm in which a debarred contractor has an "interest", the regulation, as drafted, is not intended to prohibit bidding by a potential contractor where a debarred person or firm holds only a nominal interest in the potential contractor's firm. Accordingly, no changes are made in this section. Decisions as to whether "an interest" exists will be made on a case-by-case basis considering all relevant factors.

In addition to the above, minor editorial and language changes have been made in some sections.

Classification

This rule would not appear to require a regulatory impact analysis under Executive Order 12291 since the changes will result in substantial cost savings annually for both contractors and the Government while still assuring protection of local wage rates and practices. However, because of the importance to the Government and the public of the issues involved, the Department has concluded that the regulation should be deemed a "major rule" for purposes of the Executive Order. It has been determined, in accordance with Executive Order 12291, that these changes are the most cost-effective regulatory alternatives consistent with the purpose of the statute.

Summary of Final Regulatory Impact and Regulatory Flexibility Analysis

The Department has prepared its final regulatory impact analysis to identify and quantify the cost impact of the final Davis-Bacon regulations and various alternatives that were explored and to inform the public of the economic considerations behind final revisions in accordance with Executive Order 12291.

The final analysis builds upon a preliminary regulatory impact analysis (PRIA) which accompanied the proposed revisions published on August 14, 1981 (46 FR 41444). The PRIA estimated that the proposed changes would result in substantial cost savings amounting to at least $670 million annually to both contractors and procuring agencies, while still assuring protection of local wage rates and practices. The Department requested comments and additional information on all economic assumptions used in the analysis, as well as any alternative suggestions designed to achieve the objectives of the Davis-Bacon and Related Acts at lower costs. The Department received numerous comments on the PRIA estimates and its economic assumptions. The Department has carefully reviewed all of these comments in finalizing the regulations and has incorporated these considerations, as appropriate, into the final regulatory impact analysis (FRIA).

The final regulation must also consider the Regulatory Flexibility Act of 1980. This Act requires agencies to prepare regulatory flexibility analyses and to develop flexible alternatives whenever possible in drafting regulations that will have "a significant economic impact on a substantial number of small entities." The analysis summarized below meets the requirements set forth for assessing the economic impact of the final changes in the Davis-Bacon regulations on small entities as required under the Regulatory Flexibility Act.

A. Cost Savings from Eliminating Weekly Payroll Submissions

Current DOL regulations implementing the Copeland Act in 29 CFR Part 5 require contractors to submit a statement of compliance together with a copy of the weekly payroll. Contractors have raised numerous concerns that the requirements for weekly submissions of payroll records impose substantial administrative burdens on contractors, while contributing little to enforcement of the Davis-Bacon Act.

The January 16 regulation made it clear that contractors were allowed to submit payroll records in any form, thereby eliminating the costs of transcribing payroll data onto the optional government forms. The August proposal went even further—eliminating payroll submissions entirely, requiring only a weekly certified "Statement of Compliance". However, under the proposal agencies were permitted to request submissions of payrolls where necessary. The Department also considered eliminating all weekly submissions, but concluded that the Copeland Act requires that contractors submit each week a statement on the wages paid to each employee during the preceding week. The proposed regulation thus conformed with the recommendations of two study groups of the Commission on Government Procurement.* The PRIA estimated the cost of compliance with these weekly payroll submissions at $100 million.

Contractor associations generally supported these changes and the cost estimates. However, ABC argued that

* See GAO, *The Davis-Bacon Act Should be Repealed*, April 1979, pp. 78–82.

the cost savings were only $50 million and further that the Department should eliminate individual agency discretion to request payroll reports because it would only cause confusion among contractors as to what their obligations are because of possible differing reporting requirements from one agency to another. Construction unions commenting on the preliminary analysis challenged the reliability of these estimates, arguing that the true savings are far lower. They also found the analysis inadequate for ignoring the enforcement benefits of the payroll reporting requirement and argued that elimination of payrolls would make it difficult for agencies and DOL to monitor compliance with the Davis-Bacon and Copeland Acts, while increasing compliance costs. However, the PRIA in fact acknowledged the biases in the estimates of cost savings. Even allowing for these biases, the likely cost savings would still appear substantial. Moreover, the union data on back wages recovered through Davis-Bacon enforcement actions using payroll submissions leads us to conclude that the payroll reporting requirement is an inefficient enforcement tool. Most of this amount would be recovered even without the reporting requirement since retention of payrolls is mandatory and they must be made available upon request.

After careful review of the evidence, the Department has concluded that this proposed change meets the Administration's objective of eliminating unnecessary reporting burdens imposed on the public and should be adopted. However, the final regulation has been revised to provide that requests for payroll submission will only be made as part of a specific compliance check or enforcement action. These final changes recognize the fact that weekly submissions of payrolls are simply not cost-effective since these forms are infrequently used by many Federal agencies. The final regulation should substantially eliminate the $100 million in administrative costs involved.

While we have made no independent estimate of the administrative costs associated with this provision because of data limitations, several estimates of the costs of compliance with the Davis-Bacon and Copeland Act reporting requirements are available.

A previous DOL estimate uses a 5.5 million estimate of the annual burden hours for compliance with the Paperwork Reduction Act. Assuming a $5.00 hourly wage rate for a bookkeeper for these burden hours, this procedure produces a $27.5 million estimate of the costs of Davis-Bacon reporting requirements.

A second estimate comes from a 1972 survey by the Associated General Contractors of America (AGC) of its membership to estimate the administrative costs of the payroll reporting requirements of the Davis-Bacon Act. Thirty-four respondents reported estimates of administrative costs per million dollars of contract price. On the basis of this information, AGC estimated that .5 percent of the overall cost of Davis-Bacon contracts was accounted for by the payroll reporting and recordkeeping requirements. Applying this estimate to the FY 1982 estimated value of Federal construction of $30.3 billion yields an annual cost saving of nearly $152 million.

This study provides an upperbound estimate of the resulting cost savings since it includes other recordkeeping items such as the maintenance and storage of detailed payrolls on each employee for specified time periods and the prominent posting of wages paid each worker at their work site. However, the costs of weekly payroll submissions were certainly a large component of these administrative costs. Moreover, on the basis of GAO's estimate of about 600,000 prime and subcontracts annually, this estimate translates into about $250 per contract, a not unreasonable estimate of the costs of compliance with this provision. Finally, this survey refers to 1973 administrative costs and is not adjusted to reflect subsequent increases in costs. GAO's estimate which is based on this survey adjusts the AGC figure downward to $100 million to reflect the likely survey biases. This appears to be an appropriate estimate of the likely reduction in administrative costs from eliminating the weekly payroll submissions.

Much of these cost savings would be passed on to the 53,665 smaller contractors with fewer than 20 employees involved in construction work. These small contractors account for 56 percent of government contractors, but only about 15 percent of government-owned construction receipts. Since both the AGC and ABC surveys indicated that administrative costs were relatively higher for these small contractors, we used both percentages to estimate the impact of eliminating weekly payroll submissions on smaller contractors. The resulting estimated cost savings to these small contractors range from $15 million to $56 million annually.

B. Cost Impact of the Expanded Issuance of Semi-Skilled Classifications

The Department has long permitted exceptions from predetermined Davis-Bacon rates set for a craft classification for apprentices and trainees who are in approved programs. The Department has also recognized a helper classification in some areas under certain well-defined situations where (1) it constitutes a separate and distinct class of workers (i.e., the scope of duties of the helper is defined and can be differentiated from journeyman duties); (2) the particular helper classification prevails in the area; and (3) the helper is not used as an informal apprentice or trainee.

During its review, the Department concluded that the current policies regarding semi-skilled crafts do not adequately reflect construction industry practices, in particular, the widespread use of helpers to perform certain craft tasks. The proposed revisions allowed for the issuance of semi-skilled classifications such as helpers or other subclassifications of a journeyman class that could be identified in the locality. Helpers were permitted as long as their use did not exceed a ratio of one helper to five journeymen. The proposal further allowed contractors to conform rates after award for helper classifications which were not issued in the wage determinations, but which the contractor felt were appropriate to performing the contract work so long as those classifications were currently utilized in the locality. The PRIA estimated that these proposed changes would result in significant cost savings of about $450 million in Fiscal Year 1982.

Many commentators viewed these cost estimates as excessively high. Contractor associations welcomed the helper classifications, but criticized the 1:5 ratio as an artificial rule that would prohibit the following of area practices. These groups argued that the ratio, coupled with the considerably lower ceilings specified by collectively bargained contracts, would significantly dampen the cost savings—to about $200 million annually. Construction unions, on the other hand, did not comment on the ratio *per se*, but instead focused on the PRIA assumption that each helper employed on Davis-Bacon projects would replace one journeyman. They argued that the analysis overstated the cost savings because it ignored the low productivity of helpers relative to journeymen and the likelihood that helpers would be better substitutes for lower-paid laborers and apprentices than for journeymen. The construction

unions also pointed to possible long-term cost increases due to a shortage of skilled craftsmen.

These comments prompted a thorough re-evaluation of the helper cost methodology. Some comments required no new adjustment; for example, our methodology already controlled for the minimal use of helpers on union projects. The revised helper methodology incorporated relevant criticisms from both business and labor groups to the extent permitted by available data. The revised estimates were also based on more recent data showing a sharp drop in construction industry employment (and hence anticipated helper employment on Davis-Bacon projects).

The final helper regulations preserve the basic elements of the proposal with several changes. These changes include: (1) Lowering the ratio from 1:5 to 2:3 (2 helpers allowed for every 3 journeymen) to better reflect the diversity in industry practices, and (2) permitting helpers to include multitrade, as well as single craft, helpers to provide employers with maximum flexibility in their employment practices on Davis-Bacon jobs.

The basic methodology remains the same as that found in the PRIA—using evidence on the mix of skills in the construction industry *as a whole* to predict the increased helper employment on Davis-Bacon projects as a result of the regulation. The expected savings in wage costs on Davis-Bacon construction are derived by multiplying estimates of increased helper employment by changes in wage bills for contractors.

However, in the present analysis, we develop separate estimates of the likely cost savings from the regulations for the unrestricted use of helpers and for alternative ratios of helpers to journeymen. In addition, we test the sensitivity of the estimates to various assumptions regarding the skill level of workers replaced by helpers. One set of cost estimates assumes that helpers replace journeymen only. A second series of cost estimates allows helpers to replace laborers as well as journeymen.

The initial step involves determining the number of construction workers employed on Davis-Bacon projects and the number of helpers likely to be employed on Federal and federally-assisted construction work. For this analysis, we use a more recent estimate of construction employment showing that there were 758,000 construction workers on Davis-Bacon projects during 1980 (the PRIA used an estimate of one million total employees in the construction industry covered by Davis-Bacon in 1979). The FRIA discusses the derivation of these estimates in further detail.

While their skill composition is unknown, we assume that in the absence of any restrictions on their use, the helper share of employment on Davis-Bacon projects would be identical to that found overall in construction (excluding residential construction under 5 stories). The estimated helper share based on the 1976–1977 BLS survey of large metropolitan areas would be 3.2 percent and 5.6 percent, depending on whether we used the entire survey or only those occupations in the survey that specifically identify helpers.

However, the helper shares estimated directly from the BLS survey may be biased because of its limitation to large metropolitan areas and the 1976–1977 period. The BLS survey shows about 78 percent of construction workers under collective bargaining agreements. Although such agreements are almost certainly more prevalent on Davis-Bacon construction than on all construction, the BLS survey probably over-represents the percent of union workers on Davis-Bacon projects nationwide. This means that estimates of the helper employment share based on the BLS survey will be too small compared to total Davis-Bacon construction. To correct this bias, we base alternative helper estimates on the conservative assumption that the true union share of Davis-Bacon employment is 50 percent. Weighting the individual estimates found in the BLS survey data of helper employment shares within the union and non-union sectors produces adjusted estimates of the helper share of 5.98 percent and 9.4 percent.

This gives us four estimates of helper employment. Assuming that the high unionization rate found in the BLS survey of large cities prevails in all areas with Davis-Bacon projects, we can estimate that there will be between 24,256 and 42,448 additional helpers on Davis-Bacon projects. Assuming that 50 percent of the workers on Davis-Bacon jobs are organized would translate into higher estimates—45,328 and 71,252 additional helpers on Davis-Bacon jobs.

When helpers substitute for laborers in some cases as well as journeymen, the helper estimates need to be further adjusted. While it is difficult to evaluate the precise extent of this combined substitution, we use the estimated helper shares from above, but assume that helpers replace both types of labor as long as the proportion of laborers and journeymen found in the BLS Survey remains constant (i.e., the laborer to journeymen ratio). The BLS data shows the laborer to journeymen ratio to range between 2:5 and 5:11 for all construction projects in the sample. This produces estimates of helpers ranging from 24,256 to 64,056.

The second step is to calculate the expected hourly wage cost savings from hiring these helpers instead of journeymen. Using the PRIA procedures, we estimate the average wage differential between helpers and journeymen, based on the same 1977 BLS survey of large metropolitan areas adjusted to FY 1982 levels. This produces estimates of $5.72 and $5.73 as the absolute wage differential between helpers and journeymen.

For the adjusted estimates where we assume that 50 percent of Davis-Bacon is covered by union contracts, it was necessary to recalculate the wage rates accordingly. Separate union percentages for journeymen and helpers from the BLS survey were used to weight the union and non-union average hourly wage rates to arrive at the new overall averages of about $6.70.

The above estimates of wage differences assume that helpers replace only journeymen. If helpers substitute for laborers in some cases as well as journeymen, the wage differences in some cases will narrow substantially—ranging from $4.95 to $5.71. The final regulatory impact analysis describes these wage calculations in further detail as well as the biases involved in the use of average wage rates.

The next ingredient needed to compute the expected cost savings is an estimate of average hours worked annually in construction. The PRIA used an estimate of 1535 hours worked per year. However, in light of the ABC comments showing that contractors' annual work hours average well over 1900 hours and the fact that seasonality is already controlled for by our use of annual averages of monthly employment levels, we used 1924 hours from *Employment and Earnings* published by the Bureau of Labor Statistics as the estimate of annual hours worked per full year construction worker to convert helper employment levels into their total hours equivalents.

Our estimates of the resulting cost savings from increased recognition of helpers with no ratio were obtained simply by multiplying numbers of helpers by hours worked in a year (1924) and various estimates of the existing wage differential between helpers and journeymen and laborers.

However, where there is a ceiling restriction on the employment of helpers to journeymen, another step is necessary—modifying the methodology

to lower the estimates of helper employment. The new calculations assume that any ceiling has no impact on the union sector, since there are few helpers in union firms. However, the 1976–1977 BLS survey suggests that outside of residential construction under 5 stories, the average non-union ratio of helpers to journeymen is around 1:4. This means that the proposed 1:5 ratio or to a lesser extent the final 2:3 ratio would be limiting for some non-union firms and that the overall helper:journeymen ratio on federally-funded non-union projects would fall somewhat below 1:5.

For our analysis, we assumed that the proposed 1:5 regulation would result in an average ratio of 1 to 5.5 on federally-funded non-union projects, while a ratio of 2:3 would result in a higher average of 1 to 4.25 on these same projects. These new ratio assumptions have the effect of lowering the previous helper estimates.

Finally, when helpers substitute for laborers in some cases as well as journeymen, the helper estimates need to be further adjusted in the presence of a ratio. In this case, the ceiling restrictions lower helper employment in the non-union sector in two ways—(1) directly decreasing the allowed substitution of journeymen, and (2) increasing the number of laborers required to keep the proportion of laborers to journeymen constant.

The results of these calculations show that with a 1:5 ceiling and with helpers replacing journeymen, the estimated cost savings range between $263.49 million and $535.43 million. The corresponding midpoint estimate is roughly $400 million. This is the revised "best" estimate for the proposed regulation if helpers can replace only journeymen. With this same 1:5 ceiling, but with helpers replacing both laborers and journeymen, the estimated cost savings drop by approximately one-third—to $303.41 million on average. This supports the unions' contention of lower cost savings when helpers substitute for low skilled as well as higher skilled workers.

In light of the comments on the August proposal, the Department has decided to raise the ceiling from one helper for every five journeymen to two helpers for every three journeymen. The higher ratio will better reflect the wide diversity in practices among different types of construction and localities. The 2:3 ratio also increases the cost savings substantially.

If helpers replace journeymen only, the estimated cost savings range from $305.76 million to $640.95 million. This places the midpoint estimate of the likely cost savings with a 2:3 ceiling on the employment of helpers relative to journeymen at roughly $473.36 million. (This compares well to the PRIA estimates of $450 million in cost savings for the proposal under the assumption that helpers substitute only for journeymen.)

Once the final regulation is in effect, the more likely situation is one in which helpers would in some instances replace laborers as well as journeymen. If this is the case, the estimated cost savings range from $246.43 million to $479.89 million. This puts the average estimate of cost savings at $363.16 million assuming that helpers, in fact, replace both laborers and journeymen. This estimate also represents our "best guess" about the likely impact of the final regulation.

On the basis of this evidence, the Department has concluded that the final regulation will result in substantial cost savings and at the same time reflect industry practice, thereby providing contractors with the necessary flexibility in choosing their optimal employment mix on Davis-Bacon jobs. The final helper provision will also provide substantial cost savings for smaller contractors who predominate in the industry.

C. Summary

The final revisions discussed above, in conjunction with the changes proposed to Part 1 of the Davis-Bacon rules (e.g. a change in the definition of "prevailing rate") will result in substantial cost savings annually of $585 million for both contractors and the government, while still assuring protection of local wage rates and practices. The changes will have a substantial beneficial impact on small contractors.

Copies of the complete analysis may be obtained from the Administrator, Wage and Hour Division, U.S. Department of Labor, 200 Constitution Avenue N.W., Washington, D.C. 20210.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1980 (Pub. L. 96–511), the reporting and recordkeeping provisions that are included in §§ 5.5(a)(1)(ii), 5.5(a)(1)(iv), and 5.5(a)(3)(i) 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.

Other information collection requirements contained in this regulation (see §§ 5.5(a)(3)(i), 5.5(c), and 5.5(d) (1) and (3)) 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 Control Number 1215–0017.

Conclusion

The Solicitor of Labor has determined in accordance with Executive Order 12291, that this regulation is clearly within the authority delegated to the Secretary of Labor by the Davis-Bacon Act (40 U.S.C. 276a *et seq.*), Reorganization Plan No. 14 of 1950 (5 U.S.C. Appendix), the Copeland Act (40 U.S.C. 276c), the Contract Work Hours and Safety Standards Act (40 U.S.C. 327 *et seq.*), as well as 5 U.S.C. 301, 29 U.S.C. 259, and the remaining laws listed in § 5.1(a) of this part. The Solicitor, as set forth above in the discussion of the major issues, has determined that this regulation is consistent with the Congressional intent of the Davis-Bacon and related Acts that contractors on Federal and federally assisted projects subject to these Acts pay their workers at least the prevailing wages established in accordance with industry classification and wage practices. The regulation also provides protection for the workers and mechanisms for enforcement, as intended by the Davis-Bacon and related Acts, CWHSSA, and the Copeland Act.

Dates of Applicability

The provisions of §§ 5.2 and 5.5 of this part shall be applicable only as to contracts entered into pursuant to invitations for bids issued or negotiations concluded on or after July 27, 1982, *Provided,* however, that § 5.5(a)(1)(ii) concerning submission of a weekly "Statement of Compliance" will be applicable July 27, 1982 with respect to existing contracts, if the contracting agency and the contractor agree to amend the contract to delete the clause contained in existing § 5.5(a)(1)(ii) requiring weekly submission of payrolls, and incorporate § 5.5(a)(1)(ii) herein in the contract.

This document was prepared under the direction and control of William M. Otter, Administrator, Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor.

List of Subjects in 29 CFR Part 5

Government contracts, Investigations, Labor, Minimum wages, Penalties, Recordkeeping requirements, Reporting requirements, Wages.

Accordingly, 29 CFR Part 5 is revised as set forth below.

Concurrent with the publication today of this final rule, the final rule previously

published in the **Federal Register** on January 16, 1981 (46 FR 4380) and subsequently stayed is hereby withdrawn.

Signed at Washington, D.C. on this 25th day of May 1982.

Raymond J. Donovan,

Secretary of Labor.

Robert B. Collyer,

Deputy Under Secretary for Employment Standards.

William M. Otter,

Administrator, Wage and Hour Division.

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

Subpart A—Davis-Bacon and Related Acts Provisions and Procedures

Sec.

* * * * *

Authority: 40 U.S.C. 276a–276a–7; 40 U.S.C. 276c; 40 U.S.C. 327–332; Reorganization Plan No. 14 of 1950, 5 U.S.C. Appendix; 5 U.S.C. 301; and the statutes listed in section 5.1(a) of this part.

§ 5.1 Purpose and scope.

(a) The regulations contained in this part are promulgated under the authority conferred upon the Secretary of Labor by Reorganization Plan No. 14 of 1950 and the Copeland Act in order to *coordinate* the administration and enforcement of the labor standards provisions of each of the following acts by the Federal agencies responsible for their administration and of such additional statutes as may from time to time confer upon the Secretary of Labor additional duties and responsibilities similar to those conferred upon the Secretary of Labor under Reorganization Plan No. 14 of 1950:

1. The Davis-Bacon Act (sec. 1–7, 46 Stat. 1949, as amended; Pub. L. 74–403, 40 U.S.C. 276a–276a–7).

2. Copeland Act (40 U.S.C. 276c).

3. The Contract Work Hours and Safety Standards Act (40 U.S.C. 327–332).

4. National Housing Act (sec. 212 added to c. 847, 48 Stat. 1246, by sec. 14, 53 Stat. 807; 12 U.S.C. 1715c and repeatedly amended).

5. Housing Act of 1950 (college housing) (amended by Housing Act of 1959 to add labor provisions, 73 Stat. 681; 12 U.S.C. 1749a(f)).

6. Housing Act of 1959 (sec. 401(f) of the Housing Act of 1950 as amended by Pub. L. 86–372, 73 Stat. 681; 12 U.S.C. 1701q(c)(3)).

7. Commercial Fisheries Research and Development Act of 1964 (sec. 7, 78 Stat. 199; 16 U.S.C. 779e(b)).

8. Library Services and Construction Act (sec. 7(a), 78 Stat. 13; 20 U.S.C. 355c(a)(4), as amended).

9. National Technical Institute for the Deaf Act (sec. 5(b)(5), 79 Stat. 126; 20 U.S.C. 684(b)(5)).

10. National Foundation on the Arts and Humanities Act of 1965 (sec. 5(k), 79 Stat. 846 as amended; 20 U.S.C. 954(j)).

11. Elementary and Secondary Education Act of 1965 as amended by Elementary and Secondary and other Education Amendements of 1969 (sec. 423 as added by Pub. L. 91–230, title IV, sec. 401(a)(10), 84 Stat. 169, and renumbered sec. 433, by Pub. L. 92–318; title III, sec. 301(a)(1), 86 Stat. 326; 20 U.S.C. 1232(b)). Under the amendment coverage is extended to all programs administered by the Commissioner of Education.

12. The Federal-Aid Highway Acts (72 Stat. 895, as amended by 82 Stat. 821; 23 U.S.C. 113).

13. Indian Self-Determination and Education Assistance Act (sec. 7, 88 Stat. 2205; 25 U.S.C. 450e).

14. Indian Health Care Improvement Act (sec. 303(b), 90 Stat. 1407; 25 U.S.C. 1633(b)).

15. Rehabilitation Act of 1973 (sec. 306(b)(5) 87 Stat. 384, 29 U.S.C. 776(b)(5)).

16. Comprehensive Employment and Training Act of 1973 (sec. 606, 87 Stat. 880, renumbered sec. 706 by 88 Stat. 1845; 29 U.S.C. 986; also sec. 604, 88 Stat. 1846; 29 U.S.C. 964(b)(3)).

17. State and Local Fiscal Assistance Act of 1972 (sec. 123(a)(6), 86 Stat. 933; 31 U.S.C. 1246(a)(6)).

18. Federal Water Pollution Control Act (sec. 513 of sec. 2, 86 Stat. 894; 33 U.S.C. 1372).

19. Veterans Nursing Home Care Act of 1964 (78 Stat. 502, as amended; 38 U.S.C. 5035(a)(8)).

20. Postal Reorganization Act (sec. 410(b)(4)(C); 84 Stat. 726 as amended; 39 U.S.C. 410(b)(4)(C)).

21. National Visitors Center Facilities Act of 1966 (sec. 110, 32 Stat. 45; 40 U.S.C. 808).

22. Appalachian Regional Development Act of 1965 (sec. 402, 79 Stat. 21; 40 U.S.C. App. 402).

23. Health Services Research, Health Statistics, and Medical Libraries Act of 1974 (sec. 107, see sec. 308(h)(2) thereof, 88 Stat. 370, as amended by 90 Stat. 378; 42 U.S.C. 242m(h)(2)).

24. Hospital Survey and Construction Act, as amended by the Hospital and Medical Facilities Amendments of 1964 (sec. 605(a)(5), 78 Stat. 453; 42 U.S.C. 291e(a)(5)).

25. Health Professions Educational Assistance Act (sec. 303(b), 90 Stat. 2254; 42 U.S.C. 293a(g)(1)(C); also sec. 308a, 90 Stat. 2258, 42 U.S.C. 293a(c)(7)).

26. Nurse Training Act of 1964 (sec. 941(a)(1)(C), 89 Stat. 384; 42 U.S.C. 296a(b)(5)).

27. Heart Disease, Cancer, and Stroke Amendments of 1965 (sec. 904, as added by sec. 2, 79 Stat. 928; 42 U.S.C. 299d(b)(4)).

28. Safe Drinking Water Act (sec. 2(a) see sec. 1450e thereof, 88 Stat. 1691; 42 U.S.C. 300j–9(e)).

29. National Health Planning and Resources Act (sec. 4, see sec. 1604(b)(1)(H), 88 Stat. 2261, 42 U.S.C. 300o–3(b)(1)(H)).

30. U.S. Housing Act of 1937, as amended and recodified (88 Stat. 667; 42 U.S.C. 1437j).

31. Demonstration Cities and Metropolitan Development Act of 1966 (secs. 110, 311, 503, 1003, 80 Stat. 1259, 1270, 1277, 1284; 42 U.S.C. 3310; 12 U.S.C. 1715c; 42 U.S.C. 1437j).

32. Slum clearance program: Housing Act of 1949 (sec. 109, 63 Stat. 419, as amended; 42 U.S.C. 1459).

33. Farm housing: Housing Act of 1964 (adds sec. 516(f) to Housing Act of 1949 by sec. 503, 78 Stat. 797; 42 U.S.C. 1486(f)).

34. Housing Act of 1961 (sec. 707, added by sec. 907, 79 Stat. 496, as amended; 42 U.S.C. 1500c–3).

35. Defense Housing and Community Facilities and Services Act of 1951 (sec. 310, 65 Stat. 307; 42 U.S.C. 1592i).

36. Special Health Revenue Sharing Act of 1975 (sec. 303, see sec. 222(a)(5) thereof, 89 Stat. 324; 42 U.S.C. 2689j(a)(5)).

37. Economic Opportunity Act of 1964 (sec. 607, 78 Stat. 532; 42 U.S.C. 2947).

38. Headstart, Economic Opportunity, and Community Partnership Act of 1974 (sec. 11, see sec. 811 thereof, 88 Stat. 2327; 42 U.S.C. 2992a).

39. Housing and Urban Development Act of 1965 (sec. 707, 79 Stat. 492 as amended; 42 U.S.C. 3107).

40. Older Americans Act of 1965 (sec. 502, Pub. L. 89–73, as amended by sec. 501, Pub. L. 93–29; 87 Stat. 50; 42 U.S.C. 3041a(a)(4)).

41. Public Works and Economic Development Act of 1965 (sec. 712; 79 Stat. 575 as amended; 42 U.S.C. 3222).

42. Juvenile Delinquency Prevention Act (sec. 1, 86 Stat. 536; 42 U.S.C. 3884).

43. New Communities Act of 1968 (sec. 410, 82 Stat. 516; 42 U.S.C. 3909).

44. Urban Growth and New Community Development Act of 1970 (sec. 727(f), 84 Stat. 1803; 42 U.S.C. 4529).

45. Domestic Volunteer Service Act of 1973 (sec. 406, 87 Stat. 410; 42 U.S.C. 5046).

46. Housing and Community Development Act of 1974 (secs. 110, 802(g), 88 Stat. 649, 724; 42 U.S.C. 5310, 1440(g)).

47. Developmentally Disabled Assistance and Bill of Rights Act (sec. 126(4), 89 Stat. 488; 42 U.S.C. 6042(4); title I, sec. 111, 89 Stat. 491; 42 U.S.C. 6063(b)(19)).

48. National Energy Conservation Policy Act (sec. 312, 92 Stat. 3254; 42 U.S.C. 6371j).

49. Public Works Employment Act of 1976 (sec. 109, 90 Stat. 1001; 42 U.S.C. 6708; also sec. 208, 90 Stat. 1008; 42 U.S.C. 6728).

50. Energy Conservation and Production Act (sec. 451(h), 90 Stat. 1168; 42 U.S.C. 6881(h)).

51. Solid Waste Disposal Act (sec. 2, 90 Stat. 2823; 42 U.S.C. 6979).

52. Rail Passenger Service Act of 1970 (sec. 405d, 84 Stat. 1337; 45 U.S.C. 565(d)).

53. Urban Mass Transportation Act of 1964 (sec. 10, 78 Stat. 307; renumbered sec. 13 by 88 Stat. 715; 49 U.S.C. 1609).

54. Highway Speed Ground Transportation Study (sec. 6(b), 79 Stat. 893; 49 U.S.C. 1636(b)).

55. Airport and Airway Development Act of 1970 (sec. 22(b), 84 Stat. 231; 49 U.S.C. 1722(b)).

56. Federal Civil Defense Act of 1950 (50 U.S.C. App. 2281i).

57. National Capital Transportation Act of 1965 (sec. 3(b)(4), 79 Stat. 644; 40 U.S.C. 682(b)(4). Note.—Repealed December 9, 1969, and labor standards incorporated in sec. 1–1431 of the District of Columbia Code).

58. Model Secondary School for the Deaf Act (sec. 4, 80 Stat. 1027, Pub. L. 89–694, but not in the United States Code).

59. Delaware River Basin Compact (sec. 15.1, 75 Stat. 714, Pub. L. 87–328) (considered a statute for purposes of the plan but not in the United States Code).

60. Energy Security Act (sec. 175(c), Pub. L. 96–294, 94 Stat. 611; 42 U.S.C. 8701 note).

(b) Part 1 of this subtitle contains the Department's procedural rules governing requests for wage determinations and the issuance and use of such wage determinations under the Davis-Bacon Act and its related statutes as listed in that part.

§ 5.2 Definitions.

(a) The term "Secretary" includes the Secretary of Labor, the Deputy Under Secretary for Employment Standards, and their authorized representatives.

(b) The term "Administrator" means the Administrator of the Wage and Hour Division or the authorized representative as set forth in this part. In the absence of the Wage-Hour Administrator, the Deputy Administrator of the Wage and Hour Division, is designated to act for the Administrator under this Part. Except as otherwise provided in this Part, the Assistant Administrator for Government Contract Wage Standards is the authorized representative of the Administrator in the administration of the statutes listed in § 5.1.

(c) The term "Federal agency" means the agency or instrumentality of the United States which enters into the contract or provides assistance through loan, grant, loan guarantee or insurance, or otherwise, to the project subject to a statute listed in § 5.1.

(d) The term "Agency Head" means the principal official of the Federal agency and includes those persons duly authorized to act in the behalf of the Agency Head.

(e) The term "Contracting Officer" means the individual, a duly appointed successor, or authorized representative who is designated and authorized to enter into contracts on behalf of the Federal agency.

(f) The term "labor standards" as used in this part means the requirements of the Davis-Bacon Act, the Contract Work Hours and Safety Standards Act (other than those relating to safety and health), the Copeland Act, and the prevailing wage provisions of the other statutes listed in § 5.1, and the regulations in Parts 1 and 3 of this subtitle and this part.

(g) The term "United States or the District of Columbia" means the United States, the District of Columbia, and all executive departments, independent establishments, administrative agencies, and instrumentalities of the United States and of the District of Columbia, including corporations, all or substantially all of the stock of which is beneficially owned by the United States, by the foregoing departments, establishments, agencies, instrumentalities, and including nonappropriated fund instrumentalities.

(h) The term "contract" means any prime contract which is subject wholly or in part to the labor standards provisions of any of the acts listed in § 5.1 and any subcontract of any tier thereunder, let under the prime contract. A State or local Government is not regarded as a contractor under statutes providing loans, grants, or other Federal assistance in situations where construction is preformed by its own employees. However, under statutes requiring payment of prevailing wages to all laborers and mechanics employed on the assisted project, such as the U.S. Housing Act of 1937, State and local recipients of Federal-aid must pay these employees according to Davis-Bacon labor standards.

(i) The terms "building" or "work" generally include construction activity as distinguished from manufacturing, furnishing of materials, or servicing and maintenance work. The terms include without limitation, buildings, structures, and improvements of all types, such as bridges, dams, plants, highways, parkways, streets, subways, tunnels, sewers, mains, power lines, pumping stations, heavy generators, railways, airports, terminals, docks, piers, wharves, ways, lighthouses, buoys, jetties, breakwaters, levees, canals, dredging, shoring, rehabilitation and reactivation of plants, scaffolding, drilling, blasting, excavating, clearing, and landscaping. The manufacture or furnishing of materials, articles, supplies or equipment (whether or not a Federal or State agency acquires title to such materials, articles, supplies, or equipment during the course of the manufacture or furnishing, or owns the materials from which they are manufactured or furnished) is not a "building"or "work" within the meaning of the regulations in this part unless conducted in connection with and at the site of such a building or work as is described in the foregoing sentence, or under the United States Housing Act of 1937 and the Housing Act of 1949 in the construction or development of the project.

(j) The terms "construction", "prosecution", "completion", or "repair" mean all types of work done on a particular building or work at the site thereof (or, under the United States Housing Act of 1937 and the Housing Act of 1949, all work done in the construction or development of the project), including without limitation, altering, remodeling, installation (where appropriate) on the site of the work of items fabricated off-site, painting and decorating, the transporting of materials and supplies to or from the building or work by the employees of the construction contractor or construction subcontractor, and the manufacturing or furnishing of materials, articles, supplies or equipment on the site of the building or work (or, under the United States Housing Act of 1937 and the Housing Act of 1949, in the construction or development of the project), by persons employed by the ontractor or subcontractor. However, the term "initial construction" in section 113 of Title 23, U.S.C., which pertains to Federal-aid highway work, does not include repair or maintenance work.

(k) The term "public building" or "public work" includes building or work, the construction, prosecution, completion, or repair of which, as defined above, is carried on directly by authority of or with funds of a Federal agency to serve the interest of the general public regardless of whether title thereof is in a Federal agency.

(l) The term "site of the work" is defined as follows:

(1) The "site of the work" is limited to the physical place or places where the construction called for in the contract will remain when work on it has been completed and, as discussed in

paragraph (l)(2) of this section, other adjacent or nearby property used by the contractor or subcontractor in such construction which can reasonably be said to be included in the "site".

(2) Except as provided in paragraph (l)(3) of this section, fabrication plants, mobile factories, batch plants, borrow pits, job headquarters, tool yards, etc., are part of the "site of the work" provided they are dedicated exclusively, or nearly so, to performance of the contract or project, and are so located in proximity to the actual construction location that it would be reasonable to include them.

(3) Not included in the "site of the work" are permanent home offices, branch plant establishments, fabrication plants, and tool yards of a contractor or subcontractor whose locations and continuance in operation are determined wholly without regard to a particular Federal or federally assisted contract or project. In addition, fabrication plants, batch plants, borrow pits, job headquarters, tool yards, etc., of a commercial supplier or materialman which are establshed by a supplier of materials for the project before opening of bids and not on the project site, are not included in the "site of the work". Such permanent, previously established facilities are not a part of the "site of the work", even where the operations for a period of time may be dedicated exclusively, or nearly so, to the performance of a contract.

(m) The term "laborer" or "mechanic" includes at least those workers whose duties are manual or physical in nature (including those workers who use tools or who are performing the work of a trade), as distinguished from mental or managerial. The term "laborer" or "mechanic" includes apprentices, trainees, helpers, and, in the case of contracts subject to the Contract Work Hours and Safety Standards Act, watchmen or guards. The term does not apply to workers whose duties are primarily administrative, executive, or clerical, rather than manual. Persons employed in a bona fide executive, administrative, or professional capacity as defined in Part 541 of this title are not deemed to be laborers or mechanics. Working foremen who devote more than 20 percent of their time during a workweek to mechanic or laborer duties, and who do not meet the criteria of Part 541, are laborers and mechanics for the time so spent.

(n) The terms apprentice, trainee, and helper are defined as follows:

(1) "Apprentice" means (i) a person employed and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Bureau of Apprenticeship and Training, or with a State Apprenticeship Agency recognized by the Bureau, or (ii) a person in the first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Bureau of Apprenticeship and Training or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice;

(2) "Trainee" means a person registered and receiving on-the-job training in a construction occupation under a program which has been approved in advance by the U.S. Department of Labor, Employment and Training Administration, as meeting its standards for on-the-job training programs and which has been so certified by that Administration.

(3) These provisions do not apply to "apprentices" and "trainees" employed on projects subject to 23 U.S.C. 113 who are enrolled in programs which have been certified by the Secretary of Transportation in accordance with 23 U.S.C. 113(c).

(4) A "helper" is a semi-skilled worker (rather than a skilled journeyman mechanic) who works under the direction of and assists a journeyman. Under the journeyman's direction and supervision, the helper performs a variety of duties to assist the journeyman such as preparing, carrying and furnishing materials, tools, equipment, and supplies and maintaining them in order; cleaning and preparing work areas; lifting, positioning, and holding materials or tools; and other related, semi-skilled tasks as directed by the journeyman. A helper may use tools of the trade at and under the direction and supervision of the journeyman. The particular duties performed by a helper vary according to area practice.

(o) Every person performing the duties of a laborer or mechanic in the construction, prosecution, completion, or repair of a public building or public work, or building or work financed in whole or in part by loans, grants, or guarantees from the United States is "employed" regardless of any contractual relationship alleged to exist between the contractor and such person.

(p) The term "wages" means the basic hourly rate of pay; any contribution irrevocably made by a contractor or subcontractor to a trustee or to a third person pursuant to a bona fide fringe benefit fund, plan, or program; and the rate of costs to the contractor or subcontractor which may be reasonably anticipated in providing bona fide fringe benefits to laborers and mechanics pursuant to an enforceable commitment to carry out a financially responsible plan or program, which was communicated in writing to the laborers and mechanics affected. The fringe benefits enumerated in the Davis-Bacon Act include medical or hospital care, pensions on retirement or death, compensation for injuries or illness resulting from occupational activity, or insurance to provide any of the foregoing; unemployment benefits; life insurance, disability insurance, sickness insurance, or accident insurance; vacation or holiday pay; defraying costs of apprenticeship or other similar programs; or other bona fide fringe benefits. Fringe benefits do not include benefits required by other Federal, State, or local law.

(q) The term "wage determination" includes the original decision and any subsequent decisions modifying, superseding, correcting, or otherwise changing the provisions of the original decision. The application of the wage determination shall be in accordance with the provisions of § 1.6 of this title.

§§ 5.3–5.4 [Reserved]

§ 5.5 Contract provisions and related matters.

(a) The Agency head shall cause or require the contracting officer to insert in full in any contract in excess of $2,000 which is entered into for the actual construction, alteration and/or repair, including painting and decorating, or a public building or public work, or building or work financed in whole or in part from Federal funds or in accordance with guarantees of a Federal agency or financed from funds obtained by pledge of any contract of a Federal agency to make a loan, grant or annual contribution (except where a different meaning is expressly indicated), and which is subject to the labor standards provisions of any of the acts listed in § 5.1, the following clauses (or any modifications thereof to meet the particular needs of the agency. *Provided,* That such modifications are first approved by the Department of Labor):

(1) *Minimum wages.* (i) All laborers and mechanics employed or working upon the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), will be paid unconditionally and not less often than once a week, and without subsequent deduction or

rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR Part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics. Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph (a)(1)(iv) of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in § 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: *Provided*, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under paragraph (a)(1)(ii) of this section) and the Davis-Bacon poster (WH–1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

(ii)(A) The contracting officer shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The contracting officer shall approve an additional classification and wage rate and fringe benefits therefor only when the following criteria have been met:

(*1*) Except with respect to helpers as defined in 29 CFR 5.2(n)(4), work to be performed by the classification requested is not performed by a classification in the wage determination; and

(*2*) The classification is utilized in the area by the construction industry; and

(*3*) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(B) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, agree with the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, D.C. 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt or will notify the contracting officer within the 30-day period that additional time is necessary.

(C) In the event the contractor, or the laborers or mechanics to be employed in the classification or their representatives, do not agree with the contracting officer on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt or will notify the contracting officer within the 30-day period that additional time is necessary.

(D) The wage rate (including fringe benefits where appropriate) determined pursuant to subparagraphs (1)(B) or (C) of this paragraph, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

(iii) Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

(iv) If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, *Provided*, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

(2) *Withholding.* The (write in name of Federal Agency or the loan or grant recipient) shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from the contractor under this contract or any other Federal contract with the same prime contractor, or any other Federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), all or part of the wages required by the contract, the (Agency) may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

(3) *Payrolls and basic records.* (i) Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work (or under the United States Housing Act of 1937, or under the Housing Act of 1949, in the construction or development of the project). Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly

number of hours worked, deductions made and actual wages paid. (Approved by the Office of Management and Budget under OMB control number 1215–0017.) Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

(ii)(A) The contractor shall submit weekly for each week in which any contract work is performed a "Statement of Compliance" to the (write in name of appropriate Federal agency) if the agency is a party to the contract, but if the agency is not such a party, the contractor will submit the "Statement of Compliance" to the applicant, sponsor, or owner, as the case may be, for transmission to the (write in name of agency). The prime contractor is responsible for the submission of the "Statement of Compliance" by all subcontractors.

(B) Each "Statement of Compliance" shall be signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

(*1*) That the payroll for the payroll period contains the information required to be maintained under § 5.5(a)(3)(i) of Regulations, 29 CFR Part 5 and that such information is correct and complete;

(*2*) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, 29 CFR Part 3;

(*3*) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

(C) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under Section 1001 of Title 18 and Section 231 of Title 31 of the United States Code.

(iii) The contractor or subcontractor shall make the records required under paragraph (a)(3)(i) of this section available for inspection, copying, or transcription by authorized representatives of the (write the name of the agency) or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. In addition, the contractor or subcontractor shall submit the required payroll records upon request of authorized representatives of the (write the name of the agency) or the Department of Labor. If the contractor or subcontractor fails to submit the required records or to make them available, the Federal agency may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

(4) *Apprentices, trainees, and helpers*—(i) *Apprentices.* Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Bureau of Apprenticeship and Training, or with a State Apprenticeship Agency recognized by the Bureau, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Bureau of Apprenticeship and Training or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Bureau of Apprenticeship and Training, or a State Apprenticeship Agency recognized by the Bureau, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(ii) *Trainees.* Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid

fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division dertermines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(iii) *Equal employment opportunity.* The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR Part 30.

(iv) *Helpers.* Helpers will be permitted to work on a project if the helper classification is specified on an applicable wage determination or is approved pursuant to the conformance procedure set forth in § 5.5(a)(1)(ii). The allowable ratio of helpers to journeymen employed by the contractor or subcontractor on the job site shall not be greater than two helpers for every three journeymen (in other words, not more than 40 percent of the total number of journeymen and helpers in each contractor's or in each subcontractor's own work force employed on the job site). Any worker listed on a payroll at a helper wage rate, who is not a helper as defined in 29 CFR 5.2(n)(4), shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any helper performing work on the job site in excess of the ratio permitted shall be paid not less than the applicable journeyman's (or laborer's, where appropriate) wage rate on the wage determination for the work actually performed.

(5) *Compliance with Copeland Act requirements.* The contractor shall comply with the requirements of 29 CFR Part 3, which are incorporated by reference in this contract.

(6) *Subcontracts.* The contractor or subcontractor shall insert in any subcontracts the clauses contained in 29 CFR 5.5(a)(1) through (10) and such other clauses as the (write in the name of the Federal agency) may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR 5.5.

(7) *Contract termination: debarment.* A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

(8) *Compliance with Davis-Bacon and Related Act requirements.* All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR Parts 1, 3, and 5 are herein incorporated by reference in this contract.

(9) *Disputes concerning labor standards.* Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR Parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

(10) *Certification of Eligibility.* (i) By entering into this contract, the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

(ii) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

(iii) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

(b) *Contract Work Hours and Safety Standards Act.* The Agency Head shall cause or require the contracting officer to insert the following clauses set forth in paragraphs (b)(1), (2), (3), and (4) of this section in full in any contract subject to the overtime provisions of the Contract Work Hours and Safety Standards Act. These clauses shall be inserted in addition to the clauses required by § 5.5(a) or § 4.6 of Part 4 of this title. As used in this paragraph, the terms "laborers" and "mechanics" include watchmen and guards.

(1) *Overtime requirements.* No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of eight hours in any calendar day or in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of eight hours in any calendar day or in excess of forty hours in such workweek, whichever is greater.

(2) *Violation; liability for unpaid wages; liquidated damages.* In the event of any violation of the clause set forth in subparagraph (1) of this paragraph, the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in subparagraph (1) of this paragraph, in the sum of $10 for each calendar day or which such individual was required or permitted to work in excess of eight hours or in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in subparagraph (1) of this paragraph.

(3) *Withholding for unpaid wages and liquidated damages.* The (write in the name of the Federal agency or the loan or grant recipient) shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other Federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by

the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in subparagraph (2) of this paragraph.

(4) *Subcontracts.* The contractor or subcontractor shall insert in any subcontracts the clauses set forth in subparagraph (1) through (4) of this paragraph and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in subparagraphs (1) through (4) of this paragraph.

(c) In addition to the clauses contained in paragraph (b), in any contract subject only to the Contract Work Hours and Safety Standards Act and not to any of the other statutes cited in § 5.1, the Agency Head shall cause or require the contracting officer to insert a clause requiring that the contractor or subcontractor shall maintain payrolls and basic payroll records during the course of the work and shall preserve them for a period of three years from the completion of the contract for all laborers and mechanics, including guards and watchmen, working on the contract. Such records shall contain the name and address of each such employee, social security number, correct classifications, hourly rates of wages paid, daily and weekly number of hours worked, deductions made, and actual wages paid. Further, the Agency Head shall cause or require the contracting officer to insert in any such contract a clause providing that the records to be maintained under this paragraph shall be made available by the contractor or subcontractor for inspection, copying, or transcription by authorized representatives of the (write the name of agency) and the Department of Labor, and the contractor or subcontractor will permit such representatives to interview employees during working hours on the job. (Approved by the Office of Management and Budget under OMB control number 1215–0017.)

§ 5.6 Enforcement.

(a)(1) It shall be the responsibility of the Federal agency to ascertain whether the clauses required by § 5.5 have been inserted in the contracts subject to the labor standards provisions of the Acts contained in § 5.1. Agencies which do not directly enter into such contracts shall promulgate the necessary regulations or procedures to require the recipient of the Federal assistance to insert in its contracts the provisions of § 5.5. No payment, advance, grant, loan, or guarantee of funds shall be approved by the Federal agency unless the agency insures that the clauses required by § 5.5 and the appropriate wage determination of the Secretary of Labor are contained in such contracts. Furthermore, no payment, advance, grant, loan, or guarantee of funds shall be approved by the Federal agency after the beginning of construction unless there is on file with the agency a certification by the contractor that the contractor and its subcontractors have complied with the provisions of § 5.5 or unless there is on file with the agency a certification by the contractor that there is a substantial dispute with respect to the required provisions.

(2) Statements of Compliance submitted pursuant to § 5.5(a)(3)(ii) shall be preserved by the Federal agency for a period of 3 years from the date of completion of the contract and shall be produced at the request of the Department of Labor at any time during the 3-year period.

(3) The Federal agency shall cause such investigations to be made as may be necessary to assure compliance with the labor standards clauses required by § 5.5 and the applicable statutes listed in § 5.1. Investigations shall be made of all contracts with such frequency as may be necessary to assure compliance. Such investigations shall include interviews with employees, which shall be taken in confidence, and examinations of payroll data and evidence of registration and certification with respect to apprenticeship and training plans. Requests for submission of payrolls as provided in § 5.5(a)(3)(iii) shall be made only in conjunction with specific compliance checks or enforcement actions. In making such examinations, particular care shall be taken to determine the correctness of classifications and to determine whether there is a disproportionate employment of laborers, of helpers where they are listed on the wage determination or conformed under § 5.5(a)(1)(ii), and of apprentices or trainees registered in approved programs. Such investigations shall also include evidence of fringe benefit plans and payments thereunder. Complaints of alleged violations shall be given priority.

(4) In accordance with normal operating procedures, the contracting agency may be furnished various investigatory material from the investigation files of the Department of Labor. None of the material, other than computations of back wages and liquidated damages and the summary of back wages due, may be disclosed in any manner to anyone other than Federal officials charged with administering the contract or program providing Federal assistance to the contract, without requesting the permission and views of the Department of Labor.

(5) It is the policy of the Department of Labor to protect the identity of its confidential sources and to prevent an unwarranted invasion of personal privacy. Accordingly, the identity of an employee who makes a written or oral statement as a complaint or in the course of an investigation, as well as portions of the statement which would reveal the employee's identity, shall not be disclosed in any manner to anyone other than Federal officials without the prior consent of the employee. Disclosure of employee statements shall be governed by the provisions of the "Freedom of Information Act" (5 U.S.C. 552, see 29 CFR Part 70) and the "Privacy Act of 1974" (5 U.S.C. 552a).

(b) The Administrator shall cause to be made such investigations as deemed necessary, in order to obtain compliance with the labor standards provisions of the applicable statutes listed in § 5.1, or to affirm or reject the recommendations by the Agency Head with respect to labor standards matters arising under the statutes listed in § 5.1. Federal agencies, contractors, subcontractors, sponsors, applicants, or owners shall cooperate with any authorized representative of the Department of Labor in the inspection of records, in interviews with workers, and in all other aspects of the investigations. The findings of such an investigation, including amounts found due, may not be altered or reduced without the approval of the Department of Labor. Where the underpayments disclosed by such an investigation total $1,000 or more, where there is reason to believe that the violations are aggravated or willful (or, in the case of the Davis-Bacon Act, that the contractor has disregarded its obligations to employees and subcontractors), or where liquidated damages may be assessed under the Contract Work Hours and Safety Standards Act, the Department of Labor will furnish the Federal agency an enforcement report detailing the labor standards violations disclosed by the investigation and any action taken by the contractor to correct the violative practices, including any payment of back wages. In other circumstances, the Federal agency will be furnished a letter of notification summarizing the findings of the investigation.

§ 5.7 Reports to the Secretary of Labor.

(a) *Enforcement reports.* (1) Where underpayments by a contractor or subcontractor total less than $1,000, and where there is no reason to believe that the violations are aggravated or willful (or, in the case of the Davis-Bacon Act that the contractor has disregarded its obligations to employees and subcontractors), and where restitution has been effected and future compliance assured, the Federal agency need not submit its investigative findings and recommendations to the Administrator, unless the investigation was made at the request of the Department of Labor. In the latter case, the Federal agency shall submit a factual summary report detailing any violations including any data on the amount of restitution paid, the number of workers who received restitution, liquidated damages assessed under the Contract Work Hours and Safety Standards Act, corrective measures taken (such as "letters of notice"), and any information that may be necessary to review any recommendations for an appropriate adjustment in liquidated damages under § 5.8

(2) Where underpayments by a contractor or subcontractor total $1,000 or more, or where there is reason to believe that the violations are aggravated or willful (or, in the case of the Davis-Bacon Act, that the contractor has disregarded its obligations to employees and subcontractors), the Federal agency shall furnish within 60 days after completion of its investigation, a detailed enforcement report to the Administrator.

(b) *Semi-annual enforcement reports.* To assist the Secretary in fulfilling the responsibilities under Reorganization Plan No. 14 of 1950, Federal agencies shall furnish to the Administrator by April 30 and October 31 of each calendar year semi-annual reports on compliance with and enforcement of the labor standards provisions of the Davis-Bacon Act and its related acts covering the periods of October 1 through March 31 and April 1 through September 30, respectively. Such reports shall be prepared in the manner prescribed in memoranda issued to Federal agencies by the Administrator. This report has been cleared in accordance with FPMR 101–11.11 and assigned interagency report control number 1482–DOL–SA.

(c) *Additional information.* Upon request, the Agency Head shall transmit to the Administrator such information available to the Agency with respect to contractors and subcontractors, their contracts, and the nature of the contract work as the Administrator may find necessary for the performance of his or her duties with respect to the labor standards provisions referred to in this part.

(b) *Contract termination.* Where a contract is terminated by reason of violations of the labor standards provisions of the statues listed in § 5.1, a report shall be submitted promptly to the Administrator and to the Comptroller General (if the contract is subject to the Davis-Bacon Act), giving the name and address of the contractor or subcontractor whose right to proceed has been terminated, and the name and address of the contractor or subcontractor, if any, who is to complete the work, the amount and number of the contract, and the description of the work to be performed.

§ 5.8 Liquidated damages under the Contract Work Hours and Safety Standards Act.

(a) The Contact Work Hours and safety Standards Act requires that laborers or mechanics shall be paid wages at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of eight hours in any calendar day or forty hours in any work week. In the event of violation of this provision, the contractor and any subcontractor shall be liable for the unpaid wages and in addition for liquidated damages, computed with respect to each laborer or mechanic employed in violation of the Act in the amount of $10 for each calendar day or workweek in which such individual was required or permitted to work without payment of required overtime wages. Any contractor or subcontractor aggrieved by the withholding of liquidated damages shall have the right to appeal to the head of the agency of the United States (or the territory or District of Columbia, as appropriate) for which the contract work was performed or for which financial assistance was provided.

(b) *Findings and recommendations of the Agency Head.* The Agency Head has the authority to review the administrative determination of liquidated damages and to issue a final order affirming the determination. It is not necessary to seek the concurrence of the Administrator but the Administration shall be advised of the action taken. Whenever the Agency Head finds that a sum of liquidated damages administratively determined to be due is incorrect or that the contractor or subcontractor violated inadvertently the provisions of the Act notwithstanding the exercise of due care upon the part of the contractor or subcontractor involved, and the amount of the liquidated damages computed for the contract is in excess of $500, the Agency Head may make recommendations to the Secretary that an appropriate adjustment in liquidated damages be made or that the contractor or subcontractor be relieved of liability for such liquidated damages. Such findings with respect to liquidated damages shall include findings with respect to any wage underpayments for which the liquidated damages are determined.

(c) The recommendations of the Agency Head for adjustment or relief from liquidated damages under paragraph (a) of this section shall be reviewed by the Administrator or an authorized representative who shall issue an order concurring in the recommendations, partially concurring in the recommendations, or rejecting the recommendations, and the reasons therefor. The order shall be the final decision of the Department of Labor, unless a petition for review is filed pursuant to Part 7 of this title, and the Wage Appeals Board in its discretion reviews such decision and order; or, with respect to contracts subject to the Service Contract Act, unless petition for review is filed pursuant to Part 8 of this title, and the Board of Service Contract Appeals in its discretion reviews such decision and order.

(d) Whenever the Agency Head finds that a sum of liquidated damages administratively determined to be due under section 104(a) of the Contract Work Hours and Safety Standards Act for a contract is $500 or less and the Agency Head finds that the sum of liquidated damages is incorrect or that the contractor or subcontractor violated inadvertently the provisions of the Contract Work Hours and Safety Standards Act notwithstanding the exercise of due care upon the part of the contractor or subcontractor involved, an appropriate adjustment may be made in such liquidated damages or the contractor or subcontractor may be relieved of liability for such liquidated damages without submitting recommendations to this effect or a report to the Department of Labor. This delegation of authority is made under section 105 of the Contract Work Hours and Safety Standards Act and has been found to be necessary and proper in the public interest to prevent undue hardship and to avoid serious impairment of the conduct of Government business.

§ 5.9 Suspension of funds.

In the even of failure or refusal of the contractor or any subcontractor to comply with the labor standards clauses contained in § 5.5 and the applicable statutes listed in § 5.1, the Federal agency, upon its own action or upon written request of an authorized representative of the Department of Labor, shall take such action as may be necessary to cause the suspension of the payment, advance or guarantee of funds until such time as the violations are discontinued or until sufficient funds are withheld to compensate employees for the wages to which they are entitled and to cover any liquidated damages which may be due.

§ 5.10 Restitution, criminal action.

(a) In cases other than those forwarded to the Attorney General of the United States under paragraph (b), of this section, where violations of the labor standards clauses contained in § 5.5 and the applicable statutes listed in § 5.1 result in underpayment of wages to employees, the Federal agency or an authorized representative of the Department of Labor shall request that restitution be made to such employees or on their behalf to plans, funds, or programs for any type of bona fide fringe benefits within the meaning of section 1(b)(2) of the Davis-Bacon Act.

(b) In cases where the Agency Head or the Administrator finds substantial evidence that such violations are willful and in violation of a criminal statute, the matter shall be forwarded to the Attorney General of the United States for prosecution if the facts warrant. In all such cases the Administrator shall be informed simultaneously of the action taken.

§ 5.11 Dispute concerning payment of wages.

(a) This section sets forth the procedure for resolution of disputes of fact or law concerning payment of prevailing wage rates, overtime pay, or proper classification. The procedures in this section may be initiated upon the Administrator's own motion, upon referral of the dispute by a Federal agency pursuant to § 5.5(a)(9), or upon request of the contractor or subcontractor(s).

(b)(1) In the event of a dispute described in paragraph (a) of this section in which it appears that relevant facts are at issue, the Administrator will notify the affected contractor and subcontractor(s) (if any), by registered or certified mail to the last known address, of the investigation findings. If the Administrator determines that there is reasonable cause to believe that the contractor and/or subcontractor(s) should also be subject to debarment under the Davis–Bacon Act or § 5.12(a)(1), the letter will so indicate.

(2) A contractor and/or subcontractor desiring a hearing concerning the Administrator's investigative findings shall request such a hearing by letter postmarked within 30 days of the date of the Administrator's letter. The request shall set forth those findings which are in dispute and the reasons therefor, including any affirmative defenses, with respect to the violations and/or debarment, as appropriate.

(3) Upon receipt of a timely request for a hearing, the Administrator shall refer the case to the Chief Administrative Law Judge by Order of Reference, to which shall be attached a copy of the letter from the Administrator and response thereto, for designation of an Administrative Law Judge to conduct such hearings as may be necessary to resolve the disputed matters. The hearing shall be conducted in accordance with the procedures set forth in 29 CFR Part 6.

(c)(1) In the event of a dispute described in paragraph (a) of this section in which it appears that there are no relevant facts at issue, and where there is not at that time reasonable cause to institute debarment proceeding under § 5.12, the Administrator shall notify the contractor and subcontractor(s) (if any), by registered or certified mail to the last known address, of the investigation findings, and shall issue a ruling on any issues of law known to be in dispute.

(2)(i) If the contractor and/or subcontractor(s) disagree with the factual findings of the Administrator or believe that there are relevant facts in dispute, the contractor or subcontractor(s) shall so advise the Administrator by letter postmarked within 30 days of the date of the Administrator's letter. In the response, the contractor and/or subcontractor(s) shall explain in detail the facts alleged to be in dispute and attach any supporting documentation.

(ii) Upon receipt of a response under paragraph (c)(1)(i) of this section alleging the existence of a factual dispute, the Administrator shall examine the information submitted. If the Administrator determines that there is a relevant issue of fact, the Administrator shall refer the case to the Chief Administrative Law Judge in accordance with paragraph (b)(3) of this section. If the Administrator determines that there is no relevant issue of fact, the Administrator shall so rule and advise the contractor and subcontractor(s) (if any) accordingly.

(3) If the contractor and/or subcontractor(s) desire review of the ruling issued by the Administrator under paragraph (c)(1) or (2) of this section, the contractor and/or subcontractor(s) shall file a petition for review thereof with the Wage Appeals Board within 30 days of the date of the ruling, with a copy thereof the Administrator. The petition for review shall be filed in accordance with Part 7 of this title.

(d) If a timely response to the Administrator's findings or ruling is not made or a timely petition for review is not filed, the Administrator's findings and/or ruling shall be final, except that with respect to debarment under the Davis-Bacon Act, the Administrator shall advise the Comptroller General of the Administrator's recommendation in accordance with § 5.12(a)(1). If a timely response or petition for review is filed, the findings and/or ruling of the Administrator shall be inoperative unless and until the decision is upheld by the Administrative Law Judge or the Wage Appeals Board.

§ 5.12 Debarment proceedings.

(a)(1) Whenever any contractor or subcontractor is found by the Secretary of Labor to be in aggravated or willful violation of the labor standards provisions of any of the applicable statutes listed in § 5.1 other than the Davis-Bacon Act, such contractor or subcontractor or any firm, corporation, partnership, or association in which such contractor or subcontractor has a substantial interest shall be ineligible for a period not to exceed 3 years (from the date of publication by the Comptroller General of the name or names of said contractor or subcontractor on the ineligible list as provided below) to receive any contracts or subcontracts subject to any of the statutes listed in § 5.1.

(2) In cases arising under contracts covered by the Davis-Bacon Act, the Administrator shall transmit to the Comptroller General the names of the contractors or subcontractors and their responsible officers, if any (and any firms in which the contractors or subcontractors are known to have an interest), who have been found to have disregarded their obligations to employees, and the recommendation of the Secretary of Labor or authorized representative regarding debarment. The Comptroller General will distribute a list to all Federal agencies giving the names of such ineligible person or firms, who shall be ineligible to be awarded any contract or subcontract of the United States or the District of Columbia and any contract or subcontract subject to

the labor standards provisions of the statutes listed in § 5.1.

(b)(1) In addition to cases under which debarment action is initiated pursuant to § 5.11, whenever as a result of an investigation conducted by the Federal agency or the Department of Labor, and where the Administrator finds reasonable cause to believe that a contractor or subcontractor has committed willful or aggravated violations of the labor standards provisions of any of the statutes listed in § 5.1 (other than the Davis-Bacon Act), or has committed violations of the Davis-Bacon Act which constitute a disregard of its obligations to employees or subcontractors under section 3(a) thereof, the Administrator shall notify by registered or certified mail to the last known address, the contractor or subcontractor and its responsible officers, if any (and any firms in which the contractor or subcontractor are known to have a substantial interest), of the finding. The Administrator shall afford such contractor or subcontractor and any other parties notified an opportunity for a hearing as to whether debarment action should be taken under paragraph (a)(1) of this section or section 3(a) of the Davis-Bacon Act. The Administrator shall furnish to those notified a summary of the investigative findings. If the contractor or subcontractor or any other parties notified wish to request a hearing as to whether debarment action should be taken, such a request shall be made by letter postmarked within 30 days of the date of the letter from the Administrator, and shall set forth any findings which are in dispute and the reasons therefor, including any affirmative defenses to be raised. Upon receipt of such request for a hearing, the Administrator shall refer the case to the Chief Administrative Law Judge by Order of Reference, to which shall be attached a copy of the letter from the Administrator and the response thereto, for designation of an Administrative Law Judge to conduct such hearings as may be necessary to determine the matters in dispute. In considering debarment under any of the statutes listed in § 5.1 other than the Davis-Bacon Act, the Administrative Law Judge shall issue an order concerning whether the contractor or subcontractor is to be debarred in accordance with paragraph (a)(1) of this section. In considering debarment under the Davis-Bacon Act, the Administrative Law Judge shall issue a recommendation as to whether the contractor or subcontractor should be debarred under section 3(a) of the Act.

(2) Hearings under this section shall be conducted in accordance with 29 CFR Part 6. If no hearing is requested within 30 days of receipt of the letter from the Administrator, the Administrator's findings shall be final, except with respect to recommendations regarding debarment under the Davis-Bacon Act, as set forth in paragraph (a)(2) of this section.

(c) Any person or firm debarred under § 5.12(a)(1) may in writing request removal from the debarment list after six months from the date of publication by the Comptroller General of such person or firm's name on the ineligible list. Such a request should be directed to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, D.C. 20210, and shall contain a full explanation of the reasons why such person or firm should be removed from the ineligible list. In cases where the contractor or subcontractor failed to make full restitution to all underpaid employees, a request for removal will not be considered until such underpayments are made. In all other cases, the Administrator will examine the facts and circumstances surrounding the violative practices which caused the debarment, and issue a decision as to whether or not such person or firm has demonstrated a current responsibility to comply with the labor standards provisions of the statutes listed in § 5.1, and therefore should be removed from the ineligible list. Among the factors to be considered in reaching such a decision are the severity of the violations, the contractor or subcontractor's attitude towards compliance, and the past compliance history of the firm. In no case will such removal be effected unless the Administrator determines after an investigation that such person or firm is in compliance with the labor standards provisions applicable to Federal contracts and Federally assisted construction work subject to any of the applicable statutes listed in § 5.1 and other labor statutes providing wage protection, such as the Service Contract Act, the Walsh-Healey Public Contracts Act, and the Fair Labor Standards Act. If the request for removal is denied, the person or firm may petition for review by the Wage Appeals Board pursuant to 29 CFR Part 7.

(d)(1) Section 3(a) of the Davis-Bacon Act provides that for a period of three years from date of publication on the ineligible list, no contract shall be awarded to any persons or firms placed on the list as a result of a finding by the Comptroller General that such persons or firms have disregarded obligations to employees and subcontractors under that Act, and further, that no contract shall be awarded to "any firm, corporation, partnership, or association in which such persons or firms have an interest." Paragraph (a)(1) of this section similarly provides that for a period not to exceed three years from date of publication on the ineligible list, no contract subject to any of the statutes listed in § 5.1 shall be awarded to any contractor or subsontractor on the ineligible list pursuant to that paragraph, or to "any firm, corporation, partnership, or association" in which such contractor or subcontractor has a "substantial interest." A finding as to whether persons or firms whose names appear on the ineligible list have an interest (or a substantial interest, as appropriate) in any other firm, corporation, partnership, or association, may be made through investigation, hearing, or otherwise.

(2)(i) The Administrator, on his/her own motion or after receipt of a request for a determination pursuant to paragraph (d)(3) of this section may make a finding on the issue of interest (or substantial interest, as appropriate).

(ii) If the Administrator determines that there may be an interest (or substantial interest, as appropriate), but finds that there is insufficient evidence to render a final ruling thereon, the Administrator may refer the issue to the Chief Administrative Law Judge in accordance with paragraph (d)(4) of this section.

(iii) If the Administrator finds that no interest (or substantial interest, as appropriate) exists, or that there is not sufficient information to warrant the initiation of an investigation, the requesting party, if any, will be so notified and no further action taken.

(iv)(A) If the Administrator finds that an interest (or substantial interest, as appropriate) exists, the person or firm affected will be notified of the Administrator's finding (by certified mail to the last known address), which shall include the reasons therefor, and such person or firm shall be afforded an opportunity to request that a hearing be held to render a decision on the issue.

(B) Such person or firm shall have 20 days from the date of the Administrator's ruling to request a hearing. A detailed statement of the reasons why the Administrator's ruling is in error, including facts alleged to be in dispute, if any, shall be submitted with the request for a hearing.

(C) If no hearing is requested within the time mentioned in paragraph (d)(2)(iv)(B) of this section, the

Administrator's finding shall be final and the Administrator shall so notify the Comptroller General. If a hearing is requested, the ruling of the Administrator shall be inoperative unless and until the administrative law judge or the Wage Appeals Board issues an order that there is an interest (or substantial interest, as appropriate).

(3)(i) A request for a determination of interest (or substantial interest, as appropriate), may be made by any interested party, including contractors or prospective contractors and associations of contractor's representatives of employees, and interested Government agencies. Such a request shall be submitted in writing to the Administrator, Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, D.C. 20210, to the attention of the Office of Government Contract Wage Standards.

(ii) The request shall include a statement setting forth in detail why the petitioner believes that a person or firm whose name appears on the debarred bidders list has an interest (or a substantial interest, as appropriate) in any firm, corporation, partnership, or association which is seeking or has been awarded a contract of the United States or the District of Columbia, or which is subject to any of the statutes listed in § 5.1. No particular form is prescribed for the submission of a request under this section.

(4) *Referral to the Chief Administrator Law Judge.* The Administrator, on his/her own motion under paragraph (d)(2)(ii) of this section or upon a request for hearing where the Administrator determines that relevant facts are in dispute, will by order refer the issue to the Chief Administrative Law Judge, for designation of an Administrative Law Judge who shall conduct such hearings as may be necessary to render a decision solely on the issue of interest (or substantial interest, as appropriate). Such proceedings shall be conducted in accordance with the procedures set forth at 29 CFR Part 6.

(5) *Referral to the Wage Appeals Board.* If the person or firm affected requests a hearing and the Administrator determines that relevant facts are not in dispute, the Administrator will refer the issue and the record compiled thereon to the Wage Appeals Board to render a decision solely on the issue of interest (or substantial interest, as appropriate). Such proceeding shall be conducted in accordance with the procedures set forth at 29 CFR Part 7.

§ 5.13 Rulings and interpretations.

All questions relating to the application and interpretation of wage determinations (including the classifications therein) issued pursuant to Part 1 of this subtitle, of the rules contained in this part and in Parts 1 and 3, and of the labor standards provisions of any of the statutes listed in § 5.1 shall be referred to the Administrator for appropriate ruling or interpretation. The rulings and interpretations shall be authoritative and those under the Davis-Bacon Act may be relied upon as provided for in section 10 of the Portal-to-Portal Act of 1947 (29 U.S.C. 259). Requests for such rulings and interpretations should be addressed to the Administrator, Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, D.C. 20210.

§ 5.14 Variations, tolerances, and exemptions from Parts 1 and 3 of this subtitle and this part.

The Secretary of Labor may make variations, tolerances, and exemptions from the regulatory requirements of this part and those of Parts 1 and 3 of this subtitle whenever the Secretary finds that such action is necessary and proper in the public interest or to prevent injustice and undue hardship. Variations, tolerances, and exemptions may not be made from the statutory requirements of any of the statutes listed in § 5.1 unless the statute specifically provides such authority.

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

(a) *General.* Upon his or her own initiative or upon the request of any Federal agency, the Secretary of Labor may provide under section 105 of the Contract Work Hours and Safety Standards Act reasonable limitations and allow variations, tolerances, and exemptions to and from any or all provisions of that Act whenever the Secretary finds such action to be necessary and proper in the public interest to prevent injustice, or undue hardship, or to avoid serious impairment of the conduct of Government business. Any request for such action by the Secretary shall be submitted in writing, and shall set forth the reasons for which the request is made.

(b) *Exemptions.* Pursuant to section 105 of the Contract Work Hours and Safety Standards Act, the following classes of contracts are found exempt from all provisions of that Act in order to prevent injustice, undue hardship, or serious impairment of Government business:

(1) Contracts of $2,000.00 or less.

(2) Purchases and contracts other than construction contracts in the aggregate amount of $2,500.00 or less. In arriving at the aggregate amount involved, there must be included all property and services which would properly be grouped together in a single transaction and which would be included in a single advertisement for bids if the procurement were being effected by formal advertising.

(3) Contract work performed in a workplace within a foreign country or within territory under the jurisdiction of the United States other than the following: A State of the United States; the District of Columbia; Puerto Rico; the Virgin Islands; Outer Continental Shelf lands defined in the Outer Continental Shelf Lands Act (ch. 345, 67 Stat. 462); American Samoa; Guam; Wake Island; Eniwetok Atoll; Kwajalein Atoll; and Johnston Island.

(4) Agreements entered into by or on behalf of the Commodity Credit Corporation providing for the storing in or handling by commercial warehouses of wheat, corn, oats, barley, rye, grain sorghums, soybeans, flaxseed, rice, naval stores, tobacco, peanuts, dry beans, seeds, cotton, and wool.

(5) Sales of surplus power by the Tennessee Valley Authority to States, counties, municipalities, cooperative organization of citizens or farmers, corporations and other individuals pursuant to section 10 of the Tennessee Valley Authority Act of 1933 (16 U.S.C. 8311).

(c) *Tolerances.* (1) The "basic rate of pay" under section 102 of the Contract Work Hours and Safety Standards Act may be computed as an hourly equivalent to the rate on which time-and-one-half overtime compensation may be computed and paid under section 7 of the Fair Labor Standards Act of 1938, as amended (29 U.S.C. 207), as interpreted in Part 778 of this title. This tolerance is found to be necessary and proper in the public interest in order to prevent undue hardship.

(2) Concerning the tolerance provided in paragraph (c)(1) of this section, the provisions of section 7(d)(2) of the Fair Labor Standards Act and § 778.7 of this title should be noted. Under these provisions, payments for occasional periods when no work is performed, due to vacations, and similar causes are excludable from the "regular rate" under the Fair Labor Standards Act. Such payments, therefore, are also excludable from the "basic rate" under the Contract Work Hours and Safety Standards Act.

(3) See § 5.8(c) providing a tolerance subdelegating authority to the heads of

agencies to make appropriate adjustments in the assessment of liquidated damages totaling $500 or less under specified circumstances.

(4)(i) Time spent in an organized program of related, supplemental instruction by laborers or mechanics employed under bona fide apprenticeship or training programs may be excluded from working time if the criteria prescribed in paragraphs (c)(4)(ii) and (iii) of this section are met.

(ii) The apprentice or trainee comes within the definition contained in § 5.2(n).

(iii) The time in question does not involve productive work or performance of the apprentice's or trainee's regular duties.

(d) *Variations.* (1) In order to prevent undue hardship, a workday consisting of a fixed and recurring 24-hour period commencing at the same time on each calendar day may be used in lieu of the calendar day in applying the daily overtime provisions of the Act to the employment of firefighters or fireguards, under the following conditions: (i) Where such employment is under a platoon system requiring such employees to remain at or within the confines of their post of duty in excess of 8 hours per day in a standby or on-call status; and (ii) if the use of such alternate 24-hour day has been agreed upon between the employer and such employees or their authorized representatives before performance of the work; and (iii) provided that, in determining the daily and the weekly overtime requirements of the Act in any particular workweek of any such employee whose established workweek begins at an hour of the calendar day different from the hour when such agreed 24-hour day commences, the hours worked in excess pf 8 hours in any such 24-hour day shall be counted in the established workweek (of 168 hours commencing at the same time each week) in which such hours are actually worked. (Approved by the Office of Management and Budget under OMB control number 1215–0017.)

(2) In the event of failure or refusal of the contractor or any subcontractor to comply with overtime pay requirements of the Contract Work Hours and Safety Standards Act, if the funds withheld by Federal agencies for the violations are not sufficient to pay fully both the unpaid wages due laborers and mechanics and the liquidated damages due the Unites States, the available funds shall be used first to compensate the laborers and mechanics for the wages to which they are entitled (or an equitable portion thereof when the funds are not adequate for this purpose); and the balance, if any, shall be used for the payment of liquidated damages.

(3) In the performance of any contract entered into pursuant to the provisions of 38 U.S.C. 620 to provide nursing home care of veterans, no contractor or subcontractor under such contract shall be deemed in violation of Section 102 of the Contract Work Hours and Safety Standards Act by virtue of failure to pay the overtime wages required by such section for work in excess of 8 hours in any calendar day or 40 hours in the workweek to any individual employed by an establishment which is an institution primarily engaged in the care of the sick, the aged, or the mentally ill or defective who reside on the premises if, pursuant to an agreement or understanding arrived at between the employer and the employee before performance of the work, a work period of 14 consecutive days is accepted in lieu of the workweek of 7 consecutive days for the purpose of overtime compensation and if such individual receives compensation for employment in excess of 8 hours in any workday and in excess of 80 hours in such 14-day period at a rate not less than 1½ times the regular rate at which the individual is employed, computed in accordance with the requirements of the Fair Labor Standards Act of 1938, as amended. (Approved by the Office of Management and Budget under OMB control number 1215–0017.)

§ 5.16 Training plans approved or recognized by the Department of Labor prior to August 20, 1975.

(a) Notwithstanding the provisions of § 5.5(a)(4)(ii) relating to the utilization of trainees on Federal and federally assisted construction, no contractor shall be required to obtain approval of a training program which, prior to August 20, 1975, was approved by the Department of Labor for purposes of the Davis-Bacon and Related Acts, was established by agreement of organized labor and management and therefore recognized by the Department, and/or was recognized by the Department under Executive Order 11246, as amended. A copy of the program and evidence of its prior approval, if applicable shall be submitted to the Employment and Training Administration, which shall certify such prior approval or recognition of the program. In every other respect, the provisions of § 5.5(a)(4)(ii)—including those relating to registration of trainees, permissible ratios, and wage rates to be paid—shall apply to these programs.

(b) Every trainee employed on a contract executed on and after August 20, 1975, in one of the above training programs must be individually registered in the program in accordance with Employment and Training Administration procedures, and must be paid at the rate specified in the program for the level of progress. Any such employee listed on the payroll at a trainee rate who is not registered and participating in a program certified by ETA pursuant to this section, or approved and certified by ETA pursuant to § 5.5(a)(4)(ii), must be paid the wage rate determined by the Secretary of Labor for the classification of work actually performed. The ratio of trainees to journeymen shall not be greater than permitted by the terms of the program.

(c) In the event a program which was recognized or approved prior to August 20, 1975, is modified, revised, extended, or renewed, the changes in the program or its renewal must be approved by the Employment and Training Administration before they may be placed into effect.

§ 5.17 Withdrawal of approval of a training program.

If at any time the Employment and Training Administration determines, after opportunity for a hearing, that the standards of any program, whether it is one recognized or approved prior to August 20, 1975, or a program subsequently approved, have not been complied with, or that such a program fails to provide adequate training for participants, a contractor will no longer be permitted to utilize trainees at less than the predetermined rate for the classification of work actually performed until an acceptable program is approved.

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Friday
May 28, 1982

Part VII

Department of Labor

Wage and Hour Division, Employment Standards Administration

Office of the Secretary

Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants From the United States

DEPARTMENT OF LABOR

Wage and Hour Division, Employment Standards Administration

Office of the Secretary

29 CFR Part 3

Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants From the United States

AGENCY: Wage and Hour Division, Employment Standards Administration, Labor.

ACTION: Final rule.

SUMMARY: This document is a final regulation revising the requirements under the Copeland "Anti-Kickback" Act for weekly reporting of wages paid on Federally financed and assisted construction contracts which are subject to federal wage standards. The regulation revises the statement required by the Copeland Act to be submitted each week. In addition, Department of Labor Optional Form WH–347, "Payroll (For Contractor's Optional Use)", is eliminated. This change conforms to the revision made today by separate document, published elsewhere in this issue, in § 5.5(a)(3)(ii) of Regulations, 29 CFR Part 5 eliminating the requirement under the Davis-Bacon and Copeland Acts that contractors and subcontractors submit weekly a certified copy of all payrolls to the appropriate Federal agency.

DATES: Effective July 27, 1982. The provisions of this revised regulation shall be applicable as to contracts entered into pursuant to invitations for bids issued or negotiations concluded on or after July 27, 1982.

FOR FURTHER INFORMATION CONTACT: William M. Otter, Administrator, Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Room S–3502, 200 Constitution Avenue, NW., Washington, D.C. 20210, Telephone: 202–523–8305.

SUPPLEMENTARY INFORMATION: The Copeland Act (40 U.S.C. 276c) requires that contractors and subcontractors performing on Federal and Federally assisted contracts must submit weekly a statement with respect to the wages paid each employee during the preceding week. Section 3.3(b) of Regulations, 29 CFR Part 3 currently requires that this statement be made on either (1) Optional Form WH–348, "Statement of Compliance"; or (2) an identical form on the back of Optional Form WH–347, "Payroll (For Contractor's Optional Use)"; or (3) any form with identical wording.

On August 14, 1981, a proposal was published in the **Federal Register** (46 FR 41456) to make certain revisions to Subpart A of Regulations, 29 CFR Part 5, Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction (Also Labor Standards Provisions Applicable to Nonconstruction Contracts Subject to the Contract Work Hours and Safety Standards Act). Among the changes contained in the August 14, 1981 proposal was the elimination, in 29 CFR 5.5(a)(3)(ii), of the requirement that contractors and subcontractors submit weekly a certified copy of all payrolls to the appropriate Federal agency. The requirement that contractors and subcontractors submit weekly statements, set forth in the regulations, certifying compliance with the requirements of the Davis-Bacon and Related Acts and the Copeland Act was retained. The revised statement is essentially similar to the statement formerly required by that section and by § 3.3(b) and the language contained on WH–348 and on the back of WH–347. Interested persons were afforded the opportunity to submit comments to the Wage and Hour Division within 60 days after publication of the proposal in the **Federal Register.**

By separate document the Department has today published as a final rule the revisions to Subpart A of 29 CFR Part 5, including the proposed change in 29 CFR 5.5(a)(3)(ii) discussed above. As a result of that action, the Department is also eliminating as now unnecessary Form WH–347 which was utilized for the submission of payroll information.

Accordingly, to reflect these changes § 3.3(b) of Regulations, 29 CFR Part 3 is revised as set forth below by incorporating the statements of compliance to which contractors and subcontractors must certify. Since this revision merely tracks the change in 29 CFR 5.5(a)(3)(ii) duly promulgated following notice and comment as outlined above, separate notice and comment on this rule is found to be unnecessary. Accordingly, the revision to § 3.3(b) is adopted as a final rule without separate notice and comment.

Classification

This rule is not classified as a "major rule" under Executive Order 12291 on Federal Regulations, because it is not likely to result in (1) an annual effect on the economy of $100 million or more; (2) a major increase in cost or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. Accordingly, no regulatory impact analysis is required.

The Department believes that the proposed rule will have no "significant economic impact * * * upon a substantial number of * * * small (business) entities" within the meaning of section 3(a) of the Regulatory Flexibility Act, Pub. L. 96–354, 91 Stat. 1164 (to be codified at 5 U.S.C. 605(b)). The Secretary has certified to the Chief Counsel for Advocacy of the Small Business Administration to this effect. This conclusion is reached because the rule merely revises the language required in the statement, tracking a corresponding change made in 29 CFR Part 5, and eliminates two forms. Accordingly, no regulatory flexibility analysis is required.

Regulatory Flexibility Act Certification

I, Raymond J. Donovan, Secretary of Labor, hereby certify, pursuant to 5 U.S.C. 605(b), that the rule contained in 29 CFR Part 3, concerning statements of compliance with labor standards requirements, will not have a significant economic impact on a substantial number of small entities. This conclusion is based upon the fact that this rule merely revises the language required in the statement, tracking a corresponding change made in 29 CFR Part 5, and eliminates one form.

Signed at Washington, D.C. this 25th day of May 1982.

Raymond J. Donovan,

Secretary of Labor.

This document was prepared under the direction and control of William M. Otter, Administrator, Wage and Hour Division, U.S. Department of Labor.

List of Subjects in 29 CFR Part 3

Employee benefit plans, Government contracts, Labor, Recordkeeping requirements, Reporting requirements, Wages.

PART 3—CONTRACTORS AND SUBCONTRACTORS ON PUBLIC BUILDING OR PUBLIC WORK FINANCED IN WHOLE OR IN PART BY LOANS OR GRANTS FROM THE UNITED STATES

Accordingly, 29 CFR Part 3 is amended as set forth below:

Signed at Washington, D.C. on this 25th day of May 1982.

Raymond J. Donovan,

Secretary of Labor.

Robert B. Collyer,

Deputy Under Secretary for Employment Standards.

William M. Otter,

Administrator, Wage and Hour Division.

29 CFR Part 3 is amended by revising paragraph (b) of § 3.3 to read as follows:

§ 3.3 Weekly statement with respect to payment of wages.

* * * * *

(b)(1) Each contractor or subcontractor engaged in the construction, prosecution, completion, or repair of any public building or public work, or building or work financed in whole or in part by loans or grants from the United States, shall furnish each week a statement with respect to the wages paid each of its employees engaged on work covered by 29 CFR Parts 3 and 5 during the preceding weekly payroll period.

(2) Each "Statement of Compliance" shall be signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

(i) That the payroll for the payroll period contains the information required to be maintained under § 5.5(a)(3)(i) of this Chapter, 29 CFR Part 5 and that such information is correct and complete;

(ii) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in §§ 3.5–3.8;

(iii) That each laborer or mechanic has been paid not less than the wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

(3) The willful falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under section 1001 of Title 18 and section 231 of Title 31 of the United States Code.

* * * * *

(R.S. 161, sec. 2, 48 Stat. 848; Reorg. Plan No. 14, of 1950, 64 Stat. 1267; 5 U.S.C. 301; 40 U.S.C. 276c)

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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
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DOT/FHWA	USDA/SCS		DOT/FHWA	USDA/SCS
DOT/FRA	MSPB/OPM		DOT/FRA	MSPB/OPM
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DOT/NHTSA	HHS/FDA		DOT/NHTSA	HHS/FDA
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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.

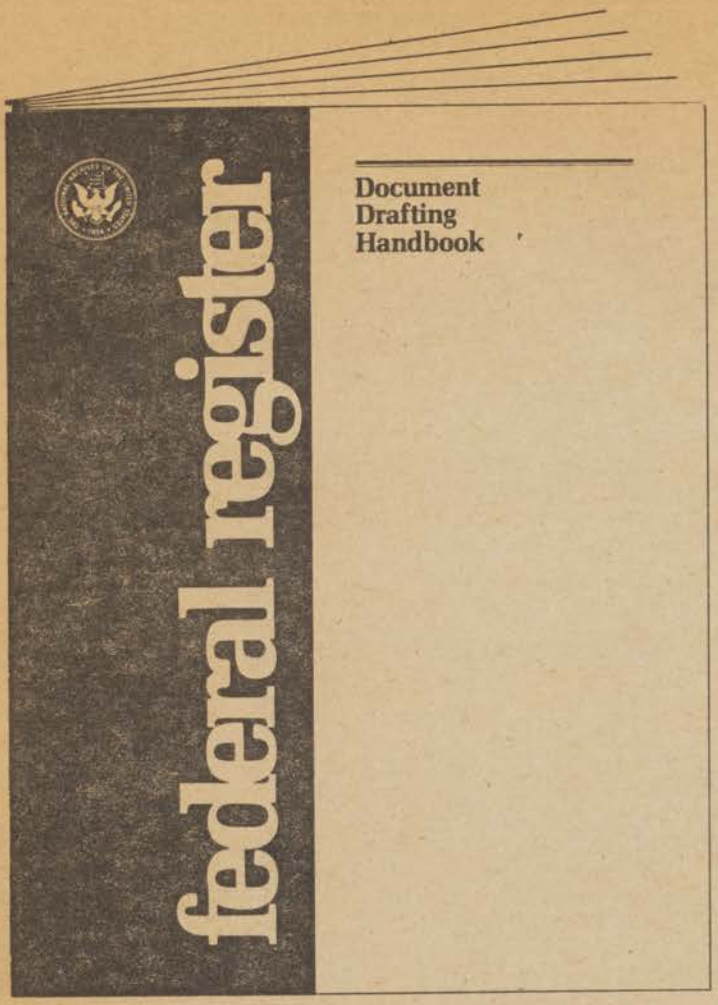
Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

List of Public Laws

Last Listing May 27, 1982

This is a continuing list of public bills from the current session of Congress which have become Federal laws. The text of laws is not published in the **Federal Register** but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 (phone 202–275–3030).

S. 1611 / Pub. L. 97–186 To amend Public Law 90–553, to authorize the transfer, conveyance, lease and improvement of, and construction on, certain property in the District of Columbia, for use as a headquarters site for an international organization, as sites for governments of foreign countries, and for other purposes. (May 25, 1982; 96 Stat. 101) Price: $1.75.



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